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Chapter Ins 6

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Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the con-

duct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continuously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

Ins 6.02 Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application; for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided into kinds of insurance according to the provisions of s. Ins 6.75 each subsection setting forth a separate kind, and into classes of insurance upon the basis of and including the said kinds as follows:

(a) Fire insurance includes the kinds in s. Ins 6.75 (2) (a).

(b) Life insurance includes the kinds in s. Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and s. Ins 6.70.

(c) Casualty insurance includes the kinds in s. Ins 6.75 (2) (c) through (n).

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in s. Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in s. Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in s. Ins 6.75 (1) (e) or (2) (c).

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76; am. Register, March, 1979, No. 279, eff. 4-1-79.

Ins 6.03 Domestication of nondomestic insurer. (1) **PURPOSE.** Under s. 611.223 (1) (a), Stats., a nondomestic insurer may apply to the commissioner to become a domestic insurer. In accordance with s. 611.223 (1) (b), Stats., this section specifies the contents of the application needed from a nondomestic insurer to obtain a certificate of incorporation and certificate of authority to be a domestic insurer.

(2) **SCOPE.** This section applies to each nondomestic insurer which submits to the commissioner under s. 611.223 (1) (a), Stats., an application for a certificate of incorporation and a certificate of authority for domestic insurers.

(3) **REQUIRED CONTENTS OF THE APPLICATION.** The application for a certificate of incorporation and a certificate of authority shall be filed in accordance with s. 611.223 (1) (a), Stats., and shall include the following information:

3. Failure to promptly provide necessary claims forms, instructions and reasonable assistance to insureds and claimants under its insurance policies.

4. Failure to attempt in good faith to effectuate fair and equitable settlement of claims submitted in which liability has become reasonably clear.

5. Failure upon request of a claimant, to promptly provide a reasonable explanation of the basis in the policy contract or applicable law for denial of a claim or for the offer of a compromise settlement.

6. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

7. Failure to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.

8. Failure to settle a claim under one portion of the policy coverage in order to influence a settlement under another portion of the policy coverage.

9. Except as may be otherwise provided in the policy contract, the failure to offer settlement under applicable first party coverage on the basis that responsibility for payment should be assumed by other persons or insurers.

10. Compelling insureds and claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

11. Refusing payment of claims solely on the basis of the insured's request to do so without making an independent evaluation of the insured's liability based upon all available information.

12. Failure, where appropriate, to make use of arbitration procedures authorized or permitted under any insurance policy.

13. Adopting or making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(b) Any of the following acts committed by any person shall constitute unfair methods and practices in the business of insurance:

1. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

2. Failure to make provision for adequate claims handling personnel, systems and procedures to effectively service claims in this state incurred under insurance coverage issued or delivered in this state.

3. Failure to adopt reasonable standards for investigation of claims arising under its insurance policies.

(4) **PROMPT DEFINED.** Except where a different period is specified by statute or rule and except for good cause shown, the terms "prompt" and "promptly" as used in this rule shall mean responsive action within 10 consecutive days from receipt of a communication concerning a claim.

Ins 6

(5) **PENALTY.** The commission of any of the acts listed in sub. (3) (a) or (b) 2., or 3. shall subject the person to revocation of license to transact insurance in this state. Violations of this rule or any order issued thereunder shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71; am. (1), Register, September, 1973, No. 213, eff. 10-1-73; am. (2), Register, February, 1974, No. 218, eff. 3-1-74; emerg. am. (2), eff. 6-22-76; am. (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; correction in (1) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.12 Qualification of actuaries. (1) **PURPOSE.** (a) The purpose of this rule is to protect the interests of insurers, insureds, insurance beneficiaries, insurance claimants, insurance company stockholders, and trustees, employers, covered employes, retired employes and terminated employes of employe welfare funds by establishing requirements for use of the terms actuary or actuarial. This rule interprets and implements ss. 641.09, 641.13, 641.14, 601.41, 601.42, 601.43 and ch. 628, Stats.

(b) It is not the purpose of this rule to require any insurer or rate service organization to employ an actuary except as may be otherwise required by statute or other administrative rule, nor does this rule require that filings under ch. 625, Stats., be prepared or submitted by a qualified actuary. Further, this rule is not intended to prohibit the strictly internal use by insurers of job titles containing the term actuary.

(2) **SCOPE.** This rule shall apply to all reports or representations subject to supervision by the commissioner of insurance.

(3) **SIGNATURE AS AN ACTUARY.** No document filed with this office which requires the signature of an actuary will be accepted unless the person signing as an actuary is a member of the American academy of actuaries or has otherwise demonstrated actuarial competence to the commissioner.

(4) **ACTUARIAL REPRESENTATION.** No person in any representation made to the public or to this office in respect to any matter subject to this rule shall use the word actuary or actuarial to indicate a degree of professional competence unless that person is a member of the American academy of actuaries or has otherwise demonstrated actuarial competence to the commissioner.

(5) **LEVEL OF COMPETENCY.** No member of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the commissioner shall use the word actuary or actuarial in any presentation subject to this rule unless he or she is qualified to give the actuarial advice required or requested.

(6) **PENALTY.** Violations of this rule or any order issued thereunder shall subject the person to s. 601.64, Stats., or other applicable statute.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (3) to (5) made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.13 Public inspection of records and reports. (1) **PURPOSE.** The purpose of this rule is to specify which records of the office of the commissioner of insurance are not open to public inspection under s. 601.46 (4), Stats.

(2) **DEFINITIONS.** As used in this rule:

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(a) "Records" includes all reports and writings required or authorized by law to be filed, deposited, or kept at the office of the commissioner of insurance or which are in his or her lawful possession or control.

(b) "Reports" includes all reports made, issued, or submitted by the commissioner of insurance under s. 601.46 (3), Stats.

(c) "Writing" means handwriting, typewriting, printing, photostating, photographing, electronic recording, and every other means of recording any form of communication or representation.

(3) LIMITATIONS ON PUBLIC INSPECTION. (a) *Procedure*. Records shall be open to public inspection during usual business hours and in such a manner as not to interfere with the efficient and orderly operation of the office of the commissioner of insurance.

(b) *Statutory limitations*. Public inspection shall be denied or limited with respect to records within the purview of s. 19.85 (3), Stats., and any other statute limiting inspection.

(c) *Other limitations*. Except as provided in par. (b), all records shall be open to public inspection except:

1. A record which is the work product of an employe in the office of the commissioner of insurance or a person contracting with the commissioner of insurance to provide such record, unless and until such record becomes a public record by operation of other statute or rule.

2. A record whose disclosure would reveal the identity of an informant who furnished information pursuant to a pledge of confidentiality.

3. A record received on a confidential basis from another governmental agency.

4. A record which is a part of a current investigation which may result in administrative, legal or criminal action or which relates to any such pending action, if the disclosure of such record would impede or frustrate such investigation or action.

5. A record whose disclosure would unduly damage a person's reputation so as to outweigh the public interest in disclosure.

6. A record whose disclosure would result in such harm to the public interest as to outweigh the public benefit to be gained by granting inspection.

(4) JUSTIFICATION FOR REFUSING INSPECTION. Whenever the commissioner is requested in writing to provide the reasons for refusing a demand to inspect a particular record, he or she shall specifically state the reasons for such refusal.

(5) EXCEPTIONS. Nothing contained herein shall prevent the commissioner from furnishing a record when required to do so by a proper court order or when requested to do so by a public officer in the official discharge of duties, under such safeguards as may be appropriate.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73; am. (3) (b), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (2) (a), (4) and (5), made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.17 Regulation of surplus lines insurance. (1) PURPOSE. This rule implements and interprets ss. 601.42, 601.72, 601.73, 618.41 and 618.43,

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Stats., for the purpose of facilitating the regulation of surplus lines insurance business in this state.

(2) **PROHIBITED PLACEMENT.** No licensed surplus lines agent may place contracts of insurance with any unauthorized insurer:

(a) For the classes of insurance specified by s. Ins 6.75 (2) (h), (i) and (k), and

(b) For any kind of insurance not specifically authorized by any of the other paragraphs of s. Ins 6.75.

(3) **RESPONSIBILITIES OF SURPLUS LINES AGENT.** Every licensed surplus lines agent who procures surplus lines insurance shall:

(a) Forward promptly to the policyholder a completed copy of a Surplus Lines Insurance Proposal in a form substantially as in Appendix 1 to this rule.

(b) When applicable, forward promptly to the policyholder a notice that the unauthorized insurer with which the insurance is to be placed is not on the list of unauthorized nondomestic insurers which the commissioner believes to be reliable and solid, along with notice of any other deficiencies of the insurer of which the agent has knowledge.

(c) Keep in his or her office in this state a full and true record of each surplus lines insurance contract procured by him or her, evidenced by a copy of the daily report or other documents to show at least the following information:

1. Amount of the insurance and perils insured against;
2. Brief general description of property insured and where located;
3. Gross premium charged;
4. Return premium paid, if any;
5. Rate of premium charged upon the several items of property;
6. Effective date of the contract, and the terms thereof;
7. Name and post-office address of the insured;
8. Name and home office address of the insurer;
9. Amount collected from the insured; and
10. A copy of the notice required by par. (b).

(d) The record required by par. (d) shall be open at all times to examination by the commissioner without notice, and shall be so kept available and open to the commissioner for 3 years (5 years for notice required by par. (b)) next following the expiration or cancellation of the contract.

(4) **ADVERTISING BY SURPLUS LINES AGENT.** A surplus lines agent may advertise the availability of services in procuring, on behalf of persons seeking insurance, contracts with insurers not holding a certificate of authority in Wisconsin, but such advertisements shall not refer to any particular unauthorized insurer or insurers.

(5) **REPORT AND PAYMENT OF TAX-SURPLUS LINES INSURANCE.** All premium tax collected by the surplus lines agent shall be reported and for-

State of Wisconsin
Commissioner of Insurance

Form 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP
OF SECURITIES

(Filed pursuant to Wisconsin Administrative Code section Ins 6.43)

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See s. Ins 6.43(5))

Statement of Calendar Month of _____, 19____

Changes During Month and Month-End Ownership (See s. Ins 6.43(6))

Title of Security s. Ins	Date of Transaction s. Ins	Amount Bought or otherwise acquired s. Ins	Amount Sold or otherwise disposed of s. Ins	Nature of Ownership s. Ins	Amount Owned beneficially at end of month s. Ins
6.43(7)	6.43(8)	6.43(9)	6.43(9)	6.43(10)	Ins 6.43(9)

Remarks: (See s. Ins 6.43(11))

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Date of statement

Signature

History: Cr. Register, August, 1966, No. 128, eff. 9-1-66; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.50 Kinds of individual intermediary-agents licenses. (1) PURPOSE. This rule sets forth the kinds of individual intermediary-agents licenses which may be issued.

(2) KINDS OF LICENSES. The following individual intermediary-agent licenses may be issued, each authorizing the solicitation of the kind or kinds of insurance indicated:

- (a) Life insurance—as described in s. Ins 6.75 (1) (a);
- (b) Disability insurance—as described in s. Ins 6.75 (1) (c) or (2) (c);

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- (c) Property insurance—as described in s. Ins 6.75 (2) (a) and (b);
- (d) Casualty insurance—as described in s. Ins 6.75 (2) (d) through (n);
- (e) Credit life and credit accident and sickness insurance as described in s. Ins 6.75 (1) (a) 1. and (1) (c) 1. or (2) (c) 1.;
- (g) Automobile insurance—as described in s. Ins 6.75 (2) (e);
- (h) Title insurance—as described in s. Ins 6.75 (2) (h);

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Note: All intermediaries currently holding the limited line for town mutual nonproperty insurance on May 1, 1991, are grandfathered for this authority.

History: Cr. Register, December, 1967, No. 144, eff. 1-1-68; r. and recr. (3) (d), Register, November, 1971, No. 191, eff. 12-1-71; am. (2) (e), Register, February, 1973, No. 206, eff. 3-1-73; am. (2) (h), Register, September, 1973, No. 213, eff. 10-1-73; cr. (2) (o), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), (2), (3) (a) and (c), eff. 6-22-76; am. (1), (2), (3) (a) and (c), Register, September, 1976, No. 249, eff. 10-1-76; r. and recr., Register, August, 1977, No. 260, eff. 9-1-77; r. (2) (f), Register, October, 1981, No. 310, eff. 11-1-81; r. (2) (i), Register, July, 1991, No. 427, eff. 8-1-91.

Ins 6.51 Group life and disability coverage termination and replacement.

(1) PURPOSE. This section is intended to promote the fair and equitable treatment of group policyholders, insurers, employes and dependents, and the general public by setting out procedures to be followed when a group life or disability insurance policy is terminated or replaced, and to interpret ss. 632.79 and 632.897, Stats.

(2) SCOPE. This section shall apply to all group life and group disability policies covering employes or employes and dependents, issued by insurers providing insurance as defined in s. Ins 6.75 (1) (a) or (c) or (2) (c). It shall apply to blanket policies only if they provide 24-hour coverage for both injury and sickness; any blanket policy, covering any type of group, which provides for renewal shall be subject to subs. (4) and (5); any blanket policy covering students of a college or university, regardless of whether it provides for renewal, shall be subject to subs. (6) and (7). Subsection (4) (a) shall apply only to group policies as defined in sub. (3) (c) 2. Subsections (6) and (7) do not apply to excess or stop-loss insurance purchased under s. 120.13 (2) (c), Stats., by a county or school district that self-insures employe health benefits.

(3) DEFINITIONS. (a) "Blanket policy" has the meaning in s. 600.03 (35) (c), Stats.

(b) "Employee" means an employe of an employer or a member of a union or association or a student of a college or university.

(c) "Group policy:" 1. Means a policy or contract covering employes issued by an insurer to an employer, labor union, association or trust fund or, in the case of a blanket policy, a college or university, or a group type plan, except that;

2. In sub. (4) (a), means only a policy or contract issued by an insurer or a s. 185.981, Stats., co-operative or a group type plan issued by a ch. 613, Stats., corporation, providing hospital, surgical or medical expense coverage to or on behalf of an employer.

(d) A "group policy providing medical expense coverage" does not include a policy providing coverage for dental, vision care, hearing care or prescription drug expense coverage only.

(5) **RATES.** When rates are differentiated on the basis of sex, the insurer must:

- (a) File a brief letter of explanation along with a rate filing.
- (b) Maintain written substantiation of such rate differentials in its home office.
- (c) Justify in writing to the satisfaction of the commissioner the rate differential upon request.
- (d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) **PENALTY.** Violation of this rule shall subject the insurer to the penalties set forth in s. 601.64, Stats.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.57 Listing of insurance agents by insurers. (1) Submission of an application for an intermediary-agent appointment shall initiate the listing of an agent in accordance with s. 628.11, Stats. The application shall be submitted to the office of the commissioner of insurance on or before the date of appointment. A listing shall become valid upon receipt of the agent listing validation report by the person submitting the listing. The effective date of a valid listing is the date on which the listing was mailed by the insurer. The agent validation report is a computer-generated report prepared by the office of the commissioner of insurance. Billing for initial listing shall be done annually at the same time and at the same rate as renewal listings.

(2) Notice of termination of appointment of individual intermediary-agent in accordance with s. 628.11, Stats., shall be filed prior to or within 15 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 7 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule, the annual listing fee defined in s. Ins 6.57 (4), within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individuals serving as agents for such insurer, according to the commissioner's records as of the notice date. A billing schedule shall be adopted by the commissioner under which listing notices shall be sent to insurers. This schedule shall also designate the calendar month of billing for the various insurers and/or insurer groups.

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats., are hereby established to be:

Resident individual intermediary-agents	\$ 5.00
Nonresident individual intermediary-agents	\$ 15.00

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(5) No insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company.

(6) No intermediary-agent shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer unless the agent is listed with that insurer.

Note: Copies of forms OCI 11-001, for use under sub. (1), and OCI 11-011, for use under sub. (2), may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; r. and recr. Register, March, 1978, No. 267, eff. 4-1-78; cr., (5) and (6), Register, March, 1979, No. 279, eff. 4-1-79; am. (1) and (3), Register, September, 1981, No. 309, eff. 1-1-82; am. (5), Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, April, 1986, No. 364, eff. 5-1-86; am. (1) and (2), Register, January, 1992, No. 433, eff. 2-1-92.

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Ins 6.58 Licensing of corporations and partnerships as insurance intermediaries. (s. 628.04, Stats.) (1) **PURPOSE.** The purpose of this rule is to establish procedures for licensure of corporations and partnerships as insurance intermediaries.

(2) **LICENSE.** Any corporation or partnership may obtain a license under this section.

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(3) **PROCEDURE.** Application for a permanent intermediary license for a corporation or partnership shall be made on application form 11-50 and filed with the commissioner of insurance.

(a) The application must be accompanied by:

1. A licensing fee of \$100.00 as authorized by s. 601.31 (1) (1) 2, Stats.;
2. Certification that the articles of incorporation or association include the intent, in good faith, to do business as an intermediary;
3. Certification that the corporation or partnership will transact business in such a way that all acts that may only be performed by a licensed intermediary are performed exclusively by natural persons who are licensed under s. 628.04, Stats., and functioning within the scope of the license, and a list of such persons;

4. If the corporation or partnership is domiciled outside of Wisconsin, an agreement to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the corporation's or partnership's insurance activities in this state, on the basis of service of process under ss. 601.72 and 601.73, Stats.; and

5. A list of all partners, directors or principal officers or persons in fact having comparable power.

6. In the case of a corporation the application must be signed by an officer. In the case of a partnership the application must be signed by a partner.

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(b) Determination of the acceptance or rejection of a completed application shall be made within 60 business days. A completed application consists of form 11-50 and other required material described in par. (a).

(4) **STANDARDS OF COMPETENCE AND TRUSTWORTHINESS.** (a) For partners, directors or principal officers who are licensed at the time of application under sub. (4) as insurance intermediaries, those standards as set

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forth in s. Ins 6.59 (5), shall apply in lieu of the standards set forth in this subsection.

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(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, the following criteria may be used in assessing trustworthiness and competence:

1. Criminal record. The conviction for crimes which are substantially related to insurance marketing.

2. Accuracy of information. Any material misrepresentation in the information submitted on form 11-50.

3. Regulatory action. Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

4. Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(5) FEES. (a) Biennially, on or before January 1 of even numbered years, a regulation fee of \$10.00 for resident and \$30.00 for non-resident intermediaries will be billed as authorized by s. 601.31 (1) (m), Stats.

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(b) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(c) The license will be revoked if payment is not made within 60 days after suspension.

(6) NOTIFICATION OF CHANGES. Each intermediary corporation or partnership shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, location of the business records, or a change in the name and address of the designated representative.

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Note: Intermediary corporations and partnerships are subject to the recordkeeping requirements as set forth in s. Ins 6.61 (1).

Application for the licensing of corporations and partnerships is made on form 11-50. Copies can be obtained at the office of the commissioner of insurance.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (5) (a), Register, September, 1981, No. 309, eff. 10-1-81; cr. (6), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (2), r. (3) and (8), renum. (4) to (7) to be (3) to (6), Register, April, 1982, No. 316, eff. 5-1-82; r. form 11-50, Register, October, 1982, No. 322, eff. 11-1-82; am. (3) (a) to (f), Register, December, 1984, No. 348, eff. 1-1-85; correction in (5) made under s. 13.93 (am) (b) 7, Stats., Register, December, 1984, No. 348.

Ins 6.59 Licensing of individuals as agents. (s. 628.04, Stats.) (1) PURPOSE. The purpose of this rule is to establish procedures for original licensure and license enlargement of an individual as an insurance agent.

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(2) EXAMINATION. An examination is required of each resident applicant for each kind of agent license authority listed in s. Ins 6.50. Each examination will test the applicant's basic knowledge of the kinds of insurance to be solicited and the applicant's basic understanding of the applicable laws and regulations.

(3) FEES. The following fee schedule is established for residents and non-residents:

Application for one or 2 lines of authority	\$40
Application for 3 or 4 lines of authority	\$80

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(4) **PROCEDURE.** (a) *Application.* Application for a permanent agent license or an enlargement of authority shall be made on the form specified by the office of the commissioner of insurance and filed with the testing vendor. The testing vendor shall forward a copy of the application to the office of the commissioner of insurance. A completed application consists of receipt by the office of the commissioner of insurance of the required forms, an original certificate of prelicensing education dated not more than one year prior to the test date or an original exemption form, and examination score report.

(b) *Time of filing.* Applications and appropriate fees shall be filed with the testing vendor, at least 30 days prior to the scheduled date of the written examination.

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(c) *Issuance of license.* An applicant for an original license or a license enlargement who passes the written examination, pays the fees, submits a satisfactory application, submits an original certificate of prelicensing education dated not more than one year prior to the test date, unless exempted by s. Ins 26.04 (2) and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued an agent license for those kinds of authority for which the applicant is qualified. Determination of the acceptance or rejection of a completed application shall be made within 60 business days.

(5) **COMPETENCE AND TRUSTWORTHINESS.** The following criteria may be used in assessing trustworthiness and competence:

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(a) *Criminal record.* The conviction for crimes which are substantially related to insurance marketing.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on the application form.

(c) *Regulatory action.* Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(6) **FREQUENCY AND LOCATION.** Examinations for each kind of agent authority will be administered at least once a month in accordance with a schedule adopted by the commissioner at the following examination centers: Eau Claire, Green Bay, La Crosse, Oshkosh, Madison, Rhineland, Racine, Superior, and Stevens Point. Examinations will be administered twice a month in Milwaukee and at least one other center.

(7) **EXEMPTIONS.** A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3 and 612.33 (2) (a), Stats., who provides windstorm or hail insurance to the town mutual's members through an insurance policy issued by another authorized insurer operating on an assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with s. Ins 6.57.

(8) CHANGE IN RESIDENCY STATUS. (a) A licensed nonresident agent, after becoming a Wisconsin resident, may retain authority under the nonresident agent license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease.

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(b) A licensed resident agent, after becoming a resident of another state, may retain authority under the resident agent license for a maximum of 60 days, at which time all authority granted under the resident license shall cease.

(c) If an agent changes residency status and becomes licensed under the new status, all authority granted by the license issued under the former status shall terminate on the date the new license is issued.

(d) Criteria used by the insurance commissioner to establish residency shall include, but not be limited to:

1. Jurisdiction for payment of state taxes.
2. Jurisdiction for automobile driver's license and motor vehicle registration.
3. Location of voter registration.
4. Location of principal residence, such as owned or rented dwelling, condominium or apartment.

(e) A licensed nonresident agent, after becoming a resident of a state other than Wisconsin, may retain agent licensing authority under the nonresident agent license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease, unless a letter of certification from the new state of residence is provided to the commissioner.

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Note: A copy of the form referenced in subs. (4) (a) and (5) (b), OCI 11-041, may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872.

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History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am. (8), Register, June, 1978, No. 270, eff. 7-1-78; cr. (10), Register, September, 1978, No. 273, eff. 10-1-78; am. (3) and (7), Register, February, 1980, No. 290, eff. 3-1-80; r. (6) and (9), renum. (7), (8) and (10) to be (6), (7) and (8), Register, August, 1980, No. 296, eff. 9-1-80; r. and recr. Register, September, 1981, No. 309, eff. 10-1-81; am. (4), cr. (8), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), (3), (4) (a) and (b) and (6), Register, May, 1987, No. 377, eff. 7-1-87; am. (4) (a) and (5) (b), Register, January, 1992, No. 433, eff. 2-1-92; cr. (8) (e), Register, April, 1992, No. 436, eff. 5-1-92; am. (4) (a) and (c), Register, June, 1992, No. 438, eff. 7-1-92.

Ins 6.61 Intermediary records. (1) PURPOSE. This section protects insurance policyholders by prescribing minimum standards and techniques of accounting and data handling of intermediaries to ensure that timely and reliable information will exist and be available to the commissioner. This section implements and interprets ss. 601.42 and 628.34, Stats., by establishing minimum records to be maintained by intermediaries.

(2) SCOPE. This section applies to all intermediaries transacting insurance business in this state and to Wisconsin insurance transactions of nonresident intermediaries unless the nonresident is required to maintain records in a similar specified manner by the intermediary's state of domicile.

(3) DEFINITIONS. As used in this section:

(a) "Business checking account" means any account utilized by an intermediary for insurance-related transactions.

(b) "Cash disbursed record" means a record showing all monies paid out by the intermediary in connection with insurance.

(c) "Cash receipts record" means a record showing all monies received by the intermediary in connection with insurance.

(d) "Commission statements" means records or statements which show the commissions and fees allocated to the intermediary for insurance transactions.

(e) "Formal disciplinary action" means consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, forfeitures or actions limiting the intermediary's method of conducting an insurance business.

(f) "Intermediary" means any person, partnership or corporation requiring a license under the provisions of ch. 628, Stats.

(g) "Personnel records" means those records pertaining to anyone who is directly retained or employed by an intermediary in connection with insurance including subagents, secretaries, phone solicitors, and independent contractors.

(h) "Policyholder records" means all records, applications, request for changes, claims, and complaints associated with a policy generated by or through the intermediary.

(4) **CASH DISBURSED RECORD.** The cash disbursed record shall show the name of the party to whom the payment was made, date of payment, and reason for payment.

(5) **CASH RECEIPTS RECORD.** The cash receipts record shall show the name of the party who remitted the money, date of receipt, and reason for payment.

(6) **COMMISSION STATEMENTS.** The commission statements shall show the insured name, policy number, premium, amount of commission, and date allocated or paid or both.

(7) **PERSONNEL RECORDS.** Personnel records shall include dates of employment, position, description of principal duties, name of employe, and last known address and phone number of employe.

(8) **RECORDKEEPING REQUIREMENTS.** Beginning on January 1, 1988, each intermediary shall maintain, for a 3-year period, unless a specific period is provided elsewhere, the following records:

- (a) Cash receipts record.
- (b) Cash disbursed record.
- (c) Commission statements.
- (d) Policyholder records.
- (e) Business checking account.
- (f) Personnel records.

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(9) SPECIAL REQUIREMENTS FOR NEWLY ISSUED CONTRACTS. Each intermediary shall maintain records for a 3-year period giving the effective date of the coverage on all newly issued contracts.

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charged with a violation of this rule be given the burden of proof in establishing any "business purpose" exception. The burden of proving that a refusal, nonrenewal, cancellation or limitation of insurance coverage is not subterfuge for unfair discrimination should likewise fall upon the person charged with a violation of this rule.

(b) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a residential property risk of 4 units or less, or the personal property contained therein, because of the age of the residential property, unless:

1. The refusal, cancellation or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or

2. The refusal, cancellation or limitation is required by law or regulatory mandate.

(c) Refusing to insure a risk solely because the applicant was previously denied coverage, terminated by another insurer or had obtained coverage in a residual market.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79; r. (4) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

Ins 6.70 Combinations of lines and classes of insurance. This rule defines and delimits the permissible combinations of the lines and classes of insurance defined and delimited by s. Ins 6.75 which may be written in the same policy. Except as provided in this rule, lines and classes of insurance may not be combined in the same policy.

(1) **COMBINATION WITH SEPARATE PREMIUM CHARGES.** Subject to s. Ins 2.05, any combination of the lines and classes of insurance defined and delimited by s. Ins 6.75, except for those described in s. Ins 6.75 (2) (h), (i) and (k), may be written in the same policy if a statement of separate premium charge is shown on the declarations page or on the face of the policy or in a separate written statement furnished to the policyholder. The requirement for a statement of separate premium charge does not prohibit such charges equitably reflecting differences in expected losses or expenses as contemplated by s. 625.11 (4), Stats.

(2) **COMBINATION WITH OR WITHOUT SEPARATE PREMIUM CHARGES.** Any combination of the lines and classes of insurance defined and delimited by s. Ins 6.75 (2) (a), (b), (d), (e), (f) and (j) may be written in the same policy with or without showing separate premium charges.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1977, No. 260, eff. 9-1-77.

Ins 6.72 Risk limitations. (1) Except as otherwise provided by law or by order of the commissioner, no single risk assumed by any insurance company shall exceed 10% of surplus as regards policyholders, except that in an assessable mutual company it may be a greater amount not exceeding 3 times the average policy or $\frac{1}{4}$ of 1% of the insurance in force, whichever is the greater. Upon the business mentioned in s. Ins 6.75 (2) (h), the maximum single risk may be a greater amount not exceeding 50% of the admitted assets. Any reinsurance taking effect simultaneously with the policy shall be deducted from the original risk assumed in determining compliance with this subsection.

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

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1981, No. 308, eff. 9-1-81; am. (1), Register, January, 1992, No. 433, eff. 2-1-92.

Ins 6.73 Reinsurance. (1) **PURPOSE.** The purpose of this section is to establish requirements for determining an authorized reinsurer under s. 627.23 (1), Stats., and to define the criteria that must be met to permit an insurer to include credit for reinsurance ceded in the annual statement blank filed with the commissioner of insurance. This rule does not limit or change the requirements set forth in ss. 612.31 and 612.33, Stats., for town mutuals.

(2) **SCOPE.** This section shall apply to all insurers authorized to transact business in this state under chs. 611 through 618, Stats., including the state life insurance fund.

(3) **AUTHORIZED REINSURER.** (a) A single reinsurer is authorized to assume reinsurance if it is in compliance with one of the following:

1. The reinsurer is authorized to transact business in Wisconsin under chs. 611, 612, 614, or 618, Stats.

2. The reinsurer is licensed to transact business in another jurisdiction of the United States and its capital and surplus meets or exceeds the maximum capital and surplus required under s. 611.19, Stats.

3. The reinsurer is an underwriter at Lloyds, London, the United States government or any agency of the United States government.

(b) A group or pool of reinsurers is authorized to assume reinsurance only to the extent of the aggregate of the liability assumed by each individual reinsurer member of the group or pool meeting the requirements of par. (a).

(4) **CRITERIA REQUIRED TO PERMIT CREDIT FOR REINSURANCE.** Credit for reinsurance ceded may be reported in the annual statement blank filed with the commissioner of insurance if the following criteria are met:

(a) The reinsurer is an authorized reinsurer under sub. (3).

(b) The ceding insurer can substantiate credit taken for reinsurance through evidence of an executed copy of the reinsurance agreement and reinsurance accounting documents.

(c) Each reinsurance agreement shall contain an acceptable insolvency clause which guarantees payment of the liability of the reinsurer under the reinsurance contract without diminution because of the insolvency of the ceding insurer.

(d) Each reinsurance agreement effected on or after January 1, 1980 which by its terms required payments to an intermediary shall contain a provision whereby the reinsurer assumes all credit risks of the intermediary related to payments to the intermediary.

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(e) The ceding insurer has established adequate gross liabilities or reserves.

(f) If the reinsurer is not considered an authorized reinsurer under sub. (3), credit for reinsurance ceded may be taken to the extent that the balances due from the reinsurer are absolutely secured by express provision in the reinsurance contract by any or a combination of the following:

1. Funds withheld from the same reinsurer and under exclusive control of the ceding insurer.

2. Securities on deposit with and under exclusive control of the ceding insurer and valued in accordance with the valuation standards permitted or prescribed by the commissioner.

3. Funds held in trust in a bank or trust company that is subject to supervision by any state of the United States or by the Dominion of Canada or a province thereof, or that is a member of the federal reserve system, and subject to withdrawal by and under the control of the ceding insurer. The funds may include letters of credit but they must be clean, irrevocable, unconditional letters of credit, with a bank or trust company that is subject to supervision by any state of the United States or by the Dominion of Canada or a province thereof or that is a member of the federal reserve system, termed to be funds held subject to withdrawal by and under the control of the ceding insurer. The letters of credit should be for a period of not less than one year.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, March, 1982, No. 315, eff. 4-1-82.

Ins 6.74 Suretyship and risk limitations of surety obligations. (1) **PURPOSE.** The purpose of this rule is to establish minimum requirements for the transaction of surety obligations.

(2) **SCOPE.** This rule shall apply to the limitations on bond penal amounts imposed on insurers engaged in the business of suretyship. This section shall not apply to insurers issuing only that type of surety insurance known as municipal bond insurance.

(3) **DEFINITIONS.** (a) For purposes of this rule suretyship shall be construed to be insurance.

(b) An insurance corporation authorized to write fidelity insurance may guarantee the fidelity of, or become the surety for: 1. persons holding positions of public or private trust; 2. the performance of any act, duty or obligation or the refraining from any act; 3. the performance of any contract; 4. bonds of insurance companies required by law as a condition of transacting business; 5. indemnifying banks, brokers and other financial or moneyed associations or corporations, against the loss of documents and money, except against loss caused by marine risks or risks of transportation or navigation; 6. indemnifying any federal land bank against loss by reason of defective title to or incumbrances on real property on which such bank may have a mortgage.

(c) As used in this rule any one surety risk shall be equivalent to the penal amount established on the surety bond.

(4) **RISK LIMITATIONS ON SURETY OBLIGATIONS.** (a) No corporation shall execute any suretyship obligation or expose itself to any loss on any one surety bond in an amount in excess of one-tenth of its capital and

surplus as reported in its most recent filed annual statement, unless it shall be protected in the excess of that amount: 1. by reinsurance in a corporation licensed to transact surety business where the risk is located; or 2. by the cosuretyship of a surety corporation likewise licensed.

(b) A surety corporation may execute transportation or warehousing bonds for the United States internal revenue taxes to an amount equal to 5 times the underwriting limitation specified in par. (a) of this rule.

(c) No corporation writing surety shall guarantee the deposits of any single financial institution in an aggregate amount in excess of the underwriting limitation set forth in par. (a) unless it shall be protected in excess of that amount by reinsurance or cosuretyship as specified in par. (a).

(d) A surety corporation shall not issue multiple bonds on a single contract (splitting bonds) and a surety corporation's liability on a single contract shall not be in excess of the limitations established in par. (a).

(e) No domestic corporation writing surety business shall execute, reinsure or be cosurety on a suretyship obligation in favor of the U.S. governments, or any other obligee, whereby a surety issues a bond to an obligee for a penal amount which is 10%, or an amount substantially less than, the total contract amount, unless the surety reinsures or obtains a cosurety for at least 50% of the bond penal amount with a corporation licensed to transact surety business where the risk is located. This is tantamount to a maximum exposure for any single loss on any one surety bond of this type of not more than one-twentieth of a domestic surety corporation's capital and surplus.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; emerg. am. (2), eff. 6-5-84; am. (2) Register, October, 1984, No. 346, eff. 11-1-84.

Ins 6.75 Classifications of insurance. This rule defines and delimits lines and classes of insurance for any purposes within the commissioner's regulatory power unless the language or context of a statute or rule otherwise provides.

(1) **LIFE AND DISABILITY INSURANCE.** Life and disability insurance includes the following:

(a) Life insurance and annuities—except insurance or annuities included in par. (b), insurance or annuities upon the lives of persons, and annuity contracts without life contingencies, as provided in s. 632.66, Stats.;

1. Credit life insurance—insurance on the lives of borrowers or purchasers of goods in connection with specific loans or credit transactions when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(b) Variable life insurance and variable annuities—insurance or annuities which provide for immediate or future benefits, the cost of which is funded and the payment of which is computed on the basis of experience factors derived from one or more segregated investments accounts established and managed as provided in ss. 611.24, 611.25, and 620.02, Stats.;

(c) Disability insurance—insurance covering injury or death of persons caused by accident, or insurance covering health of persons;

Register, April, 1992, No. 436