

**ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AMENDING  
AND CREATING A RULE**

To amend Ins 3.09 (19) (c); and to create Ins 3.09 (21), Wis. Adm. Code, relating to mortgage guaranty insurance.

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**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

**1. Statutes interpreted:**

Sections 600.01, 601.42, 611.19 (1), 611.24, 618.21, 623.02, 623.03, 623.04, 623.11, 627.05, 628.34 (12), and ch. 617 Stats.

**2. Statutory authority:**

Sections 601.41(3), 601.42, 611.19 (1), 618.21, 623.02, 623.04, 623.11, 627.05, 628.34(12), and ch. 617, Stats.

**3. Explanation of the OCI's authority to promulgate the rule under these statutes:**

The rule modifies the current restriction on issuance of mortgage guaranty insurance to or for the benefit of affiliates, and is authorized as governing an unfair trade practice under s. 628.34 (12), Wis. Stats., and as addressing financial risk to the insurer governed by statutes allowing the commissioner to establish standards and reporting requirements, including ss. under 601.42, 611.19 (1), 618.21, 623.02, 623.04, 623.11, 627.05, and for affiliate transactions under ch. 617, Stats.

**4. Related Statutes or rules:**

None

**5. The plain language analysis and summary of the rule:**

Under current rules a mortgage guaranty insurer may not directly or indirectly issue coverage for mortgages originated by an affiliate, unless the insurer is no more than 50% owned or controlled by the affiliate. The rule would permit the insurer to issue coverage for mortgages originated by the affiliate but only subject to the same underwriting standards as are applied to non-affiliates. The rule requires the insurer to annually file an officer's certification of compliance.

**6. Summary of and preliminary comparison with any existing or federal regulation that is intended to address the activities to be regulated by the rule:**

None

**7. Comparison of similar rules in adjacent states as found by OCI:**

Iowa: None

Illinois: Section 50 ILAC 202.60 (e) of Illinois insurance regulations prohibits a mortgage insurer from covering loans originated by a lender if the lender or its affiliate owns an equity interest in the mortgage insurer.

Minnesota: None

Michigan: None

**8. A summary of the factual data and analytical methodologies that OCI used in support of the rule and how any related findings support the regulatory approach chosen for the rule:**

The rule is based on the experience of the Office regulating and examining mortgage guaranty insurers, and the expertise of the financial analysts and examiners responsible for their regulation, including the application of the existing exception in s. INS 3.09 (19) (c), Wis. Adm. Code.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

The Office reviewed the annual financial reports of licensed mortgage guaranty insurers. There are no such insurers that are small businesses.

**10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:**

There is no significant fiscal effect on the private sector. The rule will establish an exception from an existing prohibition. The limited reporting requirement included will not impose any significant cost beyond the existing reporting requirements.

**11. A description of the Effect on Small Business:**

This rule will have no effect on small businesses.

**12. Agency contact person:**

A copy of the full text of the rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110  
Email: Inger.Williams@OCI.State.WI.US  
Address: 125 South Webster St – 2<sup>nd</sup> Floor Madison WI 53702  
Mail: PO Box 7873, Madison WI 53707-7873

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**The rule changes are:**

**SECTION 1. Section Ins 3.09 (19) (c) is amended to read:**

Ins 3.09 (19) (c) 1. A mortgage guaranty insurer ~~that is no more than 50% owned by or controlled by the holding company system or affiliate~~ may underwrite mortgage guaranty insurance on mortgages originated by the holding company system or affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate, only if the insurance is underwritten on the same basis, for the same consideration and subject to the same insurability requirements as insurance provided to nonaffiliated lenders. Mortgage guaranty insurance underwritten on mortgages originated by the holding company system or affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or

affiliate, shall be limited to 50% of the insurer's direct premium written in any calendar year, or such higher percentage established in writing for the insurer in the commissioner's discretion, based on the commissioner's determination that a higher percentage is not likely to adversely affect the financial condition of the insurer.

2. A domestic mortgage guaranty insurer that offers coverage under subd. 1, shall annually file by March 1 a certification executed by a senior, responsible officer that the insurer has complied with subd. 1. in the previous calendar year. The commissioner may grant an extension to an insurer if the commissioner determines an extension is not likely to materially impede the office's monitoring of the insurer's compliance with this subsection.

**SECTION 2. Section Ins 3.09 (21) is created to read:**

Ins 3.09 (21) This section may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

**SECTION 3.** This rule will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Jorge Gomez  
Commissioner of Insurance

## FISCAL ESTIMATE WORKSHEET

### Detailed Estimate of Annual Fiscal Effect

ORIGINAL                       UPDATED  
 CORRECTED                       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 3.09 (19)</b>

**Subject**  
 mortgage guaranty insurance

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
**None**

Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs by Category	\$ 0	\$ -0
<b>B. State Costs by Source of Funds</b>		
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
<b>C. State Revenues</b> <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$ 0 None	\$ -0 None

#### NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>None 0</u>	\$ <u>None 0</u>
NET CHANGE IN REVENUES	\$ <u>None 0</u>	\$ <u>None 0</u>

Prepared by: Fred Nepple	Telephone No. (608) 266-7726	Agency Insurance
Authorized Signature:	Telephone No.	Date 3/14/2005

