

CHAPTER 627

UNDERWRITING RESTRICTIONS

627.05 Classifications of insurance.

627.06 Combinations of policies.

627.15 Indemnity agreements for surety corporation.

627.18 Variable contracts.

627.23 Reinsurance.

Cross-reference: See definitions in ss. 600.03 and 628.02.

NOTE: Chapter 372, laws of 1975, which created this chapter, contains explanatory notes.

627.05 Classifications of insurance. The commissioner may by rule define and delimit lines and classes of insurance for any purposes within the commissioner's regulatory power, including:

- (1) To delimit the underwriting powers of insurers doing business in this state;
- (2) To provide a basis for determining the financial needs of insurers under s. 611.19 or comparable provisions of other chapters;
- (3) To provide instructions for reports and replies under s. 601.42;
- (4) To restrict combinations of lines or classes of insurance; and
- (5) To determine which rules under ch. 632 are applicable.

History: 1975 c. 372, 421; 1979 c. 221.

627.06 Combinations of policies. Subject to any other provisions in this chapter, the commissioner may by rule establish standards for the combination of different kinds of coverages in policies and may specify whether premiums must be separately stated for each.

History: 1975 c. 372; 1979 c. 221.

Cross-reference: See also s. Ins 2.05, Wis. adm. code.

627.15 Indemnity agreements for surety corporation. Any insurer writing surety or fidelity insurance may contract for indemnity or security for any suretyship or fidelity obligation incurred by it; and any fiduciary from whom such an obligation is required or permitted by law may deposit any money and other property which the fiduciary has the power to make available for the indemnity or security with a responsible financial institution as depository in a manner that prevents the withdrawal or alienation thereof without the written consent of the surety or an order of a court or judge thereof having jurisdiction of the fiduciary, made on such notice to the surety as the court or judge may direct. The commissioner shall take the existence of a systematic practice of making such arrangements into account in assessing the financial condition of the insurer and its underwriting capacity and limits.

History: 1975 c. 372, 421.

627.18 Variable contracts. No insurer may deliver within this state any contract providing life or annuity benefits in variable amounts until the insurer has satisfied the commissioner that its condition and methods of operation in connection with such contracts do not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting authority to deliver such contracts within the state, the commissioner shall consider, among other things:

- (1) The history and financial condition of the insurer;

- (2) The character, responsibility and general fitness of the insurer's officers and directors; and

- (3) In the case of a nondomestic insurer, whether the regulation provided by the state of its domicile or the jurisdiction in which its head office is located provides protection to policyholders and the public substantially equal to that provided by chs. 600 to 646 and the rules issued thereunder.

History: 1975 c. 372; 1979 c. 89.

627.23 Reinsurance. (1) POWER TO ACCEPT REINSURANCE. Except as limited by s. 612.33 in the case of town mutuals, an authorized insurer may assume as a reinsurer any risks it may write directly. Subject to chs. 611 to 618 or to any limitation imposed on a nondomestic insurer by law of its domicile, the commissioner may also authorize an insurer to accept as a reinsurer designated classes of risks it is not authorized to write directly.

(2) POWER TO CEDE REINSURANCE. Subject to s. 611.78, any authorized insurer may cede to any insurer authorized to assume it under chs. 611 to 618 and sub. (1) any liability it has undertaken on risks lawfully written under its certificate of authority. It may also cede reinsurance to any authorized agency of the federal government or of this state. Subject to rules promulgated by the commissioner for calculation of its reserves and its surplus, and subject to sub. (3), an authorized insurer may also cede reinsurance to an unauthorized insurer.

(3) REINSURANCE IN UNSOUND REINSURER. No person may knowingly cede reinsurance or permit it to be ceded to any reinsurer not in sound financial condition. If the reinsurer is authorized to do business in this state or any other jurisdiction specified by the commissioner by rule, or is included on a list prepared by the commissioner or approved by the commissioner for that purpose, there is a rebuttable presumption that it is in sound financial condition.

(4) ASSUMPTION OF UNAUTHORIZED BUSINESS. Any authorized reinsurer knowingly assuming from an unauthorized insurer risks that may lawfully be written only by an authorized insurer shall immediately report the facts respecting the transaction to the commissioner. The assuming reinsurer is liable for the tax and penalties specified in s. 618.43 (1), but may take credit therefor in its settlement of accounts with the ceding insurer, unless its agreement with the unauthorized ceding insurer took such taxes into account.

(5) RETIREMENT FROM BUSINESS. Any authorized reinsurer proposing to withdraw from a class of its business in this state, except by nonrenewal of existing contracts at their expiration, shall give the commissioner 60 days' written notice of its intention and shall not withdraw until after lapse of that time. This subsection does not apply to transactions involving an insignificant market share of the class of business in this state.

History: 1975 c. 372, 421.

Absent proof that the agent knew, or should have known, of financial problems of the reinsurer from whom the agent procured insurance, the agent is not liable when the reinsurer later becomes insolvent. *Master Plumbers Limited Mutual Liability Co. v. Cormany & Bird, Inc.* 79 Wis. 2d 308, 255 N.W.2d 533 (1977).