

CHAPTER 605

STATE PROPERTY INSURANCE FUND

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605.01 Definitions. In this chapter, unless the context requires otherwise, "local governmental unit" means any city, county, town or village board or common council, school or library board, or board of control of a cooperative educational service agency.

History: 1973 c. 117, 333.

Note: Chap. 117, laws of 1973, which created this chapter of the statutes, contained notes explaining the revision. See the 1973 session law volume.

605.02 Kinds of property insured. (1) **STATE PROPERTY.** Except as provided in s. 605.09 (1), all state property and property for which the state may be liable in the event of damage or destruction is insured in the property fund against fire and extended coverage perils under s. 605.03 (1) (a). By agreement between the manager and the person having charge of the property, it may be insured against other perils under s. 605.03 (1) (b).

(2) **NONSTATE PROPERTY.** Any local governmental unit may insure in the property fund its property or property for which it may be liable in the event of damage or destruction. Property insured under this section by a local governmental unit may not also be insured in any other manner unless the manager certifies that additional insurance is necessary, or unless the local governmental unit by resolution, a certified copy of which is filed with the manager, decides to insure specified personal property with insurers authorized to do business in this state.

History: 1973 c. 117.

605.03 Coverage to be provided. (1) **GENERAL.** (a) *Mandatory coverage.* The property fund shall provide protection against fire and extended coverage perils. The coverage shall be at least as favorable as that customarily provided by policies approved by the commissioner for the use of private insurers in insuring comparable property.

(b) *Optional coverage.* The fund may also provide additional protection against other named perils or may provide protection on an all-

risk basis, on such terms as the manager prescribes.

(c) *Valuation basis.* The fund may provide coverage on any appropriate valuation basis including actual cash value and replacement cost, and may cover loss from the lack of use of or reduction in the income from property caused by perils insured against.

(d) *Term of policy.* The manager may prescribe the time periods for which coverage is to be provided.

(e) *Documents.* The manager shall prepare policies and supplementary documents for the use of the fund in providing the coverage under pars. (a) and (b), but no such documents may be used by the fund if the commissioner would not approve them for the use of private insurers.

(2) **COINSURANCE.** The manager may prescribe by rule the percentages of value or cost for which coverage may be provided.

(3) **DEDUCTIBLES.** The manager may prescribe by rule that small losses in any one occurrence shall not be paid.

History: 1973 c. 117.

605.09 Restrictions on private insurance.

(1) **STATE PROPERTY.** (a) *General.* No officer or agent of this state, and no person having charge of any property of the state or for which the state may be liable, may pay any public money to any private insurer for any insurance on property available under this chapter nor incur any indebtedness against the state to a private insurer for any such insurance, except as provided by par. (b).

(b) *Exceptions.* Par. (a) does not apply if:

1. A specific statute provides for private insurance; or

2. The manager approves the use of self-insurance funds or the purchase of insurance from private insurers on the ground that the public interest will be better protected than by insurance in the property fund; or

3. The manager terminates insurance in the property fund on property of an agency of the

state because the agency does not comply with s. 605.21 (1).

(2) **PROPERTY OF LOCAL GOVERNMENTAL UNITS.** After a lawful vote of the local governmental unit to insure under this chapter, no such unit may pay out any money to any private insurer nor incur any indebtedness against the unit to a private insurer for any insurance on any property of the unit or for which the unit may be legally liable if such insurance is available under this chapter, unless it is approved by the commissioner as necessary or unless it is insurance on personal property which the unit by resolution filed with the commissioner has decided to insure in insurance companies authorized to do business in this state.

History: 1973 c. 117; 1975 c. 41.

605.21 Manner of participation in property fund.

(1) **STATE PROPERTY.** The person or board having charge of property described in s. 605.02 (1) shall furnish to the manager a list of all such property under his charge with estimates of its insurable value based on such data and standards as the manager reasonably prescribes. The manager shall compute the premium, and he may consider the rates suggested by rate service organizations in this state for the perils against which the fund insures, with such deviations and other departures from those rates as he considers sound. He shall submit to the department of administration a statement of the amount of required insurance on the property and the premium payable therefor. The amount due for insurance shall be paid to the property fund.

(2) **NONSTATE PROPERTY.** (a) *Placing insurance.* The property fund shall insure property described in s. 605.02 (2) after receipt from the clerk of the local governmental unit of a certified copy of the resolution authorizing insurance in the property fund. The clerk shall report to the manager each policy then in force upon such property, stating the property covered by the policy and the dates of issue and of expiration, the amounts and rates of insurance and the premiums. Property already insured shall become insured by the property fund as existing policies expire or are canceled. Thereafter the insurance on all property described in s. 605.02 (2) shall be provided just as for state property, except that the premium shall be certified by the manager to the clerk of the appropriate unit.

(b) *Premium payment.* Upon receipt of certification of premium due, the premium shall be paid into the state treasury for the benefit of the property fund, within 60 days after the date of certification or the effective date of the policy, whichever is the later. Premiums for property insured effective at a later date shall be paid within 60 days after the effective date of each

addition. The amount of a premium in default shall be a special charge against the local governing unit, and be included in the next certification of state taxes and charged and collected as other special charges are collected, with interest from the due date at a rate set by the commissioner by rule or, in the absence of a rule, at twice the most common prime rate charged by major banks in this state.

(c) *Withdrawal from the property fund.* Any local governmental unit may terminate its insurance in the property fund by a majority vote, and upon certifying such action to the manager the insurance in force in the fund shall terminate upon expiration of the policy unless the unit specifies an earlier date for termination. In case of removal or sale of property, the board may terminate the insurance on that property without terminating its entire insurance in the property fund.

(d) *Insurance of personal property.* All personal property of the local governing unit is insured and premiums therefor must be paid under this subsection except to the extent that coverage is excluded by resolution under s. 605.02 (2).

History: 1973 c. 117, 333.

605.23 Adjustment of losses.

(1) **STATE PROPERTY.** The manager shall determine within a reasonable time any loss on state property or property for which the state is liable and promptly file a statement with the state treasurer and the department of administration. The department of administration shall then issue a warrant for the amount of the loss less any applicable amounts under s. 605.03 (2) or (3), as a transfer from the property fund to the fund of the person in whose charge the building or property belongs, to be disbursed to him by the state treasurer in the same manner as other state funds for his use are paid out.

(2) **NONSTATE PROPERTY.** The manager shall determine within a reasonable time any loss on insured property owned by a local governmental unit or for which the unit is liable and promptly certify the amount to the department of administration, which shall issue a warrant on the property fund payable to the treasurer of the local governmental unit for the amount of the loss less any applicable amounts under s. 605.03 (2) or (3).

(3) **APPRAISAL IN CASE OF DISAGREEMENT.** If there is disagreement between the manager and the local governmental unit or person in charge of state property as to the amount of the loss or damage to property covered by the property fund, the amount shall be determined by appraisal, upon the demand of the local governmental unit or person having charge of

state property. The manager and the claimant shall each select a competent and disinterested appraiser and notify the other of the selection within 20 days of the demand. If either party fails to select an appraiser within the allotted time, the other party may request a court of record to appoint an appraiser. The appraisers shall first select a competent and disinterested umpire. If they do not agree on one within 15 days, then either party may request a judge of a court of record in the county in which the property is located to select a competent and disinterested umpire and he shall do so promptly. The appraisers shall then appraise the loss and damage, stating separately the actual cash value or other applicable basis of valuation and the loss or damage to each item. If they fail to agree they shall submit their differences to the umpire. An itemized award in writing of any 2 of the 3 when filed with the manager shall determine the amount of the insured value and of loss or damage. Each appraiser shall be paid by the party selecting him and other expenses of appraisal and of the umpire shall be paid by the parties equally.

(4) CONSIDERATIONS IN ASCERTAINING LOSS.

The basic criterion for ascertaining the amount of any loss to property under this chapter is actual cash value, unless the property is insured for replacement cost. Obsolescence and plans for demolition are factors to be considered in determining actual cash value, and replacement cost shall not be paid if there are plans for demolition of the property.

History: 1973 c 117.

605.24 Recovery of losses from other parties. (1) **SUIT BY ATTORNEY GENERAL.**

Upon the request of the manager, the attorney general may proceed in the courts of any

jurisdiction to recover from any responsible party other than an insured or any person using or dealing with the property in the course of his employment for the insured, for any loss or damage to any property covered by insurance under this chapter. Any recovery less expenses shall be paid into the property fund, but if the amount recovered less expenses exceeds that paid out by the fund, the difference shall be paid to the insured.

(2) COLLECTION OF REINSURANCE. The manager shall collect reinsurance due and pay the amount collected into the property fund.

(3) RIGHT OVER AGAINST THIRD PERSONS. The property fund may name other persons as additional persons protected under s. 605.02, but unless it does so the fund shall have any right of recovery by subrogation or otherwise against such persons that a private insurer would have and shall not lose such right because the governmental unit protected has after commencement of the coverage waived any right of recovery it would otherwise have had, or has thereafter contracted to assume the risk that general law would have placed elsewhere.

History: 1973 c 117.

605.30 Inadequacy of fund. If the property fund does not have sufficient assets to pay claims that are due, the department of administration shall issue a warrant as a transfer from the general fund to the property fund sufficient to pay the losses and the state treasurer shall pay the warrant. The property fund shall thereafter repay the general fund and the department of administration shall issue warrants for such transfer as soon as there are assets in the property fund.

History: 1973 c 117.