

## CHAPTER 601

## INSURANCE — ADMINISTRATION

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## SUBCHAPTER I

## GENERAL PROVISIONS

**601.01 Purposes.** The purposes of chs. 600 to 646 are:

- (1) To ensure the solidity of all insurers doing business in this state;
- (2) To ensure that policyholders, claimants and insurers are treated fairly and equitably;
- (3) To ensure that the state has an adequate and healthy insurance market, characterized by competitive conditions and the exercise of initiative;
- (4) To provide for an office that is expert in the field of insurance, and able to enforce chs. 600 to 646;
- (5) To encourage full cooperation of the office with other regulatory bodies, both of this and other states and of the federal government;
- (6) To improve and thereby preserve state regulation of insurance;
- (7) To maintain freedom of contract and freedom of enterprise so far as consistent with the other purposes of the law;
- (8) To encourage self-regulation of the insurance enterprise;
- (9) To encourage loss prevention as an aspect of the operation of the insurance enterprise;
- (10) To keep the public informed on insurance matters; and
- (11) To achieve the other purposes stated in chs. 600 to 646.

**History:** 1971 c. 260; 1977 c. 339 ss. 27, 28, 43; 1979 c. 89, 102, 177.  
Why process consumer complaints? A case study of the office of the commissioner of insurance of Wisconsin. Whitford, Kimball, 1974 WLR 639.

**601.02 Definitions.** In this chapter, unless the context indicates otherwise:

- (1) "Adjuster" means any person who represents an insurer or an insured in negotiations for the settlement of a claim against the insurer arising out of the coverage provided by an insurance policy.

- (3) "Agent" means an intermediary as defined in s. 628.02
- (4).

**History:** 1971 c. 260; 1975 c. 371.

**601.04 Certificate of authority; fee. (1) SCOPE.** This section applies to all insurers incorporated or organized under any law of this state except chs. 611, 612, 613 and 614.

(2) **REQUIREMENT OF LICENSE.** No insurer or plan subject to this section may transact insurance business in this state without having in effect a certificate of authority.

(3) **LICENSING.** The commissioner shall issue to any insurer or plan subject to this section a certificate of authority authorizing it to transact the business of insurance in this state if the commissioner is satisfied that it has met all requirements of law and that its methods and practices and the character and value of its assets will adequately safeguard the interests of its insureds and the public in this state. Each certificate shall be issued for a period of no longer than one year and shall expire on May 1. It may be renewed from year to year.

(4) **FEES.** Every insurer or plan obtaining or renewing its certificate shall pay the fee required by s. 601.31 (1) (b) or (c).  
**History:** 1971 c. 260; 1973 c. 22; 1975 c. 223, 373; 1977 c. 339 s. 6m; 1979 c. 102 ss. 236 (6), 237; 1981 c. 41.

## SUBCHAPTER II

## OFFICE OF THE COMMISSIONER OF INSURANCE

**601.11 Personnel. (1) DEPUTY COMMISSIONER.** (a) *Appointment.* The deputy commissioner shall be appointed subject to ss. 15.04 (2) and (3) and 15.73.

(b) *Acting commissioner.* When the office of commissioner is vacant, or when the commissioner is unable to perform his or her duties because of mental or physical disability, the deputy commissioner shall be acting commissioner. The deputy commissioner shall have such other duties and powers as the commissioner delegates and assigns.

(2) **OTHER PERSONNEL.** Except for those employed under s. 601.14 (2) or otherwise specifically exempted, all personnel

including staff attorneys shall be appointed under the classified service.

History: 1977 c. 418.

**601.12 Legal services. (1) LEGAL SERVICES.** The attorney general shall allocate personnel as the legal needs of the office demand.

**(2) ENFORCEMENT.** Upon request of the commissioner, the attorney general shall proceed in any federal or state court or agency to recover any tax or fee related to insurance payable under the laws of this state and not paid when due, and any penalty or forfeiture authorized by chs. 600 to 647. Upon request of the commissioner, the attorney general or, in a proper case, the district attorney of any county, shall aid in any investigation, hearing or other procedure under chs. 600 to 647 and shall institute, prosecute and defend proceedings relating to the enforcement or interpretation of chs. 600 to 647, including any proceeding to which the state, or the insurance commissioner or any employe of the office, in the employe's official capacity, shall be a party or in which the commissioner or the employe is interested.

History: 1975 c. 189; 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 358 s. 14.

**601.13 Financial services; deposits. (1) RECEIPT OF DEPOSITS.** Subject to the approval of the commissioner, the state treasurer shall accept deposits or control of acceptable book-entry accounts from insurers and other licensees of the office as follows:

- (a) Deposits required or permitted by the laws of this state;
- (b) Deposits of domestic insurers or of alien insurers domiciled in this state if required by the laws of other states as prerequisite to authority to do an insurance business in other states; and
- (c) Deposits resulting from application of any retaliatory provisions.

**(2) TERMS OF DEPOSIT.** Unless otherwise provided by the law requiring or permitting the deposit, each deposit shall be held in trust: first, for the claimants under s. 645.68 (3); 2nd, for the claimants under s. 645.68 (4); and thereafter, for all other creditors in the order of priority established by s. 645.68. No claim may be made against the deposit of an alien insurer unless the claim arises out of a transaction in the United States.

**(3) SECURITIES ELIGIBLE.** All deposits may consist of any of the securities authorized in this subsection. Each security must be approved by the commissioner, must be subject to disposition by the state treasurer and must not be available to any other person except as expressly provided by law. The authorized securities are:

- (a) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of the United States or Canada or any state or province thereof.
- (b) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of any county, city, village, town, school district or other governmental or civil division within the United States or Canada.
- (c) Lawfully authorized bonds or other evidences of indebtedness payable from and adequately secured by revenues specifically pledged therefor of the United States or Canada, or of any state or province, or of a commission, board or other instrumentality of one or more of them.
- (d) Interest-bearing notes of any savings and loan association organized under the laws of this state.
- (e) Bonds or other securities of any savings and loan finance corporation organized under the laws of this state.
- (f) Investment shares of any savings and loan association to the extent that they are or may be insured or guaranteed by

the federal government, by the federal savings and loan insurance corporation or by any other agency of the United States.

(g) Shares of corporations chartered or incorporated under section 5 of the homeowners' loan act of 1933.

(h) Certificates of deposit of any bank organized under the laws of this state or of any national bank located in this state.

**(4) VALUATION.** Securities held on deposit shall be valued under s. 623.03 for valuation of such investments of life insurers, or at market, whichever is lower.

**(5) RECEIPT, INSPECTION AND RECORD.** The state treasurer shall deliver to the depositor a receipt for all securities deposited or held under the control of the state treasurer and shall permit the depositor to inspect its physically held securities at any reasonable time. On application of the depositor the treasurer shall certify when required by any law of the United States or of any other state or foreign country or by the order of any court of competent jurisdiction that the deposit was made. The treasurer and the commissioner shall each keep a permanent record of securities deposited or held under the control of the state treasurer and of any substitutions or withdrawals and shall compare records at least annually.

**(6) TRANSFER OF SECURITIES.** No transfer of a deposited security, whether voluntary or by operation of law, is valid unless approved in writing by the commissioner and countersigned by the treasurer.

**(7) NOT SUBJECT TO LEVY.** No judgment creditor or other person shall levy upon any deposit held under this section.

**(8) INTEREST AND SUBSTITUTIONS.** Subject to s. 14.58 (13), a depositor shall, while solvent and complying with the laws of this state, be entitled:

- (a) To receive interest and cash dividends accruing on the securities held on deposit for its account; and
- (b) To substitute for deposited securities other eligible securities, as expressly approved by the commissioner.

**(9) VOLUNTARY EXCESS DEPOSIT.** A depositor may deposit eligible securities in excess of requirements to absorb fluctuations in value and to facilitate substitution of securities.

**(10) RELEASE OF DEPOSIT.** Upon approval of the commissioner, any deposit or part thereof shall be released upon the depositor's request to the extent permitted by law.

**(11) ADVANCE DEPOSIT OF FEES.** With the approval of the commissioner, any person required to pay fees or assessments to the state through the commissioner may make a deposit with the treasurer from which the fees or assessments shall be paid on order of the commissioner not less than twice each year. Upon request by the depositor, any balance remaining shall be returned on the certificate of the commissioner that all fees and assessments have been paid to date.

History: 1971 c. 40 s. 93; 1971 c. 260 s. 92 (6); 1977 c. 203 ss. 102, 103; 1977 c. 339 s. 43; 1979 c. 89, 102, 177

**601.14 Supporting services. (1) OFFICES.** The department of administration shall provide suitable premises for the offices of the commissioner of insurance:

- (a) In the city of Madison; and
- (b) Elsewhere, if approved by the governor as necessary for the efficient operation of the office.

**(2) MATERIALS, SUPPLIES, EQUIPMENT AND CONTRACTUAL SERVICES.** The department of administration shall provide the office with all materials, supplies, equipment and contractual services necessary for its efficient operation, including reasonable library facilities and books. Part-time or temporary services of professionals and experts shall be provided by the department of administration upon the recommendation of

the commissioner, and may be provided without regard to the restrictions of subch. II of ch. 230.

History: 1971 c. 307; 1977 c. 196 s. 131.

**601.15 Oath.** The deputy commissioner shall take and file the official oath.

**601.16 Official seal and signature. (1) SEAL.** The commissioner need not have nor use an official seal. Any statutory or common law requirement that an official seal be affixed is satisfied by the signature of the commissioner.

**(2) SIGNATURES.** Any signature of the commissioner may be in facsimile unless specifically required to be handwritten.

History: 1977 c. 203 s. 103.

**601.17 Bond. (1) BLANKET BOND.** The commissioner shall procure a blanket bond conforming to s. 19.01 (2) covering the commissioner and each employe of his office in the sum of \$100,000, applying separately to each covered person. The premium for the bond shall be allocated to the several appropriations under s. 20.145.

**(2) QUALIFICATIONS OF SURETY.** The bond shall be underwritten by an insurer authorized to transact surety business in this state and shall be approved by the governor.

**601.18 Delegation.** Any power, duty or function vested in the commissioner by law may be exercised, discharged or performed by any employe of the office acting in the commissioner's name and by the commissioner's delegated authority. Any person whose own course of action in good faith depends upon proof of the validity of an asserted delegation is not obligated to act until the person is shown a written delegation with a handwritten signature of the commissioner or deputy commissioner.

History: 1979 c. 102.

**601.19 Organization of the office.** The commissioner shall publish periodically in the Wisconsin administrative code an up-to-date chart and explanation of the organization of the commissioner's office, making clear the allocation of responsibility and authority among the staff.

History: 1979 c. 102 s. 236 (14).

**601.20 Advisory councils and committees. (1) AUTHORIZATION TO FORM COUNCILS AND COMMITTEES.** The commissioner may create advisory councils and committees under s. 15.04 (1) (c) to assist in dealing with regulatory problems. The commissioner may appoint members and may provide by rule for the creation, governance, duties and termination of any council or committee the commissioner establishes.

History: 1975 c. 372, 375, 421; 1977 c. 196 s. 131; 1979 c. 102, 221.

**601.21 Note to chapter 609. (1)** Biennially, the commissioner shall prepare and submit a note, as provided in subs. (2) and (3), for inclusion in ch. 609 of each biennial edition of the Wisconsin statutes.

**(2)** The commissioner shall include in the note under sub. (1) a list of the significant provisions of chs. 600 to 655 that apply to health maintenance organizations, preferred provider plans and limited service health organizations under ch. 609 and shall prepare the note in the form specified by the revisor of statutes under s. 13.93 (1) (q).

**(3)** The commissioner shall submit the note under sub. (1) to the revisor of statutes at the time specified by the revisor under s. 13.93 (1) (q).

History: 1985 a. 29.

## SUBCHAPTER III

### FINANCING THE INSURANCE OFFICE

**601.31 Fees. (1)** The following fees, unless revised by the commissioner as provided in s. 601.32, shall be paid to the commissioner:

**(a)** For filing documents for examination preliminary to initial licensing or for any other initial filing of documents required by law as a prerequisite for operating or otherwise providing services in this state, including the filing of articles of incorporation, the first declaration or statement, a certified copy of charter, and others:

1. Domestic and nondomestic insurers, \$100.
2. Rate service organizations, \$100.
3. Motor clubs, \$100.
4. Licensees under ch. 615, \$100.
5. Providers of services under ch. 647, \$100.

**(b)** For issuing a permit or certificate of authority:

1. Domestic and nondomestic insurers, \$100.
2. Rate service organizations, \$100.
3. Motor clubs, \$100.
4. Licensees under ch. 615, \$100.
5. Providers of services under ch. 647, \$100.

**(c)** Annually for continuation of a permit or certificate of authority:

1. Domestic and nondomestic insurers, \$25.
2. Rate service organizations, \$100.
3. Motor clubs, \$25.
4. Licensees under ch. 615, \$25.
5. Providers of services under ch. 647, \$25.

**(d)** For filing articles of amendment, domestic companies, \$25.

**(e)** For filing a copy of amendments to the articles of a nondomestic insurer, \$25.

**(f)** For filing articles of merger, \$100.

**(g)** For filing a copy of articles of merger of a nondomestic insurer, other than with a domestic corporation, \$25.

**(h)** For filing an application by a nondomestic insurer for amended certificate of authority to transact business in this state, \$25.

**(i)** For filing an application to reserve a corporate name, \$25.

**(j)** For filing a notice of transfer of a reserved corporate name, \$25.

**(k)** For filing an annual statement, \$25.

**(l)** For issuing or enlarging the scope of a license, amounts to be set by the commissioner by rule but not to exceed:

1. Individual intermediary, \$10;
2. Corporation or partnership intermediary, \$100; and
3. Licensees authorized to place business under s. 618.41, \$100.

**(m)** For regulating, annually after the year in which the initial license is issued, amounts to be set by the commissioner by rule and paid at times and under procedures set by the commissioner, but not to exceed:

1. Resident intermediaries, \$5;
2. Nonresident intermediaries, \$15; and
3. Holder of a license to place business under s. 618.41, \$100.

**(n)** For listing an agent under s. 628.11, a fee to be set by the commissioner by rule but not to exceed \$5 annually for resident agents and \$15 annually for nonresident agents.

**(o)** For examination of an applicant for a license as an insurance intermediary, an amount to be set by the commissioner by rule but not to exceed \$50 and not to exceed the reasonably estimated average cost of the examination and investigation of an intermediary.

(p) For service of process on the commissioner, \$5.

(q) For a copy of a paper filed in the commissioner's office, actual cost.

(r) For preparation and furnishing of lists of insurers or intermediaries, actual cost.

(t) For filing documents for examination preliminary to initial listing by the commissioner for surplus lines insurance under s. 618.41 (6) (d), \$100.

(2) Town mutuals and insurers operating under subch. I of ch. 616 are exempt from all provisions of this section except sub. (1) (b), (c) and (q).

**History:** 1971 c. 40 s. 93; 1971 c. 125, 260, 307; 1975 c. 223, 371, 373, 374, 421; 1979 c. 102 ss. 63 to 65, 237; 1979 c. 261, 355; 1981 c. 20 ss. 1739 to 1748, 2202 (26) (a); 1981 c. 38, 314; 1983 a. 358; 1985 a. 29.

**Legislative Council Note on sub. (2), 1979:** In addition to some editorial corrections, this provision has been amended to apply s. 601.31 (2) [(1) (b)] and (3) [(1) (c)] to former ch. 185 insurers, now operating under subch. I of ch. 616. It also applies s. 601.31 (2) [(1) (b)] and (3) [(1) (c)] to town mutuals. The exemption of fraternal in sub. (25) from certain fees is not justified and is deleted. [Bill 21-S]

**601.32 Supervision of industry, supplementary fee. (1)** If the moneys credited to s. 20.145 (1) (g) under other sections of the statutes prove inadequate for the office's supervision of insurance industry program, the commissioner may increase any or all of the fees imposed by s. 601.31, or may in any year levy a special assessment on all domestic insurers, or both, for the general operation of that program.

(2) Any special assessment shall be in addition to all other taxes, fees, dues and charges and shall not exceed for any such company a maximum of 25 cents per \$1,000 of gross premiums received by it during the preceding calendar year on direct insurance in this state, less returned premiums and cancellations.

(3) Any assessment made by the commissioner which is less than the maximum shall be prorated among said companies in the same proportion as if it were a maximum assessment. Any such assessment shall be paid to the commissioner on or before July 31 of each year.

(4) The commissioner may omit the levy of any assessment which would be smaller than the cost of processing and collecting it.

**History:** 1975 c. 372 s. 41; 1977 c. 339; 1979 c. 102 ss. 66, 236 (4); 1983 a. 215.

**601.33 Exemption from taxation.** Municipal insurance mutuals organized under s. 611.11 (4) are not subject to any taxes or fees except those imposed by ss. 601.31 and 601.32.

**History:** 1977 c. 346.

## SUBCHAPTER IV

### POWERS AND DUTIES OF COMMISSIONER

**601.41 General duties and powers. (1) DUTIES.** The commissioner shall administer and enforce chs. 600 to 647 and ss. 59.07 (2) (c) and 120.13 (2) (b) to (f) and shall act as promptly as possible under the circumstances on all matters placed before the commissioner.

(2) **POWERS.** The commissioner shall have all powers specifically granted to the commissioner, or reasonably implied in order to enable the commissioner to perform the duties imposed by sub. (1).

(3) **RULES.** The commissioner shall have rule-making authority under s. 227.11 (2).

(4) **ENFORCEMENT PROCEEDINGS.** (a) The commissioner shall issue such prohibitory, mandatory and other orders as are necessary to secure compliance with the law.

(b) On request of any person who would be affected by an order under par. (a), the commissioner may issue a declaratory order to clarify the person's rights or duties.

(5) **INFORMAL HEARINGS AND PUBLIC MEETINGS.** The commissioner may at any time hold informal hearings and public meetings, whether or not called hearings, for the purposes of investigation, the ascertainment of public sentiment, or informing the public. No effective rule or order may result from the hearing unless the requirements of ch. 227 are satisfied.

**History:** 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 358 s. 14; 1985 a. 29; 1985 a. 182 s. 57.

Why process consumer complaints? A case study of the office of the commissioner of insurance of Wisconsin. Whitford, Kimball, 1974 WLR 639.

**601.415 Miscellaneous duties.** The duties listed in this section are in addition to other duties imposed under chs. 600 to 647. Failure to list a specified power, duty or function of the commissioner in this section or in s. 15.731 does not affect the validity of the power, duty or function.

(1) **JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS AND RETIREMENT RESEARCH COMMITTEE.** The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the joint survey committee on retirement systems under s. 13.50 and the retirement research committee under s. 13.51.

(2) **GROUP INSURANCE BOARD.** The commissioner shall serve as a member of the group insurance board under s. 15.165 (2).

(3) **WISCONSIN RETIREMENT BOARD.** The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the Wisconsin retirement board under s. 15.165 (3) (b).

(4) **COUNCIL ON FIRE SERVICE TRAINING PROGRAMS.** The commissioner or a designated representative shall serve on the council on fire service training programs under s. 15.947 (1).

(5) **COOPERATION WITH DEPARTMENT OF ADMINISTRATION.** The commissioner shall cooperate with the department of administration in placing insurance under s. 16.865 (4).

(6) **VALUATION OF FUTURE OR LIMITED ESTATES.** The commissioner shall value estates under s. 72.28 (1) (c) 1. b upon application as provided therein.

(7) **DETERMINATION OF VARIABLE INTEREST RATE ADJUSTMENTS.** The commissioner shall approve indices for variable interest rate adjustments under s. 138.055 (4) (c).

(8) **EXAMINATION OF FIDUCIARY OPERATIONS.** The commissioner shall examine the fiduciary operations of organizations under the commissioner's jurisdiction under s. 223.105 (3) (a).

(9) **CONSUMER CREDIT LAW.** The commissioner shall cooperate with the commissioner of banking in the administration of ch. 424, shall determine the method for computation of refunds under s. 424.205, shall approve forms, schedules of premium rates and charges under s. 424.209 and shall issue rules or orders of compliance to insurers under s. 424.602.

**History:** 1979 c. 102; 1981 c. 96, 314; 1983 a. 358 s. 14; 1985 a. 256.

**601.42 Reports and replies. (1) REPORTS.** The commissioner may require from any person subject to regulation under chs. 600 to 647:

(a) Statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable form the commissioner designates, and at such reasonable intervals as the commissioner chooses, or from time to time;

(b) Full explanation of the programming of any data storage or communication system in use; and

(c) That information from any books, records, electronic data processing systems, computers or any other information storage system be made available to the commissioner at any reasonable time and in any reasonable manner.

(2) **FORMS.** The commissioner may prescribe forms for the reports under sub. (1) and specify who shall execute or certify such reports. The forms shall be consistent, so far as practicable, with those prescribed by other jurisdictions.

(3) **ACCOUNTING METHODS.** The commissioner may prescribe reasonable minimum standards and techniques of accounting and data handling to ensure that timely and reliable information will exist and will be available to him.

(4) **REPLIES.** Any officer, manager or general agent of any insurer authorized to do or doing an insurance business in this state, any person controlling or having a contract under which the person has a right to control such an insurer, whether exclusively or otherwise, any person with executive authority over or in charge of any segment of such an insurer's affairs, and any insurance agent or other person licensed under chs. 600 to 646 or any provider of services under a continuing care contract, as defined in s. 647.01 (2), shall reply promptly in writing or in other designated form, to any written inquiry from the commissioner requesting a reply.

(5) **VERIFICATION.** The commissioner may require that any communication made to the commissioner under this section be verified.

(6) **IMMUNITY.** In the absence of actual malice, no communication to the commissioner required by law or by the commissioner shall subject the person making it to an action for damages for defamation.

**History:** 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 ss. 69, 236 (8), (21); 1979 c. 177; 1983 a. 358 ss. 9, 14.

**Cross Reference:** See also 623.02 as to standards for accounting rules.

**601.425 Product liability insurance reports. (1) REQUIREMENT.** Each insurer authorized to write product liability insurance shall file an annual products liability insurance report complying with this section with the commissioner on or before May 1 of each year.

(2) **CONTENTS.** The report filed under sub. (1) shall contain the name of the insurer and all of the following information for policies covering insureds located in this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums earned for product liability insurance coverage both for primary coverage and for excess coverage.

(b) The number of insureds from whom product liability insurance coverage premiums were collected.

(c) The number and amount of all reserves established for all of the following:

1. Reported claims other than paid claims.
2. Paid claims that have not been paid in full.
3. Incurred but not reported claims.

(d) The amounts paid in product liability claims.

(e) Net investment gain or loss and other income gain or loss allocated to products liability insurance, computed by the formula used in the annual insurance expenses exhibit for allocation among lines of business.

(f) The actual expenses attributable to product liability insurance reported separately as loss adjustment expenses and all other expenses.

(g) Total number of claims reported.

(h) Total claims closed without payment.

(i) Total claims closed with payment.

(j) Total number of legal actions filed.

(k) Total number of verdicts or judgments for defendants.

(l) Total number of verdicts or judgments for plaintiffs.

(m) Total amounts awarded plaintiffs.

(3) **OTHER INSURANCE EXCLUDED.** If product liability insurance coverage includes premises and operations insurance or

any other insurance delivered as a part of a package with product liability insurance, only information relating to the product liability insurance portion of the coverage shall be included in the report filed under sub. (1).

(4) **PERIOD OF REPORT.** The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1979 and ending with the 2nd calendar year preceding the year in which the report is filed. Effective with filings in 1991, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 11 years prior to January 1 of the year in which the report is filed.

(5) **SUMMARY.** The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

(6) **RULES, ADJUSTMENTS AND EXCLUSIONS.** The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the product liability insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

(7) **PUBLIC RECORDS.** Notwithstanding subch. II of ch. 19, the commissioner shall make the reports filed under sub. (1) available to the public in a manner that does not reveal the name of any person, manufacturer or seller involved.

(8) **NO LIABILITY OR CAUSE OF ACTION.** There shall be no liability on the part of and no cause of action shall arise against any insurer for reporting in good faith under this section or any insurer's agents or employees, or the commissioner for any good faith act or omission under this section.

**History:** 1985 a. 314.

**601.427 Medical malpractice insurance reports. (1) REQUIREMENT.** Each insurer authorized to write medical malpractice insurance shall file an annual medical malpractice insurance report complying with this section with the commissioner on or before May 1 of each year.

(2) **CONTENTS.** The report filed under sub. (1) shall contain the name of the insurer and all of the following information for policies covering residents of this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums collected for medical malpractice insurance coverage both for primary coverage and for excess coverage.

(b) The number of insureds from whom medical malpractice insurance coverage premiums were collected.

(c) The number and amount of all reserves established for all of the following:

1. Reported claims other than paid claims.
2. Paid claims that have not been paid in full.
3. Incurred but not reported claims.

(d) The amounts paid in medical malpractice claims.

(e) Net investment gain or loss and other income gain or loss allocated to medical malpractice insurance, computed by the formula used in the annual insurance expenses exhibit for allocation among lines of business.

(f) The actual expenses attributable to medical malpractice insurance reported as loss adjustment expenses and all other expenses.

(g) Total number of claims reported.

(h) Total claims closed without payment.

(i) Total claims closed with payment.

(j) Total number of legal actions filed.

(k) Total number of verdicts or judgments for defendants.

(L) Total number of verdicts or judgments for plaintiffs.

(m) Total amounts awarded plaintiffs.

**(2m) BASIS FOR REPORTING.** The report filed under sub. (1) shall contain the information required under sub. (2) for each classification used for rating purposes, except that the information required by sub. (2) (c) 3, (e) and (f) shall be reported on a cumulative basis for all classifications.

**(3) OTHER INSURANCE EXCLUDED.** If medical malpractice insurance coverage includes premises and operations insurance or any other insurance delivered as a part of a package with medical malpractice insurance, only information relating to the medical malpractice insurance portion of the coverage shall be included in the report filed under sub. (1).

**(4) PERIOD OF REPORT.** The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1979 and ending with the 2nd calendar year preceding the year in which the report is filed. Effective with filings in 1991, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 11 years prior to January 1 of the year in which the report is filed.

**(5) SUMMARY.** The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

**(6) RULES, ADJUSTMENTS AND EXCLUSIONS.** The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the medical malpractice insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

**(7) PUBLIC RECORDS.** Notwithstanding subch. II of ch. 19, the commissioner shall make the reports filed under sub. (1) available to the public in a manner that does not reveal the name of any person involved.

**(8) NO LIABILITY OR CAUSE OF ACTION.** There shall be no liability on the part of and no cause of action shall arise against any insurer for reporting in good faith under this section or any insurer's agents or employes, or the commissioner for any good faith act or omission under this section.

History: 1985 a. 340

**601.43 Examinations and alternatives. (1) POWER TO EXAMINE.** (a) *Insurers, other licensees and other persons subject to regulation.* Whenever the commissioner deems it necessary in order to inform himself or herself about any matter related to the enforcement of chs. 600 to 647, the commissioner may examine the affairs and condition of any licensee or permittee under chs. 600 to 647 or applicant for a license or permit, of any person or organization of persons doing or in process of

organizing to do an insurance business in this state, and of any advisory organization serving any of the foregoing in this state.

(b) *Collateral examinations.* So far as reasonably necessary for an examination under par. (a), the commissioner may examine the accounts, records, documents or evidences of transactions, so far as they relate to the examinee, of any officer, manager, general agent, employe, person who has executive authority over or is in charge of any segment of the examinee's affairs, person controlling or having a contract under which the person has the right to control the examinee whether exclusively or with others, person who is under the control of the examinee, or person who is under the control of a person who controls or has a right to control the examinee whether exclusively or with others.

(c) *Availability of records.* On demand every examinee under par. (a) shall make available to the commissioner for examination any of its own accounts, records, documents or evidences of transactions and any of those of the persons listed in par. (b). Failure to do so shall be deemed to be concealment of records under s. 645.41 (8), except that if the examinee is unable to obtain accounts, records, documents or evidences of transactions, failure shall not be deemed concealment if the examinee terminates immediately the relationship with the other person.

(d) *Delivery of records to the office.* On order of the commissioner any licensee or permittee under chs. 600 to 647 shall bring to the office for examination such records as the order reasonably requires.

**(2) DUTY TO EXAMINE.** (a) *Insurers and rate service organizations.* The commissioner shall examine every domestic insurer and every licensed rate service organization.

(b) *On request.* Whenever the commissioner is requested by verified petition signed by 25 persons interested as shareholders, policyholders or creditors of an insurer alleging that there are grounds for formal delinquency proceedings, the commissioner shall forthwith examine the insurer as to any matter alleged in the petition. Whenever the commissioner is requested to do so by the board of directors of a domestic insurer, the commissioner shall examine the insurer as soon as reasonably possible.

(c) *Specific requirements.* The commissioner shall examine insurers as otherwise required by law.

**(3) AUDITS OR ACTUARIAL EVALUATIONS.** In lieu of all or part of an examination under subs. (1) and (2), or in addition to it, the commissioner may order an independent audit by certified public accountants or actuarial evaluation by actuaries approved by the commissioner of any person subject to the examination requirement. Any accountant or actuary selected is subject to rules respecting conflicts of interest promulgated by the commissioner. Any audit or evaluation under this section is subject to s. 601.44, so far as appropriate.

**(4) ALTERNATIVES TO EXAMINATION.** In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit already made by certified public accountants or actuarial evaluation by actuaries approved by the commissioner, or the report of an examination made by the insurance department of another state or of the examination by another government agency in this state, the federal government or another state.

**(5) PURPOSE AND SCOPE OF EXAMINATION.** An examination may but need not cover comprehensively all aspects of the examinee's affairs and condition. The commissioner shall determine the exact nature and scope of each examination, and in doing so shall take into account all relevant factors, including but not limited to the length of time the examinee has been doing business, the length of time the examinee has

been licensed in this state, the nature of the business being examined, the nature of the accounting records available and the nature of examinations performed elsewhere. The examination of an alien insurer shall be limited to insurance transactions and assets in the United States unless the commissioner orders otherwise after finding that extraordinary circumstances necessitate a broader examination.

**History:** 1977 c. 203; 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 ss. 70, 71, 236 (6), (9); 1979 c. 177; 1981 c. 20; 1983 a. 358; 1985 a. 29.

**601.44 Conducting examinations. (1) ORDER OF EXAMINATION.** For each examination under s. 601.43, the commissioner shall issue an order stating the scope of the examination and designating the examiner in charge. Upon demand a copy of the order shall be exhibited to the examinee.

**(2) ACCESS TO EXAMINEE.** Any examiner authorized by the commissioner shall, so far as necessary to the purposes of the examination, have access at all reasonable hours to the premises and to any books, records, files, securities, documents or property of the examinee and to those of persons under s. 601.43 (1) (b) so far as they relate to the affairs of the examinee.

**(3) COOPERATION.** The officers, employes and agents of the examinee and of persons under s. 601.43 (1) (b) shall comply with every reasonable request of the examiners for assistance in any matter relating to the examination. No person may obstruct or interfere with the examination in any way other than by legal process.

**(4) CORRECTION OF BOOKS.** If the commissioner finds the accounts or records to be inadequate for proper examination of the condition and affairs of the examinee or improperly kept or posted, the commissioner may employ experts to rewrite, post or balance them at the expense of the examinee.

**(5) REPORT ON EXAMINATION.** The examiner in charge of an examination shall make a proposed report of the examination which shall include such information and analysis as is ordered in sub. (1), together with the examiner's recommendations. Preparation of the proposed report may include conferences with the examinee or the examinee's representatives at the option of the examiner in charge. The proposed report shall remain confidential until filed under sub. (6).

**(6) ADOPTION AND FILING OF EXAMINATION REPORT.** The commissioner shall serve a copy of the proposed report upon the examinee. Within 20 days after service, the examinee may serve upon the commissioner a written demand for a hearing on the contents of the report. If a hearing is demanded, the commissioner shall give notice and hold a hearing under ch. 227, except that on demand by the examinee the hearing shall be private. Within 60 days after the hearing or if no hearing is demanded then within 60 days after the last day on which the examinee might have demanded a hearing, the commissioner shall adopt the report with any necessary modifications and file it for public inspection, or the commissioner shall order a new examination.

**(7) COPY FOR EXAMINEE.** The commissioner shall forward a copy of the examination report to the examinee immediately upon adoption, except that if the proposed report is adopted without change, the commissioner need only so notify the examinee.

**(8) COPIES FOR BOARD.** The examinee shall forthwith furnish copies of the adopted report to each member of its board.

**(9) COPIES FOR OTHER PERSONS.** The commissioner may furnish, without cost or at a price to be determined by him, a copy of the adopted report to the insurance commissioner of each state in the United States and of each foreign jurisdiction in which the examinee is authorized to do business, and to any other interested person in this state or elsewhere.

**(10) REPORT AS EVIDENCE.** In any proceeding by or against the examinee or any officer or agent thereof the examination report as adopted by the commissioner shall be admissible as evidence of the facts stated therein. In any proceeding commenced under ch. 645, the examination report whether adopted by the commissioner or not shall be admissible as evidence of the facts stated therein. In any proceeding by or against the examinee, the facts asserted in any report properly admitted in evidence shall be presumed to be true in the absence of contrary evidence.

**History:** 1977 c. 203 s. 102; 1979 c. 102 ss. 72, 236 (6), (17).

**601.45 Examination costs. (1) COSTS TO BE PAID BY EXAMINEES.** The reasonable costs of examinations under ss. 601.43 and 601.44 shall be paid by examinees except as provided in sub. (4), either on the basis of a system of billing for actual salaries and expenses of examiners and other apportionable expenses, including office overhead, or by a system of regular annual billings to cover the costs relating to a group of companies, or a combination of such systems, as the commissioner may by rule prescribe. Additional funding, if any, shall be governed by s. 601.32. The commissioner shall schedule annual hearings under s. 601.41 (5) to review current problems in the area of examinations.

**(2) DUTY TO PAY.** The amount payable under sub. (1) shall become due 10 days after the examinee has been served a detailed account of the costs.

**(3) DEPOSIT.** The commissioner may require any examinee, before or from time to time during an examination, to deposit with the state treasurer such deposits as the commissioner deems necessary to pay the costs of the examination. Any deposit and any payment made under subs. (1) and (2) shall be credited to the appropriation under s. 20.145 (1) (g) in the percentage specified in that paragraph.

**(4) EXEMPTIONS.** On the examinee's request or on the commissioner's own motion, the commissioner may pay all or part of the costs of an examination from the appropriation under s. 20.145 (1) (g), whenever the commissioner finds that because of the frequency of examinations or other factors, imposition of the costs would place an unreasonable burden on the examinee. The commissioner shall include in his or her annual report information about any instance in which the commissioner applied this subsection.

**(5) RETALIATION.** Deposits and payments under this section shall not be deemed to be a tax or license fee within the meaning of any statute. If any other state charges a per diem fee for examination of examinees domiciled in this state, any examinee domiciled in that other state shall be required to pay the same fee when examined by the insurance office of this state.

**History:** 1977 c. 29; 1979 c. 102; 1981 c. 20.

**601.46 Commissioner's records and reports. (1) RECORD MAINTENANCE.** The commissioner shall maintain the records required by law and those necessary to provide for the continued effective operation of the office, to constitute an adequate and proper recording of its activities and to protect the rights of the people of this state. The records shall be preserved in the office except as provided in s. 16.61.

**(2) RECORD OF PROCEEDINGS AND ACTIVITIES.** The commissioner shall maintain a permanent record of proceedings and important activities, including a concise statement of the condition of each insurer visited or examined, and including a record of all certificates of authority and licenses issued.

**(3) ANNUAL REPORTS.** Prior to September 1 of each year, the commissioner shall make a report to the governor and to the legislature which shall include, for the preceding calendar year:

- (a) The chart and explanation prepared under s. 601.19;
- (b) A general review of the insurance business in this state, including a report on emerging regulatory problems, developments and trends;
- (c) A summary of the complaints made to or processed by the office about insurers, agents and others connected with insurance, and information about their disposition;
- (d) A summary of rules promulgated and circular letters distributed;
- (e) A list of all insurers authorized to do business in this state during the year, with appropriate and useful information concerning them; including a list of insurers organized, admitted, merged or withdrawn;
- (f) A list of all revocations of licenses or certificates of authority and the reasons therefor;
- (g) The changes made in chs. 600 to 647;
- (h) A summary of receipts and expenses, including the information required to be included by s. 601.45 (4);
- (i) The kind and amount of insurance carried in all state insurance funds under chs. 604 to 607 together with the amount of premiums collected, the source and nature of any other income, and the disbursements made. The report shall state separately the premiums, losses, the kind and amount of insurance carried on state property, and on other than state property; and
- (j) Such other information on the general conduct and condition of insurers doing business in this state as the commissioner or the governor deems necessary or as is prescribed by law.

**(4) PUBLIC INSPECTION.** All records and reports shall be open to public inspection unless specifically otherwise provided by statute or by rule.

**(5) COPIES OF RECORDS.** The commissioner shall provide to any person on request certified or uncertified copies of any record in the department that is open to public inspection.

**History:** 1971 c. 40 ss. 82, 93; 1973 c. 117; 1975 c. 41 s. 52; 1977 c. 339 s. 43; 1979 c. 89, 102, 221; 1981 c. 20 s. 2202 (26) (c); 1983 a. 358 s. 14.

**601.47 Publications. (1) GENERAL.** The commissioner may prepare books, pamphlets and other publications relating to insurance and sell them in the manner and at the prices the commissioner determines. The cost of publication and distribution may be paid from the appropriation under s. 20.145 (1) (g).

**(2) ANNUAL REPORT.** The commissioner shall determine the form for and have printed the report required in s. 601.46 (3), in number sufficient to meet all requests for copies. The commissioner shall distribute copies upon request to any person who pays the reasonable price thereof determined under sub. (1).

**(3) FREE DISTRIBUTION.** The commissioner may furnish free copies of the publications prepared under subs. (1) and (2) to public officers and libraries in this state and elsewhere. The cost of free distribution shall be charged to the appropriation under s. 20.145 (1) (g).

**History:** 1971 c. 125; 1979 c. 102 ss. 75, 236 (6).

**601.48 Participation in organizations. (1) NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.** The commissioner and the office of the commissioner shall maintain close relations with the commissioners of other states and shall participate in the activities and affairs of the national association of insurance commissioners and other organizations so far as it will, in the judgment of the commissioner, enhance the purposes of chs. 600 to 647. The actual and necessary expenses incurred thereby shall be reimbursed out of the appropriation under s. 20.145 (1) (g).

**(2) CONSULTATION IN REGULATION.** The commissioner may exchange information and data and consult with other persons in order to improve and carry out insurance regulation.

**History:** 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 s. 236 (14); 1979 c. 177; 1983 a. 358 s. 14.

**601.49 Access to records.** The commissioner shall have access to the records of any agency of the state government or of any political subdivision thereof which the commissioner may wish to consult in discharging his or her duties.

**History:** 1979 c. 102.

**601.51 Provision of certified copies and notices. (1) CERTIFIED COPIES.** On request of any insurer authorized to do a surety business and its payment of the fee under s. 601.31 (1), the commissioner shall mail a certified copy of its certificate of authority to any designated public officer in this state who requires such a certificate before accepting a bond. That public officer shall file it. Whenever a certified copy has been furnished to a public officer it is unnecessary, while the certificate remains effective, to attach a copy of it to any instrument of suretyship filed.

**(2) NOTICE OF REVOCATION OF CERTIFICATE.** Whenever the commissioner revokes the certificate of authority of any insurer authorized to do a surety business, the commissioner shall immediately give notice thereof to each officer who was sent a certified copy under sub. (1).

**History:** 1975 c. 375, 421; 1979 c. 102 s. 237; 1981 c. 20 s. 2202 (26) (a).  
**Legislative Council Note, 1975:** This continues the substance of s. 204.04 (1) and (2). [Bill 642-S]

**601.53 Insolvency notices. (1) INSURERS DOING A SURETY BUSINESS.** Whenever any authorized insurer doing a surety business has filed a petition for receivership, or is in the hands of a receiver under ch. 645 or otherwise or the commissioner has reason to believe the company is in financial difficulty or has unreasonably failed to carry out any of its contracts, the commissioner shall immediately notify every circuit judge and the clerks of all courts of record in the state. Upon the receipt of the notice it is the duty of circuit judges and clerks of courts of record to notify and require every fiduciary that has filed a bond on which the company is surety, forthwith to file a new bond with a new surety.

**(2) OTHER.** The commissioner as liquidator of an insurer shall send notices as provided in s. 645.47.

**History:** 1975 c. 375, 421; 1977 c. 449 s. 497.  
**Legislative Council Note, 1975:** Sub. (1) continues the substance of s. 204.04 (3). Sub. (2) is new and is a useful cross reference [Bill 642-S]

## SUBCHAPTER V

### PROCEDURES AND ENFORCEMENT

**601.61 Auxiliary procedural powers.** The commissioner may administer oaths, take testimony, issue subpoenas and take depositions in connection with any hearing, meeting, examination, investigation or other proceeding that the commissioner may conduct.

**History:** 1979 c. 102 s. 236 (6).

**601.62 Hearings. (1) HEARING REQUIRED.** Whenever chs. 600 to 647 expressly so provide, the commissioner shall hold a hearing before issuing an order.

**(2) SPECIAL INSURANCE HEARINGS.** Chapter 227 shall apply to all hearings under chs. 600 to 647, except those for which special procedures are prescribed.

**(3) ADJUDICATORY HEARINGS.** In addition to the requirements of ch. 227, the following provisions apply:

(a) *Subsequent hearings.* Whenever an order is issued without a hearing, any person aggrieved by the order may demand a hearing within 20 days after receiving notice of the



order. Failure to demand a hearing within the period prescribed therefor is waiver of a hearing. The demand shall be in writing and shall be served on the commissioner by delivering a copy to the commissioner or by leaving it at the commissioner's office. The commissioner shall thereupon hold a hearing not less than 10 nor more than 30 days after service of the demand.

(c) *Reduction and extension of periods.* Upon request of the person demanding the hearing or of any other aggrieved person, the commissioner may reduce or extend the period prescribed by par. (a) for holding a hearing.

(4) **FEES IN INVESTIGATIONS AND HEARINGS.** The fees for stenographic services in investigations, examinations and hearings may not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses, interpreters and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the department of administration, authorized by the certificate of the commissioner, and shall be charged to the appropriation under s. 20.145 (1) (g).

(5) **IMMUNITY FROM PROSECUTION.** No natural person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner, or from appearing in any proceeding instituted by the commissioner, on the ground that the testimony or evidence required from the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no such person may be criminally prosecuted for or on account of any transaction, matter or thing concerning which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, except that the person testifying is not exempt from prosecution and punishment for perjury, false swearing or contempt committed in testifying.

**History:** 1975 c. 371; 1975 c. 414 ss. 27, 28; 1975 c. 421; 1977 c. 203 ss. 81, 82, 102; 1977 c. 339 ss. 30, 43; 1979 c. 89; 1983 a. 358 s. 14.

**Legislative Council Note on sub. (5), 1975:** This replaces ss. 207.13 and 201.53 (11) and (12) [repealed by this act]. Section 207.13 was in the unfair insurance business methods chapter but applied in terms "to any hearing". This new provision is even broader in proceedings covered. It is modeled after the securities act provision (s. 551.56 (3) of the statutes) with one phrase deleted because s. 601.18 makes it unnecessary, and other changes, some editorial and one limiting the scope of the immunity to criminal prosecution. Other similar provisions are to be found in s. 93.17 (department of agriculture), s. 97.20 (10) (same; food regulation), s. 111.07 (employment relations commission), 196.48 (public service commission), and s. 972.08 (criminal proceedings). Section 201.53 (11) and (12) only applied in terms to s. 201.53, which contained a miscellaneous group of provisions, mostly concerning unfair marketing practices, but it applied very broadly to all proceedings and, apparently, even informal requests for information. [Bill 16-S]

**601.63 Notice and effective date of orders. (1) NOTICE TO PERSON ADDRESSED BY ORDER.** Notice of any order by the commissioner shall be served under s. 227.48.

(2) **NOTIFICATION TO AGENTS OF REVOCATION OF CERTIFICATE OF AUTHORITY OF INSURER.** Upon issuance of any order limiting, suspending or revoking an insurer's authority to do business in this state, the commissioner shall notify by mail all agents of the insurer of whom the commissioner has record. The commissioner shall also publish a class 1 notice of the order under ch. 985.

(3) **DELAY OF EFFECTIVE DATE.** Except as provided in sub. (4) or as expressly provided otherwise by statute, all orders of the commissioner shall take effect 10 days after notice under sub. (1) or at a later date specified in the order.

(4) **SUSPENSION OF ORDER.** Whenever a hearing is demanded under s. 601.62 (3) (a) or a rehearing is requested under s. 227.49, the commissioner may suspend the order or any part thereof until after the hearing or rehearing. If the commissioner refuses to suspend the order, any person aggrieved thereby may seek a court order under ch. 813 to restrain enforcement of the order until after the hearing or rehearing.

(5) **ACTIONS SUBJECT TO APPROVAL OR DISAPPROVAL. (a) Required approval.** Whenever the law requires the commissioner's approval for a certain action, the action is not effective until expressly approved. The approval is deemed refused if the commissioner does not act within 60 days after receiving the application for approval.

(b) *Reserved disapproval.* Whenever the law provides that a certain action does not become effective if disapproved by the commissioner within a certain period, the action may be made effective prior to the expiration of the period by being affirmatively approved by the commissioner.

(c) *Specific provisions.* Paragraphs (a) and (b) do not apply to the extent that the law specifically provides otherwise.

**History:** 1971 c. 40 s. 93; Sup. Ct. Order, 67 W (2d) 776; 1975 c. 218; 1975 c. 414 s. 28; 1977 c. 26; 1977 c. 203 ss. 83, 84, 104; 1979 c. 102; 1985 a. 182 s. 57.

**601.64 Enforcement procedure. (1) INJUNCTIONS.** Whenever a person fails to comply with an order issued under s. 601.41 (4), the commissioner may, in the name of the state, commence an action to obtain an order under ch. 813 directing the person to comply with the commissioner's order, and restraining the person from further violation thereof. The commissioner may, whenever the commissioner deems it advisable, seek an injunction under ch. 813 as an alternative to issuing an order under s. 601.41 (4).

(2) **COMPULSIVE FORFEITURES.** If a person does not comply with an order issued under s. 601.41 (4) within 2 weeks after the commissioner has given the person notice of the commissioner's intention to proceed under this subsection, the commissioner may commence an action for a forfeiture in such sum as the court considers just, but not exceeding \$5,000 for each day that the violation continues after the commencement of the action until judgment is rendered. No forfeiture may be imposed under this subsection if at the time the action was commenced the person was in compliance with the order, nor for any violation of an order occurring while any proceeding for judicial review of the order was pending, unless the court in which the proceeding was pending certifies that the claim of invalidity or nonapplicability of the order was frivolous or a sham. If after judgment is rendered the person does not comply with the order, the commissioner may commence a new action for a forfeiture and may continue commencing actions until the person complies. The proceeds of all actions under this subsection, after deduction of the expenses of collection, shall be paid into the common school fund of the state.

(3) **FORFEITURES AND CIVIL PENALTIES. (a) Restitutory forfeiture.** Whoever violates an effective order issued under s. 601.41 (4) or any insurance statute or rule shall forfeit to the state twice the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.

(b) *Forfeiture for violation of order.* Whoever violates an order issued under s. 601.41 (4) which is effective under s. 601.63 shall forfeit to the state not more than \$1,000 for each violation. Each day that the violation continues is a separate offense.

(c) *Forfeiture for violation of statute or rule.* Whoever violates an insurance statute or rule shall forfeit to the state not more than \$1,000 for each violation. If the statute or rule imposes a duty to make a periodic or recurring report to the commissioner, each week of delay in complying with the duty is a new violation.

(d) *Procedure.* The commissioner may demand and accept any forfeiture imposed under this subsection or s. 601.65, which shall be paid into the common school fund. The commissioner may cause action to be commenced to recover the forfeiture in an amount to be determined by the court. Before an action is commenced, the commissioner may

compromise the forfeiture; after the action is commenced, the attorney general may compromise the forfeiture.

(4) **CRIMINAL PENALTY.** Whoever intentionally violates or intentionally permits any person over whom he or she has authority to violate or intentionally aids any person in violating any insurance statute or rule of this state or any effective order issued under s. 601.41 (4) may, unless a specific penalty is provided elsewhere in the statutes, be fined not more than \$10,000 if a corporation or if a natural person be fined not more than \$5,000 or imprisoned for not to exceed 3 years or both. Intent has the meaning expressed under s. 939.23.

(5) **REVOCAION, SUSPENSION AND LIMITATION OF LICENSES.** Whenever a licensee of the office other than an insurer, a motor club, an adjuster or an insurance intermediary persistently or substantially violates chs. 600 to 646 or an order of the commissioner under s. 601.41 (4), or if the licensee's methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public, the commissioner may, after a hearing, in whole or in part revoke, suspend or limit the license.

**History:** 1971 c. 260; Sup. Ct. Order, 67 W (2d) 776; 1975 c. 218, 371, 421; 1977 c. 203; 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 ss. 78, 236 (5); 1979 c. 177; 1985 a. 29.

**Legislative Council Note on sub. (5), 1975:** This amendment removes insurance intermediaries from the purview of the subsection. Under this act, revocation of an intermediary's license will be governed by s. 628.10 (2). [Bill 16-S]

**601.65 Marketing firm forfeitures. (1)** In this section "firm" means a person that markets insurance but does not include an insurer.

(2) A firm is liable for a forfeiture of not more than \$1,000 for each violation by an insurance agent of a provision of, a rule promulgated under or an order issued under chs. 600 to 655 if the violation is in connection with an insurance policy or group certificate obtained or to be obtained through or from the firm and if any of the following applies:

(a) The firm regularly utilizes the insurance agent to market insurance policies or group certificates.

(b) The primary insurance marketing activities of the insurance agent are in connection with insurance policies or group certificates obtained or to be obtained through or from the firm.

(c) The insurance agent is employed by or is under contract with the firm to market insurance policies or group certificates.

(3) If a provision of, a rule promulgated under or an order issued under chs. 600 to 655 imposes a duty to submit a periodic or recurring report to the commissioner, each week of delay in submitting the report constitutes a separate violation. Each day of continued violation of an order issued under s. 601.41 (4) constitutes a separate violation.

**History:** 1985 a. 29.

**601.71 Enforcement of policyholder rights.** When the commissioner is satisfied that any nondomestic insurer which no longer has a certificate of authority in this state does or omits to do any act whereby the rights of policyholders who are residents of this state, or who hold contracts issued or delivered in this state, are adversely affected, or whereby its ability to carry out its contracts with those policyholders is impaired, the commissioner may, with the agreement of the attorney general, bring an action in the name of the state on behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney general shall act as attorney for the state in the action and the expenses shall be borne as in other civil actions in behalf of the state. Upon service of the complaint the insurer shall file with the commis-

sioner the names and addresses of all policyholders so situated. A notice of the action shall be mailed to every such policyholder either by the commissioner or by the insurer, as the commissioner determines. Any policyholder affected by the action may intervene.

**History:** 1979 c. 102.

**601.72 Service of process through state officer. (1) GENERAL.** Under procedures specified in s. 601.73, the commissioner is by law constituted attorney, except in cases in which the proceeding is to be brought by the state, in which event the secretary of state is by law constituted attorney, to receive service of summons, notices, orders, pleadings and all other legal process relating to any court or administrative agency in this state:

(a) *Authorized insurers.* For all insurers authorized to do business in this state, while authorized to do business in this state, and thereafter in any proceeding arising from or related to any transaction having any connection with this state;

(b) *Surplus lines insurers.* For all insurers as to any proceeding arising out of any contract that is permitted by s. 618.41, or out of any certificate, cover note or other confirmation of such insurance;

(c) *Unauthorized insurers.* For all insurers or other persons doing an unauthorized insurance business in this state as to any proceeding arising out of the unauthorized transaction; and

(d) *Nonresident intermediaries.* For all nonresident intermediaries as to any proceeding arising out of insurance activities within this state or out of insurance activities related to policies on risks within this state.

(2) **APPOINTMENT OF ATTORNEY.** Every licensed insurer by applying for and receiving a certificate of authority, every surplus lines insurer by entering into a contract subject to the surplus lines law, and every unauthorized insurer by doing an insurance business in this state, shall be deemed to have irrevocably appointed the commissioner and secretary of state as the insurer's attorneys in accordance with sub. (1).

(3) **OTHERS AFFECTED.** The commissioner and secretary of state shall also be attorneys for the executors, administrators or personal representatives, receivers, trustees or other successors in interest of the persons specified in sub. (1).

(4) **FEES.** Litigants serving process on the commissioner under this section shall pay the fees specified in s. 601.31 (1) (p).

(5) **ORDINARY MEANS OF SERVICE.** The right to substituted service under this section does not limit the right to serve summons, notice, orders, pleadings, demands or other process upon any person in any manner provided by law.

**History:** 1971 c. 260; 1975 c. 371; 1977 c. 203 s. 104; 1979 c. 102 ss. 80, 236 (18), 237; 1981 c. 20 s. 2202 (26) (a).

**Legislative Council Note on sub. (1) (d), 1975:** Under s. 628.04 (created by this act), Wisconsin takes an important step in liberalizing prevailing licensing laws by not requiring residence for unrestricted Wisconsin intermediaries' licenses. As a correlative measure, however, the reach of the Wisconsin courts and administrative agencies is extended to all such nonresidents. [Bill 16-S]

**601.73 Procedure for service of process through state officer. (1) REQUIREMENTS FOR EFFECTIVE SERVICE.** Service upon the commissioner or secretary of state under s. 601.72 is service on the principal, if:

(a) Two copies of the process are left in the hands or office of the commissioner or secretary of state respectively; and

(b) The commissioner or secretary of state mails a copy of the process to the person served according to sub. (2) (b).

(2) **COMMISSIONER'S ACTION. (a) Records.** The commissioner and secretary of state shall give receipts for and keep records of all process served through them.

(b) *Process mailed.* The commissioner or secretary of state shall send immediately by certified mail to the person served

at the person's last-known principal place of business or residence or post-office address one copy of any process received and shall retain the other copy.

(c) *Default judgment.* No plaintiff or complainant is entitled to a judgment by default in any proceeding in which process is served under ss. 601.72 and 601.73 until the expiration of 20 days from the date of mailing of the process under par. (b).

(3) **PROOF OF SERVICE.** A certificate by the commissioner or the secretary of state, showing service made upon the commissioner or secretary of state, and attached to a copy of the process presented for that purpose is sufficient evidence of the service.

**History:** 1971 c. 189; 1977 c. 203 ss. 87, 103; 1979 c. 102.

**Legislative Council Note, 1979:** [Repeal of (1) (c)] In its original form, the procedures of ss. 601.72 and 601.73 for substituted service of process through the commissioner or secretary of state required, in s. 601.73 (1) (b), the serving party to also mail a copy of the process to the person served, as additional assurance that this substituted service would provide actual notice. Sub (1) (c) then required filing of an affidavit of compliance with (1) (a) and (b) to make the service effective. It may have been cumbersome, but it was logical. Some time later, the requirement of mailing by the serving party was eliminated by an amendment (ch. 189, laws of 1971) that did not go through the Insurance Laws Revision Committee, and did not make the necessary collateral changes. It makes little sense for the serving party to have to provide an affidavit as to what the public official does under (1) (b). Moreover, under (1) (b) the service is not complete anyway unless the public official does perform the statutory duty. Thus, the affidavit seems unnecessary and, because service is not complete without mailing by the public official, no further requirement seems needed. The reasonable solution, therefore, is to repeal (1) (c). [Bill 146-S]

## SUBCHAPTER VI

### FIRE DEPARTMENT DUES

**601.93 Payment of dues.** (1) Any insurer doing a fire insurance business in this state shall pay fire department dues equal to 2% of the amount of all premiums which, during the preceding calendar year, have been received by, or have been agreed to be paid to, the company for insurance against loss by fire, including insurance on property exempt from taxation.

(2) Every insurer doing a fire insurance business in this state shall, before March 1 in each year, file with the commissioner a statement, showing the amount of premiums upon fire insurance due for the preceding calendar year. Return premiums may be deducted in determining the premium on which the fire department dues are computed. Payments of quarterly instalments of the total estimated payment for the then current calendar year under this subsection are due on or before April 15, June 15, September 15 and December 15, except that town mutual insurers shall make annual payments on or before March 1. On March 1 the insurer shall pay any additional amounts due for the preceding calendar year. Overpayments will be credited on the amount due April 15. If any insurer fails to make quarterly payments of at least 25% of either the total tax paid for the previous calendar year or 80% of the actual tax for the current calendar year, it shall be liable, in addition to the amount due for interest, in the amount of one percent of the amount due and unpaid for each month or part of a month that the amount due together with any interest remains unpaid. The commissioner shall, prior to April 15 each year, report to the department of industry, labor and human relations the amount of dues paid under this subsection and to be paid under s. 101.573 (1).

(3) In this section, "fire insurance" includes insurance against loss of or damage to:

(a) Notes, acceptances or any other valuable papers or documents, resulting from any cause, except while in the mail or in the custody or possession of and being transported by any carrier for hire; and

(b) Personal property of individuals when written under an all-risk type of policy commonly known as the "personal property floater", whenever these risks are written in conjunction with insurance against burglary or theft.

**History:** 1971 c. 154; 1975 c. 372 ss. 5, 38; 1975 c. 421; 1977 c. 29; 1979 c. 34, 102, 177, 221; 1981 c. 20.