

CHAPTER 636

INSURANCE — CLAIMS ADJUSTMENT

636.04 Adjusters of insurance.

636.10 Timely payment of claims.

636.04 Adjusters of insurance. (1) No person, except an agent holding a certificate of authority under s. 628.04, may make any adjustment of a fire loss under a fire insurance, marine insurance, plate glass insurance, sprinkler leakage insurance, livestock insurance or automobile insurance policy unless the person holds a certificate under this section.

(2) A certificate of authority as a fire insurance adjuster, expiring January 31, following, may be issued by the commissioner to any person filing an application on a prescribed form and upon the payment of the fee required by s. 601.31 (1) (o) 4.

(3) A certificate issued under sub. (2) shall be revoked by the commissioner, if after due investigation and hearing, the commissioner determines that the holder has violated chs. 600 to 646. No person whose certificate is revoked may be granted another certificate within one year thereafter, nor shall the person, until again so authorized, act as employe or participate in the pay of any fire insurance adjuster.

(4) A person does not violate this section by making his or her first adjustment during a license year prior to obtaining such certificate if within 2 days after entering upon the adjustment, the person makes application therefor and complies in all other respects with this section.

(5) Upon the completion of each adjustment, a report thereof shall be made and signed by each adjuster participating therein and by the insured or someone authorized thereto by the insured, and shall be filed with the department of industry, labor and human relations and a duplicate thereof shall be filed with the chief of the fire department, if any. Reports of adjustment under an automobile insurance policy need not be filed unless the adjustment involves a fire loss, and then only as to such fire loss.

(6) No fire loss for which a report is required under sub. (5) shall be paid unless the report of the adjustment signed by the adjuster shall show that the report required by this section has been filed.

(7) The deposit of such report in the mails, properly sealed, addressed and postpaid, shall be a sufficient filing.

(8) This section shall apply to all persons who act in the capacity specified in sub. (1) for any insurance company or insured and to all persons who act as advisors to or adjusters for the insured for compensation in case of loss by fire, excepting attorneys acting in the ordinary relation of attorney and client.

(9) No compensation which shall be based on the excess of recovery over a stipulated sum, or on a percentage upon the amount of recovery in excess of five per cent of the amount of such recovery, plus actual transportation charges and hotel bills, shall be paid for the services of any fire insurance adjuster, and any contract for compensation in violation of this subsection shall be void.

(10) Subsection (1) shall not apply to adjusters for town mutual companies, nor to officers and employes of authorized insurers.

History: 1975 c. 224; 1975 c. 371 s. 50; 1975 c. 372, 421, 422; 1977 c. 339 ss. 11, 43; 1979 c. 89; 1979 c. 102 ss. 185, 237; 1979 c. 177.

636.10 Timely payment of claims. (1) Unless otherwise provided by law, an insurer shall promptly pay every insurance claim. A claim shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of the loss. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after written notice is furnished to the insurer. Any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any claim is overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the U.S. mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery. All

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overdue payments shall bear simple interest at the rate of 12% per year.

(2) Notwithstanding sub. (1), the payment of a claim shall not be overdue until 30 days after the insurer receives the proof of loss required under the policy or equivalent evidence of such loss. The payment of a claim shall not be overdue during any period in which the insurer is unable to pay such claim because there is no recipient who is legally able to give a valid release for such payment, or in which the insurer is unable to determine who is entitled to receive such payment, if the insurer has promptly notified the claimant of such inability and has offered in good faith to promptly pay said claim

upon determination of who is entitled to receive such payment.

(3) This section applies only to the classes of claims enumerated in s. 646.31 (2).

History: 1975 c. 375; 1979 c. 109 s. 16; 1979 c. 110 s. 60 (13)

Note: Sub. (1) continues s. 631.02, created by Chapter 39, laws of 1975.

Submission of legally binding offer from claimant is not necessary condition antecedent to maintenance of bad-faith excess liability action against insurer. *Alt v. American Family Mut. Ins. Co.* 71 W (2d) 340, 237 NW (2d) 706 (1976).

Insured may bring tort action against insurer for failure to exercise good faith in settling insured's claim. This section is unrelated to such tort action. *Anderson v. Continental Ins. Co.* 85 W (2d) 675, 271 NW (2d) 368 (1978).

Excess liability insurance. *Griffin* 62 MLR 375 (1979).