



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3254/P2
PJK&RJM:wlj:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to amend 632.435 (1) (a), 632.435 (1) (b), 632.435 (5) and 632.435 (12);
2 and to repeal and recreate 632.435 (4) of the statutes; relating to: interest
3 rate for deferred annuity minimum nonforfeiture amounts.

sub-sub title
Minimum nonforfeiture amount

Analysis by the Legislative Reference Bureau

Under current law, the minimum amount that must be paid under an annuity contract (called the minimum nonforfeiture amount) is calculated by using an interest rate of ^{one} ~~three~~ percent. This bill changes the interest rate that is used to calculate the minimum nonforfeiture amount to an indexed rate that is based on the monthly yield on actively traded U.S. treasury securities, adjusted to a constant maturity of five years (five-year constant maturity treasury rate), as published by the Federal Reserve Board. The actual rate used, however, may not exceed ^{one} ~~three~~ percent or be lower than 0 percent. If the contract so provides, the interest rate may be redetermined at different times during the term of the contract. Thus, the interest rate used over the term of the annuity contract may be the five-year constant maturity treasury rate at times and 0 percent or 0 percent at other times.

Insert B

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert 16-20

4 SECTION 1. 632.435 (1) (a) of the statutes is amended to read:

↓ cont'd

Insert 16-20 contd

1 632.435 (1) (a) Upon cessation of payment of considerations under a contract,
2 or upon the written request of the contract owner, the company will shall grant a
3 paid-up annuity on a plan stipulated in the contract of such value as is specified in
4 subs. (5) to (8) and (10).

5 **SECTION 2.** 632.435 (1) (b) of the statutes is amended to read:

6 632.435 (1) (b) If a contract provides for a lump sum settlement at maturity or
7 at any other time, upon surrender of the contract at or prior to the commencement
8 of any annuity payments, the company will shall pay in lieu of any paid-up annuity
9 benefit a cash surrender benefit of such amount as is specified in subs. (5), (6), (8),
10 and (10). The company shall may reserve the right to defer the payment of such cash
11 surrender benefit, for a period of not exceeding 6 months after demand therefor with
12 surrender of the contract, if the company receives written approval from the
13 commissioner upon the company's written request, which shall address the deferral's
14 necessity and equitability to all policyholders.

15 **SECTION 3.** 632.435 (4) of the statutes is repealed and recreated to read:

16 632.435 (4) (a) In this subsection:

17 1. "Constant maturity treasury rate" means the monthly yield on actively
18 traded U.S. treasury securities, adjusted to a constant maturity of 5 years, as
19 published by the federal reserve board, or an average monthly yield on actively
20 traded U.S. treasury securities, adjusted to a constant maturity of 5 years, as
21 determined from consecutive monthly yields published by the federal reserve board.

22 2. "Net considerations" means, for a given contract year, an amount equal to
23 87 percent of the gross considerations credited to the contract during that contract
24 year.



Insert 16-20 cont'd

(b) The minimum nonforfeiture amount at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time, at one or more rates of interest as indicated in pars. (c) to (e), of the net considerations paid prior to such time, decreased by the sum of all of the following:

1. Any prior withdrawals from or partial surrenders of the contract accumulated at one or more rates of interest as indicated in pars. (c) to (e).

2. An annual contract charge of \$50, accumulated at one or more rates of interest as indicated in pars. (c) to (e).

3. Any premium tax paid by the company for the contract, accumulated at one or more rates of interest as indicated in pars. (c) to (e).

4. The amount of any indebtedness to the company on the contract, including interest due and accrued.

(c) The interest rate used to determine minimum nonforfeiture amounts shall be an annual rate of interest that is the lower of 3 percent and the higher of either of the following:

1. The 5-year constant maturity treasury rate, as ^{*of a date, or average over a period,*} specified in the contract ~~less~~ 125 basis points or, if the contract provides substantive participation in an equity indexed benefit during the period or term, the contract may increase the reduction by up to an additional 100 basis points to reflect the value of the equity index benefit, ~~and rounded to the nearest one-twentieth of 1 percent.~~ ^{*STET: leave as typed*} ~~If the~~

5-year constant maturity rate is a monthly yield, the rate shall be as published on any date occurring during the 15 months before the contract issue date or redetermination date under par. (d). If the 5-year constant maturity rate is an average monthly yield, the rate shall be as determined from consecutive monthly

no longer than 15 months prior to the contract issue date or redetermination date under par. (d)

Insert 16-20 contd

① yields published during the 15 months before the contract issue date or
② redetermination date under par. (d).

3 2. One percent.

4 (d) The interest rate determined under par. (c) shall apply for an initial period
5 and may be redetermined for additional periods. The redetermination date, basis,
6 and period, if any, shall be stated in the contract. The basis is the date or average
7 over a specified period that produces the value of the 5-year constant maturity
8 treasury rate to be used at each redetermination date. The interest rate

9 ~~determined~~ under par. (c) shall be specified in the contract if the interest rate will
10 be reset.

11 (e) The present value at the contract issue date, and at each redetermination
12 date, of the additional reduction under par. (c) 1. for substantive participation in an
13 equity index benefit may not exceed the market value of the benefit. The
14 commissioner may require a demonstration that the present value of the additional
15 reduction does not exceed the market value of the benefit. The commissioner may
16 disallow or limit the additional reduction if the commissioner determines that the
17 demonstration is unacceptable.

18 (f) The commissioner may promulgate rules for the implementation of par. (e)
19 and to provide for further adjustments to the calculation of minimum nonforfeiture
20 amounts for contracts that provide substantive participation in an equity index
21 benefit and for other contracts for which the commissioner determines adjustments
22 are justified.

23 SECTION 4. 632.435 (5) of the statutes is amended to read:

24 632.435 (5) Any paid-up annuity benefit available under a contract shall be
25 such that its present value on the date annuity payments are to commence is at least

method for determining the



Ins. 16-20 cont'd

1 equal to the minimum nonforfeiture amount on that date. Such present value shall
2 be computed using the mortality table, if any, and the interest rate or rates specified
3 in the contract for determining the minimum paid-up annuity benefits guaranteed
4 in the contract.

5 **SECTION 5.** 632.435 (12) of the statutes is amended to read:

6 632.435 (12) After ~~November 8, 1977~~ the effective date of this subsection ...
7 [revisor inserts date], any company may ~~file with the commissioner a written notice~~
8 ~~of its election~~ elect to comply with this section ~~after a specified date on a contract~~
9 ~~form-by-contract form basis, for contracts newly issued, before the 2nd anniversary~~
10 ~~of November 8, 1977. After the filing of such notice, then upon such specified date,~~
11 ~~which shall be the operative date of this section for such company~~ the effective date
12 of this subsection ... [revisor inserts date]. In all other instances, this section shall
13 become operative with respect to annuity contracts ~~thereafter issued by such~~
14 ~~company. If a company makes no such election, the operative date of this section for~~
15 ~~such company shall be on or after the 2nd anniversary of November 8, 1977~~ the
16 effective date of this subsection ... [revisor inserts date].

17 (END) Ins 16-20)

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3601/Plins
PJK:....pg

INSERT 1-A

W04
; and providing for an annual fee of \$500 to be listed by the commissioner for surplus lines insurance. The bill also repeals chapter 641, relating to the authority of the commissioner to conduct examinations and impose certain enforcement measures with respect to employee benefit plans, because it is largely preempted by the federal Employee Retirement Income Security Act.

(END OF INSERT 1-A)

11-3

per Fred Neffels

take out defn "constant maturity treasury
rate"

and add "reported by the federal
reserve board" before
"as of a date" - same as in
model language



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3601/2
PJK/CMH/RJM:cjs

rm is run
Stays

2003 BILL

needed
Tues am
pp. 17 + 18

54 ✓

regenerate ↓

1 AN ACT *to repeal* 617.225 (5), chapter 641, 646.01 (1) (b) 9. a., 646.01 (1) (b) 9.
2 b., 646.01 (1) (b) 9. c., 646.01 (1) (b) 9. d., 646.31 (2) (b) 1., 646.31 (2) (b) 2. b.,
3 646.31 (2) (b) 3., 646.31 (3), 646.31 (5), 646.35 (2), 646.51 (2), 646.51 (3) (b) and
4 646.73; *to renumber* 646.51 (3) (a) (title); *to renumber and amend* 601.41 (4)
5 (a), 611.26 (4), 612.22 (3), 646.01 (1) (b) 9. (intro.), 646.11 (1), 646.31 (10), 646.31
6 (13), 646.33 (1), 646.35 (3) (intro.) (except 646.35 (3) (title)), 646.35 (3) (a),
7 646.35 (3) (b), 646.35 (3) (c), 646.35 (4), 646.51 (1), 646.51 (3) (a) 1., 646.51 (3)
8 (a) 2. and 646.51 (4); *to consolidate, renumber and amend* 646.31 (2) (b) 2.
9 (intro.) and a.; *to amend* 600.03 (21), 601.31 (1) (k) (intro.), 601.465 (3) (intro.),
10 601.64 (1), 609.98 (1), 609.98 (4) (a), 609.98 (4) (b), 611.56 (1), 611.56 (2), 612.22
11 (title), 612.22 (1), 612.22 (4), 612.22 (6), 617.225 (1), 632.435 (1) (a), 632.435 (1)
12 (b), 632.435 (5), 632.435 (12), 645.58 (1) (intro.), 646.12 (2) (d), 646.12 (2) (f) 2.,
13 646.12 (2) (f) 3., 646.12 (4), 646.13 (title), 646.13 (1) (intro.), 646.13 (1) (b),
14 646.13 (2) (intro.), 646.13 (2) (b), 646.13 (2) (c), 646.13 (2) (d), 646.13 (3) (intro.),

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1 646.13 (3) (a), 646.13 (3) (b), 646.13 (3) (c) (intro.), 646.13 (3) (c) 2., 646.13 (4),
2 646.15 (title), 646.15 (1) (a) (intro.), 646.15 (1) (a) 1., 646.15 (1) (a) 2., 646.15 (1)
3 (a) 4., 646.21 (2), 646.31 (2) (a) 1., 646.31 (2) (a) 2., 646.31 (2) (f) (title), 646.31
4 (2) (f) 2., 646.31 (6) (a), 646.31 (6) (b), 646.31 (7), 646.31 (8), 646.31 (9) (a), 646.31
5 (9) (b), 646.31 (9) (c), 646.31 (9) (d), 646.31 (11), 646.32 (1), 646.325 (1), 646.325
6 (2) (intro.), 646.325 (2) (a) (intro.), 646.325 (2) (b), 646.33 (2), 646.33 (3), 646.35
7 (3) (title), 646.35 (5), 646.35 (6) (a), 646.35 (6) (b), 646.35 (6) (bm), 646.35 (6) (c)
8 (intro.), 646.35 (6) (c) 1. (intro.), 646.35 (6) (c) 1. b., 646.35 (6) (c) 2. (intro.),
9 646.35 (6) (c) 2. b., 646.51 (3) (c), 646.51 (5), 646.51 (6), 646.51 (7) (a), 646.51 (8),
10 646.51 (9) (b) 1., 646.51 (9) (b) 2., 646.60 (1) (a) and 646.61 (2); **to repeal and**
11 **recreate** 632.435 (4), 646.01 (1) (b) 1. and 646.01 (1) (b) 11.; and **to create**
12 601.31 (1) (tc), 601.41 (4) (a) 1., 601.41 (4) (a) 2., 611.26 (4) (a), 611.26 (4) (b),
13 612.13 (1m), 612.22 (3) (b), 628.347, 646.01 (1) (a) 2. k., 646.01 (1) (a) 2. L.,
14 646.01 (1) (b) 11m., 646.01 (1) (b) 15., 646.01 (1) (b) 16., 646.01 (1) (b) 17., 646.01
15 (1) (b) 18., 646.03 (1m), 646.03 (2n), 646.03 (2p), 646.03 (4), 646.03 (5), 646.11
16 (1) (d), 646.11 (1) (e), 646.13 (2) (g), 646.16, 646.31 (1) (d) 10. and 11., 646.31 (2)
17 (g), 646.31 (9) (cm), 646.31 (10) (b), 646.31 (13) (b), 646.31 (13) (c), 646.31 (13)
18 (d), 646.33 (1) (b), (c) and (d), 646.33 (2m) (b), 646.35 (4) (b), 646.35 (7), 646.35
19 (8), 646.35 (9), 646.35 (10), 646.51 (1c), 646.51 (3) (am) 2. and 646.51 (4) (a), (b)
20 and (d) of the statutes; **relating to:** requirements for recommendations made
21 by insurers and insurance intermediaries to senior consumers in annuity
22 transactions; committees of the board of directors of domestic stock and mutual
23 corporations; annuity minimum nonforfeiture amount; merger of town mutual
24 and domestic mutual insurance corporation into a town mutual; the insurance

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1 security fund; other miscellaneous changes to the insurance provisions; and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Suitability of recommendations

This bill prohibits an insurance intermediary, or insurer if no intermediary is involved, from making a recommendation to a person who is 65 years old or older (senior consumer) about purchasing or exchanging an annuity unless the intermediary or insurer has reasonable grounds to believe that the recommendation is suitable for the senior consumer based on facts disclosed by the senior consumer. Before making a recommendation, the intermediary or insurer must make reasonable efforts to obtain information from the senior consumer about his or her financial status, tax status, and investment objectives.

The bill requires insurers either to ensure that a system for supervising annuity transaction recommendations that are made to senior consumers is established and maintained or to establish and maintain its own system, and provides certain requirements with which the supervisory system must comply. The bill authorizes the commissioner of insurance (commissioner) to order an insurer or intermediary to take corrective action if a senior consumer is harmed by a violation of the provisions regulating annuity transaction recommendations and authorizes the commissioner to promulgate rules to reduce or eliminate penalties for violations of the provisions if, after a violation is discovered, corrective action is promptly taken for the senior consumer.

Insurance security fund

This bill makes a number of changes to the insurance security fund provisions to make them more uniform with the insurance guaranty fund laws of other states, thus facilitating the administration of liquidations that involve national insurers. In general, the insurance security fund (fund), which is created as a nonprofit organization and funded through assessments paid by insurers covered under the fund, pays claims against insolvent insurers.

Current law specifies types of insurers and insurance that are not covered under the fund. The bill adds some exclusions, including the state Health Insurance Risk-Sharing Plan, the patients compensation fund, a warranty or service contract, any contractual liability policy issued to a warrantor or service contract provider, and the deductible portion of a claim under a liability or worker's compensation insurance policy. The bill clarifies that, although reinsurance is generally not covered under the fund, reinsurance ceded by an assessable town mutual and reinsurance for which the reinsurer has issued assumption certificates are covered.

The bill transfers some of the responsibilities of the fund's board of directors (board) to the fund, including establishing procedures and acceptable forms of proof for eligible claims, exercising the powers of the liquidator in any action against an insurer in liquidation, and having standing to appear in any liquidation proceeding in this state involving an insurer in liquidation. The bill also gives the fund the

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authority to appear or intervene before a court or agency of any other state that has jurisdiction over an impaired or insolvent insurer with respect to which the fund is or may become obligated.

Current law specifies the types of claims that are payable by the fund. The bill adds a number of types of claims that are not payable, including a claim based on marketing materials, a claim for bad faith damages, and a claim based on misrepresentations regarding policy benefits. The bill specifies the eligibility requirements for claims of payees under structured settlement annuities, which current law does not address. The bill also eliminates a \$200 deductible that is required under current law before the fund pays any portion of a claim.

Under current law, the fund may recover from a person any amount paid on behalf of the person to a third party. The bill provides that if the fund defends a claim against the person by a third party, the fund may also recover from the person the costs and expenses incurred in defending the claim. The bill expands on the subrogation rights of the fund under current law.

Under current law, the fund may guarantee, assume, or reinsure coverage under an annuity or a life or disability insurance policy. The bill prohibits the fund from providing such coverage, however, to any person who has coverage under any other state's security fund statutes. The bill also provides authority for the fund to succeed, if it so elects, to an insolvent insurer's rights and obligations under a contract covered by the fund under an indemnity reinsurance agreement.

Current law generally provides that assessments paid by insurers to support the fund are based on premium written in the year before the year in which the order of liquidation is entered. The bill changes the assessment base to the year preceding the year in which the assessment is approved by the board. Under current law the maximum assessment in any calendar year is two percent of premium. Under the bill the maximum assessment in any calendar year may not exceed two percent of average annual premium received in this state during the three calendar years preceding the year in which the liquidation order is entered.

Town mutuals

Under current law, one or more town mutual corporations may merge with a single domestic mutual corporation to form a single domestic mutual corporation. Approval of the merger must be given by the commissioner, based on a plan of merger that is filed with the commissioner.

This bill provides that, if a domestic mutual merging with one or more town mutuals is nonassessable, the merging mutuals must form a domestic mutual but, if the merging domestic mutual is assessable, the merging mutuals may form either a domestic mutual or a town mutual. If the merging mutuals form a town mutual, the plan of merger filed with the commissioner must include a time schedule for bringing the resulting town mutual into compliance with the insurance laws relating to town mutuals. The commissioner may approve any reasonable schedule not exceeding three years.

The bill also provides that, if the board of a town mutual has fewer than nine directors, no more than one director may be an employee or representative of the town mutual and that in no case may employees and representatives of a town

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mutual constitute a majority of its board. These limitations, which apply under current law to domestic mutual corporations, will apply to town mutuals in two years unless the commissioner allows further delay for up to one year.

Minimum nonforfeiture amount

Under current law, the minimum amount that must be paid under an annuity contract (called the minimum nonforfeiture amount) is calculated by using an interest rate of three percent. This bill changes the interest rate that is used to calculate the minimum nonforfeiture amount to an indexed rate that is based on the monthly yield on actively traded U.S. treasury securities, adjusted to a constant maturity of five years (five-year constant maturity treasury rate), as published by the Federal Reserve Board. The actual rate used, however, may not exceed three percent or be lower than one percent. If the contract so provides, the interest rate may be redetermined at different times during the term of the contract. Thus, the interest rate used over the term of the annuity contract may be the five-year constant maturity treasury rate at times and three percent or one percent at other times.

Committees

Under current law, the board of directors of an insurer that is a domestic stock or mutual corporation may appoint committees to exercise various powers of the board of directors in the management of the business and affairs of the corporation. Generally, a committee of the board must consist of three or more directors. This bill adds that such a committee may include one or more nonvoting members who are not directors.

Miscellaneous

The bill makes a few additional miscellaneous changes including: specifically providing that orders of the commissioner may be for remedial measures or restitution; clarifying that, in addition to information obtained from insurance regulators, the Office of the Commissioner of Insurance (OCI) may refuse to disclose and prevent any other person from disclosing information provided by OCI to those insurance regulators; limiting the amount that an insurance corporation may invest in a subsidiary; removing an exemption for payment of extraordinary dividends by a domestic insurer to a domestic insurer from a requirement to report the payment to the commissioner at least 30 days in advance; and providing for an annual fee of \$500 to be listed by the commissioner for surplus lines insurance. The bill also repeals chapter 641, relating to the authority of the commissioner to conduct examinations and impose certain enforcement measures with respect to employee benefit plans, because it is largely preempted by the federal Employee Retirement Income Security Act.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

SECTION 1. 600.03 (21) of the statutes is amended to read:

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1 600.03 (21) “Form” means a policy, group certificate, or application prepared
2 for general use and does not include one specially prepared for use in an individual
3 case. See also “policy”.

4 **SECTION 2.** 601.31 (1) (k) (intro.) of the statutes is amended to read:

5 601.31 (1) (k) (intro.) For filing an annual statement, ~~except as provided in s.~~
6 ~~641.13:~~

7 **SECTION 3.** 601.31 (1) (tc) of the statutes is created to read:

8 601.31 (1) (tc) For each annual listing by the commissioner for surplus lines
9 insurance under s. 618.41 (6) (d), \$500.

10 **SECTION 4.** 601.41 (4) (a) of the statutes is renumbered 601.41 (4) (a) (intro.)
11 and amended to read:

12 601.41 (4) (a) (intro.) The commissioner shall issue such prohibitory,
13 mandatory, and other orders as are necessary to secure compliance with the law. An
14 order requiring remedial measures or restitution may include any of the following:

15 **SECTION 5.** 601.41 (4) (a) 1. of the statutes is created to read:

16 601.41 (4) (a) 1. Remedial measures or restitution under s. 628.347 (5).

17 **SECTION 6.** 601.41 (4) (a) 2. of the statutes is created to read:

18 601.41 (4) (a) 2. Remedial measures or restitution to enforce s. 611.72 or ch.
19 617, including seizure or sequestering of voting securities of an insurer owned
20 directly or indirectly by a person who has acquired or who is proposing to acquire
21 voting securities in violation of s. 611.72 or ch. 617.

22 **SECTION 7.** 601.465 (3) (intro.) of the statutes is amended to read:

23 601.465 (3) (intro.) Testimony, reports, records, communications, and
24 information that are obtained by the office from, or provided by the office to, any of

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1 the following, under a pledge of confidentiality or for the purpose of assisting in the
2 conduct of an investigation or examination:

3 **SECTION 8.** 601.64 (1) of the statutes is amended to read:

4 601.64 (1) INJUNCTIONS AND RESTRAINING ORDERS. The commissioner may
5 commence an action in circuit court in the name of the state to restrain by temporary
6 or permanent injunction or by temporary restraining order any violation of chs. 600
7 to 655, s. 149.13 or 149.144, any rule promulgated under chs. 600 to 655 or any order
8 issued under s. 601.41 (4). ~~Except as provided in s. 641.20, the~~ The commissioner
9 need not show irreparable harm or lack of an adequate remedy at law in an action
10 commenced under this subsection.

11 **SECTION 9.** 609.98 (1) of the statutes is amended to read:

12 609.98 (1) DEFINITION. In this section, “premiums” has the meaning given
13 under s. 646.51 ~~(3) (a) 1~~ (1c) (c).

14 **SECTION 10.** 609.98 (4) (a) of the statutes is amended to read:

15 609.98 (4) (a) To pay an assessment under s. 646.51 (3) ~~(a) or (b)~~ (am).

16 **SECTION 11.** 609.98 (4) (b) of the statutes is amended to read:

17 609.98 (4) (b) To the extent that the amount on deposit exceeds 1% of premiums
18 written in this state by the health maintenance organization insurer in the preceding
19 calendar year and the deposit is not necessary to pay an assessment under s. 646.51
20 (3) ~~(a) or (b)~~ (am).

21 **SECTION 12.** 611.26 (4) of the statutes is renumbered 611.26 (4) (intro.) and
22 amended to read:

23 611.26 (4) OTHER SUBSIDIARIES. (intro.) An insurance corporation may form or
24 acquire other subsidiaries than those under subs. (1) to (3). The investment in such
25 subsidiaries may be counted toward satisfaction of the compulsory surplus

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1 requirement of s. 623.11 and the security surplus standard of s. 623.12 to the extent
2 that the investment is a part of the leeway investments of s. 620.22 (9) for the first
3 \$200,000,000 of assets or to the extent that the investment is within the limitations
4 under s. 620.23 (2) (a) and (b) for other assets. The commissioner may limit
5 investment in subsidiaries under this subsection by rule or order. Unless approved
6 by the commissioner, an insurance corporation may not do any of the following:

7 **SECTION 13.** 611.26 (4) (a) of the statutes is created to read:

8 611.26 (4) (a) Invest in a subsidiary more than 10 percent of its assets or 50
9 percent of its capital and surplus, whichever is less.

10 **SECTION 14.** 611.26 (4) (b) of the statutes is created to read:

11 611.26 (4) (b) Invest in a subsidiary to the extent that the insurer's capital and
12 surplus with regard to policyholders will not be reasonable in relation to the insurer's
13 outstanding liabilities or adequate to meet the insurer's financial needs.

14 **SECTION 15.** 611.56 (1) of the statutes is amended to read:

15 611.56 (1) APPOINTMENT. If the articles or bylaws of a corporation so provide,
16 the board by resolution adopted by a majority of the full board may designate one or
17 more committees, each consisting of at least 3 or more directors serving at the
18 pleasure of the board. The board may designate one or more directors as alternate
19 members of any committee to substitute for any absent member at any meeting of
20 the committee. Any committee under this section may include one or more nonvoting
21 members who are not directors. The designation of a committee and delegation of
22 authority to it shall not relieve the board or any director of any responsibility
23 imposed by law.

24 **SECTION 16.** 611.56 (2) of the statutes is amended to read:

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1 611.56 (2) DELEGATION; MAJOR COMMITTEES. When the board is not in session,
2 a committee satisfying all of the requirements for the composition of a board under
3 s. 611.51 (2) to (4) may exercise any of the powers of the board in the management
4 of the business and affairs of the corporation, including action under ss. 611.60 and
5 611.61, to the extent authorized in the resolution or in the articles or bylaws; except
6 that any such committee may be ~~composed of~~ include 7 or more directors if the
7 corporation has 9 or more directors.

8 **SECTION 17.** 612.13 (1m) of the statutes is created to read:

9 612.13 (1m) INSIDE DIRECTORS. (a) Beginning 2 years after the effective date
10 of this paragraph [revisor inserts date], all of the following apply:

11 1. If a town mutual has fewer than 9 directors, no more than one director may
12 be an employee or representative of the town mutual.

13 2. Employees and representatives of a town mutual may not constitute a
14 majority of its board.

15 (b) Notwithstanding par. (a), the commissioner may allow a town mutual an
16 extension of up to one year to come into compliance with the requirements under par.
17 (a).

18 **SECTION 18.** 612.22 (title) of the statutes is amended to read:

19 **612.22 (title) Merger of town mutuals into and mutual insurance**
20 **corporations.**

21 **SECTION 19.** 612.22 (1) of the statutes is amended to read:

22 612.22 (1) CONDITIONS FOR MERGER. One or more town mutuals may merge with
23 a single domestic mutual under ch. 611. The If the domestic mutual is nonassessable,
24 the surviving corporation shall be a mutual under ch. 611. If the domestic mutual

BILL**SECTION 19**

1 is assessable, the surviving corporation may be either a mutual under ch. 611 or a
2 town mutual under this chapter.

3 **SECTION 20.** 612.22 (3) of the statutes is renumbered 612.22 (3) (a) and
4 amended to read:

5 612.22 (3) (a) Each of the participating corporations shall file with the
6 commissioner for approval a copy of the resolution and any explanatory material
7 proposed to be issued to the members, together with so much of the information
8 under s. 611.13 (2) or 612.02 (4), whichever is appropriate, for the surviving or new
9 corporation as the commissioner reasonably requires. The commissioner shall
10 approve the plan unless he or she finds, after a hearing, that it would be contrary to
11 the law, or that the surviving or new corporation would not satisfy the requirements
12 for a certificate of authority under s. 611.20 or 612.02 (6), whichever is appropriate,
13 or that the plan would be contrary to the interest of insureds or of the public.

14 **SECTION 21.** 612.22 (3) (b) of the statutes is created to read:

15 612.22 (3) (b) If the surviving corporation will be a town mutual, the plan filed
16 with the commissioner under par. (a) shall include a time schedule for bringing the
17 surviving corporation into compliance with this chapter. The commissioner may
18 approve a reasonable time schedule that does not exceed 3 years.

19 **SECTION 22.** 612.22 (4) of the statutes is amended to read:

20 612.22 (4) APPROVAL BY MEMBERS OF THE TOWN MUTUALS. After being approved
21 by the commissioner under sub. (3), the plan shall be submitted to the members of
22 the participating town mutuals for their approval. The members of each town
23 participating mutual shall vote separately.

24 **SECTION 23.** 612.22 (6) of the statutes is amended to read:

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1 612.22 (6) REPORTS TO COMMISSIONER. Each participating town mutual shall file
2 with the commissioner a copy of the resolution adopted under sub. (4), stating the
3 number of members entitled to vote, the number of members voting, and the number
4 of votes cast in favor of the plan, stating separately in each case the mail votes and
5 the votes cast in person.

6 **SECTION 24.** 617.225 (1) of the statutes is amended to read:

7 617.225 (1) ~~Except as provided under sub. (5), a~~ A domestic insurer may not
8 pay an extraordinary dividend to its shareholders and an affiliate of the insurer may
9 not accept an extraordinary dividend unless the insurer reports the extraordinary
10 dividend to the commissioner at least 30 days before payment and the commissioner
11 does not disapprove the extraordinary dividend within that period.

12 **SECTION 25.** 617.225 (5) of the statutes is repealed.

13 **SECTION 26.** 628.347 of the statutes is created to read:

14 **628.347 Suitability of annuity sales to senior consumers. (1)**
15 **DEFINITIONS.** In this section:

16 (a) “Annuity” means a fixed or variable annuity that is individually solicited,
17 whether the product is classified as individual or group.

18 (b) “Senior consumer” means a person who is 65 years of age or older. The term
19 includes any joint owner of an annuity who is less than 65 years of age if at least one
20 joint owner is 65 years of age or older, and any prospective joint purchaser of an
21 annuity who is less than 65 years of age if at least one prospective joint purchaser
22 is 65 years of age or older.

23 **(2) DUTIES OF INSURERS AND INSURANCE INTERMEDIARIES WITH REGARD TO**
24 **RECOMMENDATIONS.** (a) Except as provided in par. (c), an insurance intermediary, or
25 insurer if no intermediary is involved, may not recommend to a senior consumer the

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1 purchase or exchange of an annuity if the recommendation results in another
2 insurance transaction or series of insurance transactions unless the intermediary or
3 insurer has reasonable grounds to believe that the recommendation is suitable for
4 the senior consumer on the basis of facts disclosed by the senior consumer as to his
5 or her investments, other insurance products, and financial situation and needs.

6 (b) Before making a recommendation described in par. (a), an insurance
7 intermediary, or insurer if no intermediary is involved, shall make reasonable efforts
8 to obtain information concerning all of the following:

- 9 1. The senior consumer's financial status.
- 10 2. The senior consumer's tax status.
- 11 3. The senior consumer's investment objectives.
- 12 4. Any other information that is reasonably appropriate for determining the
13 suitability of a recommendation to the senior consumer.

14 (c) An insurance intermediary, or insurer if no intermediary is involved, has no
15 obligation under par. (a) to a senior consumer related to a recommendation if the
16 senior consumer does any of the following:

- 17 1. Refuses to provide relevant information requested by the insurer or
18 insurance intermediary.
- 19 2. Fails to provide complete or accurate information.
- 20 3. Decides to enter into an insurance transaction that is not based on a
21 recommendation of the insurer or insurance intermediary.

22 (d) Any recommendation of an insurer or insurance intermediary that, under
23 par. (c), is not subject to the obligation under par. (a) shall be reasonable under all
24 circumstances actually known to the insurer or insurance intermediary at the time
25 the recommendation is made.

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1 **(3) INSURER'S SUPERVISORY RESPONSIBILITY.** (a) An insurer either shall ensure
2 that a system to supervise recommendations that is reasonably designed to achieve
3 compliance with this section is established and maintained by complying with pars.
4 (c) to (e), or shall establish and maintain such a system, which shall include at least
5 all of the following:

6 1. Maintaining written procedures.

7 2. Conducting periodic reviews of its records that are reasonably designed to
8 assist in detecting and preventing violations of this section.

9 (b) A general agent or independent agency either shall adopt a system
10 established by an insurer to supervise recommendations of its insurance
11 intermediaries that is reasonably designed to achieve compliance with this section,
12 or shall establish and maintain such a system, which shall include at least all of the
13 following:

14 1. Maintaining written procedures.

15 2. Conducting periodic reviews of records that are reasonably designed to assist
16 in detecting and preventing violations of this section.

17 (c) An insurer may contract with a 3rd party, which may be a general agent or
18 independent agency, to establish and maintain a system of supervision as required
19 under par. (a) with respect to insurance intermediaries under contract with or
20 employed by the 3rd party.

21 (d) An insurer shall make reasonable inquiry to ensure that any 3rd party with
22 which the insurer contracts under par. (c) is performing the functions required under
23 par. (a) and shall take such action as is reasonable under the circumstances to enforce
24 the contractual obligation to perform the functions. An insurer may comply with its
25 obligation to make reasonable inquiry in all of the following ways:

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1 1. The insurer annually obtains from a senior manager of the 3rd party who
2 has responsibility for the delegated functions a representation that the 3rd party is
3 performing the required functions and that the senior manager has a reasonable
4 basis for making the representation.

5 2. The insurer, based on reasonable selection criteria, periodically selects 3rd
6 parties contracting under par. (c) for reviews to determine whether the 3rd parties
7 are performing the required functions. The insurer shall perform those procedures
8 to conduct the reviews that are reasonable under the circumstances.

9 (e) An insurer that contracts with a 3rd party under par. (c) and that complies
10 with the supervisory requirement under par. (d) satisfies its responsibilities under
11 par. (a) as to insurance intermediaries under contract with or employed by the 3rd
12 party.

13 (f) An insurer is not required under par. (a), and a general agent or independent
14 agency is not required under par. (b), to do any of the following:

15 1. Review, or provide for the review of, all insurance intermediary solicited
16 transactions.

17 2. Include in its system of supervision an insurance intermediary's
18 recommendations made to senior consumers of products other than annuities offered
19 by the insurer, general agent, or independent agency.

20 (g) A general agent or independent agency contracting with an insurer under
21 par. (c) shall promptly, upon request by the insurer under par. (d), provide a
22 representation as described in par. (d) 1. or give a clear statement that it is unable
23 to meet the representation criteria.

24 (h) No person may provide a representation under par. (d) 1. unless the person
25 satisfies all of the following:

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1 1. The person is a senior manager with responsibility for the delegated
2 functions.

3 2. The person has a reasonable basis for making the representation.

4 (4) NATIONAL ASSOCIATION OF SECURITIES DEALERS CONDUCT RULES. Compliance
5 with the National Association of Securities Dealers Conduct Rules pertaining to
6 suitability satisfies the requirements under sub. (2) for the recommendation of
7 variable annuities. Nothing in this subsection, however, limits the commissioner's
8 ability to enforce this section.

9 (5) REMEDIAL MEASURES. The commissioner may do any of the following:

10 (a) Order an insurer to take reasonably appropriate corrective action for any
11 senior consumer harmed by a violation of this section by the insurer or the insurer's
12 insurance intermediary.

13 (b) Order an insurance intermediary to take reasonably appropriate corrective
14 action for any senior consumer harmed by a violation of this section by the insurance
15 intermediary.

16 (c) Order a general agent or independent agency that employs or contracts with
17 an insurance intermediary to sell, or solicit the sale of, annuities to senior consumers
18 to take reasonably appropriate corrective action for any senior consumer harmed by
19 a violation of this section by the insurance intermediary.

20 (6) PENALTIES; MITIGATION. (a) Any person who violates this section is subject
21 to the penalties provided under s. 601.64, suspension or revocation of a license or
22 certificate of authority, and an order under s. 601.41 (4).

23 (b) A penalty under par. (a) for a violation of sub. (2) (a), (b), or (d), including
24 a forfeiture, may be reduced or eliminated to the extent provided by rule of the

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1 commissioner if corrective action is taken for the senior consumer promptly after the
2 violation is discovered.

3 (c) The commissioner may promulgate rules related to the reduction or
4 elimination of penalties for violations of this section on the basis of prompt action
5 taken to correct any harm caused to senior consumers by the violations.

6 (7) RECORD KEEPING. An insurer and an insurance intermediary shall maintain,
7 or be able to make available to the commissioner, records of the information collected
8 from a senior consumer and other information used in making a recommendation
9 that was the basis for an insurance transaction for 6 years after the insurance
10 transaction is completed by the insurer, except as otherwise permitted by the
11 commissioner by rule. An insurer may, but is not required to, maintain records on
12 behalf of an insurance intermediary.

13 (8) EXEMPTIONS. This section does not apply to any of the following:

14 (a) Direct response solicitations in which no recommendation is made based on
15 information collected from the senior consumer.

16 (b) Recommendations related to contracts used to fund any of the following:

17 1. An employee pension or welfare benefit plan that is covered by the federal
18 Employee Retirement and Income Security Act.

19 2. A plan described in section 401 (a) or (k), 403 (b), or 408 (k) or (p) of the
20 Internal Revenue Code, if the plan is established or maintained by an employer.

21 3. A government or church plan as defined in section 414 of the Internal
22 Revenue Code, a government or church welfare benefit plan, or a deferred
23 compensation plan of a state or local government or tax exempt organization under
24 section 457 of the Internal Revenue Code.

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Insert 17-22

1 traded U.S. treasury securities, adjusted to a constant maturity of 5 years, as
2 determined from consecutive monthly yields published by the federal reserve board,

3 ^{note} ^{comma} ^{wp} "Net considerations" means, for a given contract year, an amount equal to
4 87 percent of the gross considerations credited to the contract during that contract
5 year.

6 (b) The minimum nonforfeiture amount at or prior to the commencement of any
7 annuity payments shall be equal to an accumulation up to such time, at one or more
8 rates of interest as indicated in pars. (c) to (e), of the net considerations paid prior
9 to such time, decreased by the sum of all of the following:

10 1. Any prior withdrawals from or partial surrenders of the contract
11 accumulated at one or more rates of interest as indicated in pars. (c) to (e).

12 2. An annual contract charge of \$50, accumulated at one or more rates of
13 interest as indicated in pars. (c) to (e).

14 3. Any premium tax paid by the company for the contract, accumulated at one
15 or more rates of interest as indicated in pars. (c) to (e).

16 4. The amount of any indebtedness to the company on the contract, including
17 interest due and accrued.

18 (c) The interest rate used to determine minimum nonforfeiture amounts shall
19 be an annual rate of interest that is the lower of 3 percent and the higher of either
20 of the following:

21 1. The 5-year constant maturity treasury rate ^{reported by the federal} ^{reserve board} as of a date, or average over a
22 period, specified in the contract no longer than 15 months prior to the contract issue
23 date or redetermination date under par. (d), less 125 basis points or, if the contract
24 provides substantive participation in an equity indexed benefit during the period or
25 term, the contract may increase the reduction by up to an additional 100 basis points

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1 4. A nonqualified deferred compensation arrangement established or
2 maintained by an employer or plan sponsor.

3 5. A settlement or assumption of liability associated with personal injury
4 litigation or any dispute or claim resolution process.

5 6. A formal prepaid funeral or burial contract.

6 **SECTION 27.** 632.435 (1) (a) of the statutes is amended to read:

7 632.435 (1) (a) Upon cessation of payment of considerations under a contract,
8 or upon the written request of the contract owner, the company will shall grant a
9 paid-up annuity on a plan stipulated in the contract of such value as is specified in
10 subs. (5) to (8) and (10).

11 **SECTION 28.** 632.435 (1) (b) of the statutes is amended to read:

12 632.435 (1) (b) If a contract provides for a lump sum settlement at maturity or
13 at any other time, upon surrender of the contract at or prior to the commencement
14 of any annuity payments, the company will shall pay in lieu of any paid-up annuity
15 benefit a cash surrender benefit of such amount as is specified in subs. (5), (6), (8),
16 and (10). The company ~~shall~~ may reserve the right to defer the payment of such cash
17 surrender benefit, for a period of not exceeding 6 months after demand therefor with
18 surrender of the contract, if the company receives written approval from the
19 commissioner upon the company's written request, which shall address the deferral's
20 necessity and equitability to all policyholders.

21 **SECTION 29.** 632.435 (4) of the statutes is repealed and recreated to read:

22 632.435 (4) (a) In this subsection *Insert 17-22 (see next page)*

23 1. "Constant maturity treasury rate" means the monthly yield on actively
24 traded U.S. treasury securities, adjusted to a constant maturity of 5 years, as
25 published by the federal reserve board, or an average monthly yield on actively

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1 to reflect the value of the equity index benefit, and rounded to the nearest
2 one-twentieth of 1 percent.

3 2. One percent.

4 (d) The interest rate determined under par. (c) shall apply for an initial period
5 and may be redetermined for additional periods. The redetermination date, basis,
6 and period, if any, shall be stated in the contract. The basis is the date or average
7 over a specified period that produces the value of the 5-year constant maturity
8 treasury rate to be used at each redetermination date. The method for determining
9 the interest rate under par. (c) shall be specified in the contract if the interest rate
10 will be reset.

11 (e) The present value at the contract issue date, and at each redetermination
12 date, of the additional reduction under par. (c) 1. for substantive participation in an
13 equity index benefit may not exceed the market value of the benefit. The
14 commissioner may require a demonstration that the present value of the additional
15 reduction does not exceed the market value of the benefit. The commissioner may
16 disallow or limit the additional reduction if the commissioner determines that the
17 demonstration is unacceptable.

18 (f) The commissioner may promulgate rules for the implementation of par. (e)
19 and to provide for further adjustments to the calculation of minimum nonforfeiture
20 amounts for contracts that provide substantive participation in an equity index
21 benefit and for other contracts for which the commissioner determines adjustments
22 are justified.

23 **SECTION 30.** 632.435 (5) of the statutes is amended to read:

24 632.435 (5) Any paid-up annuity benefit available under a contract shall be
25 such that its present value on the date annuity payments are to commence is at least

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1 equal to the minimum nonforfeiture amount on that date. Such present value shall
2 be computed using the mortality table, if any, and the interest rate or rates specified
3 in the contract for determining the minimum paid-up annuity benefits guaranteed
4 in the contract.

5 **SECTION 31.** 632.435 (12) of the statutes is amended to read:

6 632.435 (12) After November 8, 1977 the effective date of this subsection
7 [revisor inserts date], any company may ~~file with the commissioner a written notice~~
8 ~~of its election~~ elect to comply with this section ~~after a specified date~~ on a contract
9 form-by-contract form basis, for contracts newly issued, before the 2nd anniversary
10 of November 8, 1977. ~~After the filing of such notice, then upon such specified date,~~
11 ~~which shall be the operative date of this section for such company~~ the effective date
12 of this subsection [revisor inserts date]. In all other instances, this section shall
13 become operative with respect to annuity contracts thereafter issued by such
14 company. ~~If a company makes no such election, the operative date of this section for~~
15 ~~such company shall be~~ on or after the 2nd anniversary of November 8, 1977 the
16 effective date of this subsection [revisor inserts date].

17 **SECTION 32.** Chapter 641 of the statutes, as affected by 2001 Wisconsin Act 109,
18 is repealed.

19 **SECTION 33.** 645.58 (1) (intro.) of the statutes, as affected by 2003 Wisconsin
20 Act 44, is amended to read:

21 645.58 (1) LIABILITY. (intro.) Except as provided in this subsection and in s.
22 646.35 (8) (e), the amount recoverable by the liquidator from a reinsurer shall not be
23 reduced as a result of delinquency proceedings, regardless of any provision in the
24 reinsurance contract or other agreement. Payment made directly to an insured or

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1 other creditor shall not diminish the reinsurer's obligation to the insurer's estate
2 except when any of the following applies:

3 **SECTION 34.** 646.01 (1) (a) 2. k. of the statutes is created to read:

4 646.01 (1) (a) 2. k. Risk-sharing plans under chs. 149 and 619.

5 **SECTION 35.** 646.01 (1) (a) 2. L. of the statutes is created to read:

6 646.01 (1) (a) 2. L. The patients compensation fund under s. 655.27.

7 **SECTION 36.** 646.01 (1) (b) 1. of the statutes is repealed and recreated to read:

8 646.01 (1) (b) 1. Any portion of a life insurance policy or annuity contract that
9 is not guaranteed by the insurer or under which the risk is borne by the policy or
10 policyholder.

11 **SECTION 37.** 646.01 (1) (b) 9. (intro.) of the statutes is renumbered 646.01 (1)

12 (b) 9. and amended to read:

13 646.01 (1) (b) 9. Any self-funded, self-insured, or partially or wholly uninsured
14 plan of an employer or other person to provide life insurance, annuity, or disability
15 benefits to its employees or members to the extent that the plan is self-funded,
16 self-insured, or uninsured, ~~including benefits payable by an employer or other~~
17 ~~person under any of the following:~~

18 **SECTION 38.** 646.01 (1) (b) 9. a. of the statutes is repealed.

19 **SECTION 39.** 646.01 (1) (b) 9. b. of the statutes is repealed.

20 **SECTION 40.** 646.01 (1) (b) 9. c. of the statutes is repealed.

21 **SECTION 41.** 646.01 (1) (b) 9. d. of the statutes is repealed.

22 **SECTION 42.** 646.01 (1) (b) 11. of the statutes is repealed and recreated to read:

23 646.01 (1) (b) 11. Any warranty or service contract.

24 **SECTION 43.** 646.01 (1) (b) 11m. of the statutes is created to read:

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1 646.01 (1) (b) 11m. Any contractual liability policy that is issued to a warrantor,
2 warranty plan, warranty plan administrator, or service contract provider and that
3 provides coverage of any liability or performance arising out of or in connection with
4 a warranty or service contract.

5 **SECTION 44.** 646.01 (1) (b) 15. of the statutes is created to read:

6 646.01 (1) (b) 15. An unallocated annuity contract.

7 **SECTION 45.** 646.01 (1) (b) 16. of the statutes is created to read:

8 646.01 (1) (b) 16. A contractual agreement that obligates an insurer to provide
9 a book value accounting guarantee for defined contribution benefit plan participants
10 by reference to a portfolio of assets that is owned by the benefit plan or its trustee,
11 neither of which is an affiliate of the insurer.

12 **SECTION 46.** 646.01 (1) (b) 17. of the statutes is created to read:

13 646.01 (1) (b) 17. Any liability under a policy or contract to the extent that it
14 provides for interest or other changes in value that are to be determined by the use
15 of an index or other external reference stated in the policy or contract and to the
16 extent that the interest or other changes in value have not been credited to the policy
17 or contract as of the date of the entry of the order of liquidation and are subject to
18 forfeiture. If a policy's or contract's interest or other changes in value are credited
19 less frequently than annually, for purposes of determining the values that have been
20 credited and that are not subject to forfeiture, the interest or change in value
21 determined by using the procedures specified in the policy or contract will be credited
22 as if the contractual date of crediting interest or other changes in value was the date
23 of entry of the order of liquidation and will not be subject to forfeiture.

24 **SECTION 47.** 646.01 (1) (b) 18. of the statutes is created to read:

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1 646.01 (1) (b) 18. The deductible, self-funded, or self-insured portion of a claim
2 under a liability or worker’s compensation insurance policy, regardless of the timing
3 or method provided in the policy, endorsement, or any other agreement for payment
4 of the deductible, self-funded, or self-insured amount by the insured. This
5 subdivision does not apply to a worker’s compensation insurance policy if the insured
6 under the policy is a debtor under 11 USC 701, et seq., as of the deadline set by the
7 liquidator for filing claims against the insolvent insurer.

8 **SECTION 48.** 646.03 (1m) of the statutes is created to read:

9 646.03 (1m) “Direct insurance” does not include a policy or contract of
10 reinsurance, except for the following:

11 (a) Reinsurance for which the reinsurer has issued assumption certificates
12 under the reinsurance policy or contract.

13 (b) Reinsurance ceded by an assessable town mutual company.

14 **SECTION 49.** 646.03 (2n) of the statutes is created to read:

15 646.03 (2n) “Impaired insurer” means an insurer subject to this chapter that
16 is placed under an order of rehabilitation or conservation by a court of competent
17 jurisdiction.

18 **SECTION 50.** 646.03 (2p) of the statutes is created to read:

19 646.03 (2p) “Insolvent insurer” means an insurer subject to this chapter that
20 is placed under an order of liquidation by a court of competent jurisdiction with a
21 finding of insolvency.

22 **SECTION 51.** 646.03 (4) of the statutes is created to read:

23 646.03 (4) With respect to a life or disability insurance policy or an annuity
24 contract, “owner” or “policyholder” means the person who is identified as the legal
25 owner under the terms of the policy or contract or who is otherwise vested with legal

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1 title to the policy or contract through a valid assignment completed in accordance
2 with the terms of the policy or contract and properly recorded as the owner on the
3 books of the insurer. “Owner” or “policyholder” does not include a person with only
4 a beneficial interest in a policy or contract.

5 **SECTION 52.** 646.03 (5) of the statutes is created to read:

6 646.03 (5) “Unallocated annuity contract” means an annuity contract or group
7 annuity certificate that is not issued to and owned by an individual, except to the
8 extent of any annuity benefits guaranteed to an individual by an insurer under the
9 contract or certificate.

10 **SECTION 53.** 646.11 (1) of the statutes is renumbered 646.11 (1) (intro.) and
11 amended to read:

12 646.11 (1) (intro.) ORGANIZATION. There is created a fund an organization to be
13 known as the “insurance security fund”.” All insurers subject to this chapter are
14 contributors to the fund as a result of their authority to transact business in this
15 state. The fund shall consist of all of the following:

16 (a) All payments made by insurers under s. 646.51, of the.

17 (b) The earnings resulting from investments under s. 646.21 (2) and of the.

18 (c) The amounts recovered under s. 645.72 (2) or a substantially similar law in
19 the state of domicile of the insolvent insurer.

20 **SECTION 54.** 646.11 (1) (d) of the statutes is created to read:

21 646.11 (1) (d) Amounts reimbursed to the fund through its subrogation and
22 assignment rights.

23 **SECTION 55.** 646.11 (1) (e) of the statutes is created to read:

24 646.11 (1) (e) Any other moneys received by the fund from time to time.

25 **SECTION 56.** 646.12 (2) (d) of the statutes is amended to read:

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1 646.12 (2) (d) Employ or retain the personnel necessary to carry out its the
2 fund's duties and set compensation for the personnel, ~~sue or be sued, make contracts~~
3 ~~and borrow money necessary to carry out its duties in the most efficient way,~~
4 ~~including money with which to pay claims under s. 646.31 or to continue coverage~~
5 ~~under s. 646.35. The board may offer as security for such loans its claims against the~~
6 ~~liquidator or its power to levy assessments under this chapter.~~ Personnel employed
7 under this paragraph are not employees of the state and are not subject to s. 20.922
8 or ch. 230.

9 **SECTION 57.** 646.12 (2) (f) 2. of the statutes is amended to read:

10 646.12 (2) (f) 2. Keep confidential the records under subd. 1. pertaining to
11 specific liquidation proceedings involving an insurer until the termination of the
12 liquidation proceedings or until sooner ordered to make the records public by a court
13 of competent jurisdiction.

14 **SECTION 58.** 646.12 (2) (f) 3. of the statutes is amended to read:

15 646.12 (2) (f) 3. Keep confidential the records under subd. 1. pertaining to
16 specific rehabilitation proceedings involving an insurer unless ordered to make the
17 records public by a court of competent jurisdiction.

18 **SECTION 59.** 646.12 (4) of the statutes is amended to read:

19 646.12 (4) **OTHER POWERS.** The ~~board~~ fund may join an organization consisting
20 of one or more entities of other states performing comparable functions, in order to
21 assist the ~~board~~ fund in carrying out its powers and duties under this chapter and
22 otherwise further the purposes of this chapter.

23 **SECTION 60.** 646.13 (title) of the statutes is amended to read:

24 **646.13 (title) Special duties and powers of the board fund related to loss**
25 **claims.**