

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON  
(w/11-23)  
D-note

SAJ  
x-rcf ✓

modifications to motorvehicle  
insurance policy and umbrella and  
excess liability policy requirements

Regen.

1 AN ACT *to repeal* 14.83, 601.415 (11), 601.59 and 646.03 (2n); *to renumber*  
2 646.31 (1) (b); *to renumber and amend* 615.10 (5); *to amend* 149.13 (1),  
3 609.91 (1) (intro.), 609.91 (2), (3) and (4) (a), (b), (cm) and (d), 612.22 (3) (a), (4)  
4 and (6), 614.29 (1), 614.42 (1) (a), 615.03 (5), 628.10 (5) (a), 645.69 (1), 646.13  
5 (2) (d), 646.13 (4), 646.31 (4) (a), 646.31 (12), 646.32 (1), 646.32 (2), 646.325 (1),  
6 646.325 (2) (a) 1., 646.51 (3) (c), 646.51 (5) and 646.51 (6); and *to create* 49.45  
7 (31) (e), 601.31 (1) (Lg), 609.91 (1p), 615.10 (5) (intro.), 615.10 (5) (b), 615.10 (5)  
8 (c), 615.10 (5) (d), 632.897 (11) (b), 646.01 (1) (b) 19., 646.31 (1) (b) 2. and 646.325  
9 (4) of the statutes; **relating to:** the Interstate Insurance Receivership  
10 Compact, investment guidelines for charitable gift annuity segregated  
11 accounts, Health Insurance Risk-Sharing Plan assessment participation,  
12 reciprocity for long-term care insurance policies, voting by fraternal members,  
13 the insurance security fund, and granting rule-making authority.

**Analysis by the Legislative Reference Bureau**

This bill makes the following changes to the insurance laws:

1. The Interstate Insurance Receivership Compact was created to develop and facilitate uniform insurer receivership laws. Receiverships are established to oversee and distribute assets of insurers that have become insolvent. Although enacted as part of Wisconsin law, the compact never became effective in this state and now is dissolving. The bill repeals the compact.

2. Under current law, an issuer of a charitable gift annuity must keep its assets in a segregated account. Issuers of charitable gift annuities are subject to the same requirements for investing assets in their segregated accounts as are other annuity insurers for investing their assets, including being limited to investing no more than 20 percent of the assets in common stock and shares of mutual funds and no more than 3 percent in the common stock of a single corporation and its affiliates. The bill increases, for charitable gift annuity segregated accounts, the amount of assets that may be invested in common stock from 20 percent to 50 percent and the assets that may be invested in the common stock of a single corporation and its affiliates from 3 percent to 10 percent. The bill also provides that, if the assets of a charitable gift annuity segregated account are invested in a mutual fund, the investment will be treated as if it consists of the same percentage of common stock or bonds as that held by the mutual fund.

3. Under current law, the Health Insurance Risk-Sharing Plan is funded in part by assessments paid by health insurers. The amount of the assessment paid by each insurer is proportional to the amount of that insurer's health care coverage revenue as compared to all health care coverage revenue for all health insurers in this state. The Commissioner of Insurance (commissioner) may exempt an insurer from paying the assessment if that insurer's assessment would be smaller than the cost of collecting it. The bill allows the commissioner to exempt any insurer from the fee assessment upon the request of the insurer and after holding a public hearing.

4. Under current law, insurers authorized to do business in this state, with a number of exceptions, must participate in the insurance security fund (fund), which protects insureds under certain kinds and lines of direct insurance in the event of a liquidation of an insurer. This bill explicitly exempts from the types of insurance to which the fund applies policies issued to individuals with coverage under Medicare or the Medical Assistance program (MA) and contracts between the federal government and an insurer to provide health care or prescription drug benefits.

Under current law, the fund has standing to appear in any court having jurisdiction over an impaired or insolvent insurer. An impaired insurer, under current law, is an insurer that is subject to the requirements of the fund that is placed under an order of rehabilitation or conservation by a court of competent jurisdiction but without a finding of insolvency. This bill eliminates the classification of impaired insurer.

Under current law, for an insured with a net worth of over \$10,000,000, with some exceptions the fund need only pay claims that in the aggregate exceed 10 percent of the insured's net worth. This bill increases the minimum net worth to \$25,000,000 for which the fund can limit payment of claims to 10 percent of the insured's net worth.

Under current law, a person with a claim against the fund whose claim is reduced or declared ineligible may appeal that determination to the board of directors of the fund (board). The person may not pursue a claim in court unless appeal is first made to and decided by the board. This bill specifies that the board may appoint a committee of the board or a hearing examiner to hear appeals, which is currently allowed under the fund's procedures. This bill requires that a person seeking review of the board's, committee's, or hearing examiner's decision in circuit court petition the Dane County Circuit Court within 60 days of the decision.

Under current law, under certain circumstances the fund may recover the costs of defending an insured if the insured has a net worth of more than \$10,000,000 or is an affiliate of an insurer in liquidation. This bill does not allow the fund to recover costs unless the insured's net worth is more than \$25,000,000. The bill also allows the fund to recover reasonable attorney fees and costs plus interest.

Under current law, an insurer is assessed by the fund, and the insurer may appeal the assessment to the board and then to the circuit court. This bill requires that petitions for review by the circuit court be filed in the Dane County Circuit Court within 60 days of the decision by the board.

Under current law, an insurer may be assessed up to \$200 on a nonprorated basis for administrative costs for the fund. The bill increases the maximum nonprorated assessment to \$500.

5. Under current law, MA disregards benefits paid under qualifying long-term care insurance policies purchased under the Long-Term Care Partnership Program in this state when considering the assets an applicant for MA has available. The bill requires the Department of Health Services to disregard benefits paid under qualifying long-term care insurance policies purchased by an MA applicant under the same type of program in another state.

6. Under current law, a fraternal insurance organization may elect its directors by mail. This bill allows fraternal to also conduct voting by electronic means or another method approved by the fraternal's board of directors in the bylaws.

7. Under current law, an insurance intermediary whose license is revoked for certain reasons may have the license reinstated if he or she satisfies certain requirements and pays the application fee for original licensure. This bill requires that an intermediary seeking reinstatement of a license pay twice the amount of the license renewal fee as specified by rule.

8. This bill imposes a fee for filing an original electronic resident intermediary license application following completion of prelicensing requirements.

9. Under current law, a person who is covered by a group health insurance policy as or through an employee may continue that coverage if the employee's employment ends. 2009 Wisconsin Act 11, among other things, allows the commissioner to promulgate rules establishing standards requiring insurers to provide continuation coverage to coordinate with provisions of the federal American Recovery and Reinvestment Act. This bill allows the commissioner to promulgate rules establishing standards requiring insurers to provide continuation coverage for an individual covered under a group policy who is eligible under any federal program

that provides for a federal premium subsidy for individuals covered under continuation of coverage under a group health insurance policy.

10. Under current law, certain enrollees and policyholders, including certain recipients of Medical Assistance, are not liable for health care costs that are covered under a policy providing prepaid health care. Under this bill, enrollees under a policy issued under Part C or Part D of Medicare are not liable for health care costs that are covered under such a policy providing prepaid or fee-for-service health care or drug benefits.

11. Under current law, one or more town mutuals may merge with an assessable or nonassessable domestic mutual, and all members of the merging mutuals vote to approve the merger plan. This bill specifies that the members of the merging town mutual or mutuals and the members of an assessable domestic mutual have the right to vote on the merger plan.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert 4-A

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

1           **SECTION 1.** 14.83 of the statutes is repealed.

2           **SECTION 2.** 49.45 (31) (e) of the statutes is created to read:

3           49.45 (31) (e) 1. Notwithstanding par. (b) (intro.), the department, when  
4 making a determination under par. (a) 1. or 2. with respect to an individual, shall  
5 disregard an amount equal to the insurance benefit payments that are made to or  
6 on behalf of the individual under a qualified long-term care insurance policy under  
7 26 USC 7702B (b) that was purchased in a state that had a state plan amendment  
8 that provided for a qualified state long-term care partnership, as defined in 42 USC  
9 1396p (b) (1) (C) (iii), at the time of the purchase of the policy.

10           2. The department shall comply with standards established by the federal  
11 department of health and human services in accordance with section 6021 (b) of the  
12 federal Deficit Reduction Act of 2005.

13           **SECTION 3.** 149.13 (1) of the statutes is amended to read:

1           149.13 (1) Every insurer shall participate in the cost of administering the plan,  
2           except the commissioner may ~~by rule exempt as a class those insurers whose share~~  
3           ~~as determined under sub. (2) would be so minimal as to not exceed the estimated cost~~  
4           ~~of levying the assessment, at the request of an insurer and after holding a public~~  
5           hearing, exempt an insurer from participating in the cost of administering the plan.  
6           The commissioner shall advise the authority of the insurers participating in the cost  
7           of administering the plan.

8           **SECTION 4.** 601.31 (1) (Lg) of the statutes is created to read:

9           601.31 (1) (Lg) For filing an original electronic resident intermediary license  
10          application following successful completion of any required prelicensing education  
11          or examination under s. 628.04, \$10.

        \*\*\*\*NOTE: Please note I put this provision in a different paragraph than was  
        requested. I applied this fee to resident intermediary licenses. Is that correct?

12          **SECTION 5.** 601.415 (11) of the statutes is repealed.

13          **SECTION 6.** 601.59 of the statutes is repealed.

14          **SECTION 7.** 609.91 (1) (intro.) of the statutes is amended to read:

15          609.91 (1) IMMUNITY OF ENROLLEES AND POLICYHOLDERS. (intro.) Except as  
16          provided in sub. (1m) or (1p), an enrollee or policyholder of a health maintenance  
17          organization insurer is not liable for health care costs that are incurred on or after  
18          January 1, 1990, and that are covered under a policy or certificate issued by the  
19          health maintenance organization insurer, if any of the following applies:

20          **SECTION 8.** 609.91 (1p) of the statutes is created to read:

21          609.91 (1p) IMMUNITY FOR CERTAIN MEDICARE RECIPIENTS. An enrollee,  
22          policyholder, or insured under a policy issued by an insurer under Part C of Medicare  
23          under 42 USC 1395w-21 to 1395w-28 or Part D of Medicare under 42 USC

1 1395w-101 to 1395w-152 to provide prepaid health care, fee-for-service health  
2 care, or drug benefits to enrollees of Part C or Part D of Medicare is not liable for  
3 health care costs that are covered under the policy.

4 **SECTION 9.** 609.91 (2), (3) and (4) (a), (b), (cm) and (d) of the statutes are  
5 amended to read:

6 609.91 (2) PROHIBITED RECOVERY ATTEMPTS. No person may bill, charge, collect  
7 a deposit from, seek remuneration or compensation from, file or threaten to file with  
8 a credit reporting agency or have any recourse against an enrollee, policyholder or  
9 insured, or any person acting on their behalf, for health care costs for which the  
10 enrollee, policyholder or insured, or person acting on their behalf, is not liable under  
11 sub. (1) ~~or~~, (1m), or (1p).

12 (3) DEDUCTIBLES, COPAYMENTS AND PREMIUMS. Subsections (1) to (2) do not affect  
13 the liability of an enrollee, policyholder or insured for any deductibles, copayments  
14 or premiums owed under the policy or certificate issued by the health maintenance  
15 organization insurer or by the insurer described in sub. (1m) or (1p).

16 (4) (a) An agreement, other than a notice of election or termination of election  
17 in accordance with s. 609.92 or 609.925, entered into by the provider, the health  
18 maintenance organization insurer, the insurer described in sub. (1m) or (1p) or any  
19 other person, at any time, whether oral or written and whether implied or explicit,  
20 including an agreement that purports to hold the enrollee, policyholder or insured  
21 liable for health care costs.

22 (b) A breach of or default on an agreement by the health maintenance  
23 organization insurer, the insurer described in sub. (1m) or (1p) or any other person  
24 to compensate the provider, directly or indirectly, for health care costs, including

1 health care costs for which the enrollee, policyholder or insured is not liable under  
2 sub. (1) ~~or~~, (1m), or (1p).

3 (cm) The insolvency of the insurer described in sub. (1m) or (1p) or any person  
4 contracting with the insurer or provider, or the commencement or the existence of  
5 conditions permitting the commencement of insolvency, delinquency or bankruptcy  
6 proceedings involving the insurer or other person, including delinquency  
7 proceedings, as defined in s. 645.03 (1) (b), under ch. 645, despite whether the insurer  
8 or other person has agreed to compensate, directly or indirectly, the provider for  
9 health care costs for which the enrollee, policyholder or insured is not liable under  
10 sub. (1m) or (1p).

11 (d) The inability of the provider or other person who is owed compensation for  
12 health care costs to obtain compensation from the health maintenance organization  
13 insurer, the insurer described in sub. (1m) or (1p), or any other person for health care  
14 costs for which the enrollee, policyholder or insured is not liable under sub. (1) ~~or~~,  
15 (1m), or (1p).

16 **SECTION 10.** 612.22 (3) (a), (4) and (6) of the statutes are amended to read:

17 612.22 (3) (a) Each of the participating corporations shall file with the  
18 commissioner for approval a copy of the resolution and any explanatory material  
19 proposed to be issued to the members who have the right to vote on the merger under  
20 sub. (4), together with so much of the information under s. 611.13 (2) or 612.02 (4),  
21 whichever is appropriate, for the surviving or new corporation as the commissioner  
22 reasonably requires. The commissioner shall approve the plan unless he or she finds,  
23 after a hearing, that it would be contrary to the law, or that the surviving or new  
24 corporation would not satisfy the requirements for a certificate of authority under

1 s. 611.20 or 612.02 (6), whichever is appropriate, or that the plan would be contrary  
2 to the interest of insureds or of the public.

3 (4) APPROVAL BY MEMBERS OF THE MUTUALS. After being approved by the  
4 commissioner under sub. (3), the plan shall be submitted for approval to the  
5 members of the participating town mutual or mutuals for their approval and to the  
6 members of the participating domestic mutual if the domestic mutual is assessable.  
7 The members of each participating mutual who have the right to vote on the merger  
8 shall vote separately.

9 (6) REPORTS TO COMMISSIONER. Each participating mutual, the members of  
10 which have the right to vote under sub. (4), shall file with the commissioner a copy  
11 of the resolution adopted under sub. (4), stating the number of members entitled to  
12 vote, the number of members voting, and the number of votes cast in favor of the plan,  
13 stating separately in each case the mail votes and the votes cast in person.

14 **SECTION 11.** 614.29 (1) of the statutes is amended to read:

15 614.29 (1) RIGHT TO AMEND ARTICLES. The articles of a fraternal may provide for  
16 amendment by the supreme governing body or by the board of directors, and may  
17 provide also for amendment by the members by referendum. If amendment is by  
18 referendum, a majority of those members who vote must vote affirmatively. Votes  
19 cast within 60 days from the date of mailing of the ~~first ballot~~ ballots by the fraternal  
20 shall be counted. The timeliness of a vote is determined by the date of its mailing  
21 as proved by its postmark or other suitable evidence.

22 **SECTION 12.** 614.42 (1) (a) of the statutes is amended to read:

23 614.42 (1) (a) *Board of directors.* A board with some directors elected directly  
24 by the members or by their representatives in intermediate assemblies under sub.  
25 (2), and other directors prescribed in the fraternal's laws. The elected directors shall



1 constitute a majority in number and not less than the number of votes required to  
2 amend those articles or bylaws of the fraternal that can be amended without consent  
3 of the members. The board shall meet at least quarterly to conduct the business of  
4 the fraternal. The elected directors shall be elected on a plan that ensures equal  
5 weight to each fraternal member's vote. Voting may be conducted by mail, by  
6 electronic means, or by any other method or combination of methods approved by the  
7 board and prescribed in the fraternal's bylaws.

8 **SECTION 13.** 615.03 (5) of the statutes is amended to read:

9 615.03 (5) APPLICATION OF CHAPTERS 600 TO 646. The commissioner may by rule  
10 or order impose on licensees under this chapter any other provisions of chs. 600 to  
11 646 applicable to ch. 611 corporations, if necessary to protect the interests of  
12 annuitants or the public, except that the commissioner may not impose the  
13 provisions of s. 620.23 (1) (d), (2) (a), and (5) on a licensee under this chapter.

14 **SECTION 14.** 615.10 (5) (intro.) of the statutes is created to read:

15 615.10 (5) (intro.) All of the following apply to the investment of the assets of  
16 a segregated account under this section:

17 **SECTION 15.** 615.10 (5) of the statutes, as affected by 2009 Wisconsin Act 33,  
18 is renumbered 615.10 (5) (a) and amended to read:

19 615.10 (5) (a) ~~Assets of a segregated account under this section~~ shall be  
20 invested in accordance with ch. 881.

21 **SECTION 16.** 615.10 (5) (b) of the statutes is created to read:

22 615.10 (5) (b) No more than 50 percent of the assets may be invested in common  
23 stock.

24 **SECTION 17.** 615.10 (5) (c) of the statutes is created to read:

1           615.10 (5) (c) No more than 10 percent of the assets may be invested in the  
2 common stock of any single corporation and its affiliates.

3           **SECTION 18.** 615.10 (5) (d) of the statutes is created to read:

4           615.10 (5) (d) Assets that are invested in a mutual fund or other investment  
5 company shall be treated as if the licensee directly owned, in proportion to the  
6 amount invested, the same types of assets and in the same proportional share as the  
7 assets owned by the mutual fund or other investment company.

8           **SECTION 19.** 628.10 (5) (a) of the statutes is amended to read:

9           628.10 (5) (a) *Reinstatement within 12 months.* An intermediary who is a  
10 natural person and whose license is revoked under sub. (2) (a), (am), or (cm) may have  
11 his or her license reinstated within 12 months after the date on which the license was  
12 revoked without having to satisfy any prelicensing education or examination  
13 requirements under s. 628.04. To have his or her license reinstated, the intermediary  
14 must satisfy the requirement under sub. (2) (a), (am), or (cm) for which the license  
15 was revoked, satisfactorily complete a reinstatement application, and pay the  
16 ~~application fee for original licensure~~ twice the amount of the license renewal fee as  
17 specified by rule. The reinstatement is effective on the date on which the  
18 commissioner actually reinstates the license. If the intermediary is also a resident  
19 who is required to complete continuing education, the intermediary must have  
20 satisfied all previous continuing education requirements to have his or her license  
21 reinstated under this paragraph.

Insert 10-21

22           **SECTION 20.** 632.897 (11) (b) of the statutes is created to read:

23           632.897 (11) (b) Notwithstanding subs. (2) to (10), the commissioner may  
24 promulgate rules establishing standards requiring insurers to provide continuation  
25 of coverage for any individual covered at any time under a group policy who is a

1 terminated insured or an eligible individual under any federal program that  
2 provides for a federal premium subsidy for individuals covered under continuation  
3 of coverage under a group policy, including rules governing election or extension of  
4 election periods, notice, rates, premiums, premium payment, application of  
5 preexisting condition exclusions, and election of alternative coverage.

\*\*\*\*NOTE: Please carefully review this provision and ensure that it complies with  
your intent.

6 **SECTION 21.** 645.69 (1) of the statutes is amended to read:

7 645.69 (1) A claim against a health maintenance organization insurer or an  
8 insurer described in s. 609.91 (1m) or (1p) for health care costs, as defined in s. 609.01  
9 (1j), for which an enrollee, as defined in s. 609.01 (1d), policyholder or insured of the  
10 health maintenance organization insurer or other insurer is not liable under ss.  
11 609.91 to 609.935.

12 **SECTION 22.** 646.01 (1) (b) 19. of the statutes is created to read:

13 646.01 (1) (b) 19. A policy issued by an insurer to an enrollee under Title XVIII  
14 of the federal social security act, 42 USC 1395 to 1395ccc, or Title XIX of the federal  
15 social security act, 42 USC 1396 to 1396v, or a contract entered into by an insurer  
16 with the federal government or an agency of the federal government under Title  
17 XVIII or Title XIX of the federal social security act, to provide health care or  
18 prescription drug benefits to persons enrolled in Title XVIII or Title XIX programs.

19 **SECTION 23.** 646.03 (2n) of the statutes is repealed.

20 **SECTION 24.** 646.13 (2) (d) of the statutes is amended to read:

21 646.13 (2) (d) Have standing to appear in any liquidation proceedings in this  
22 state involving an insurer in liquidation, and have authority to appear or intervene  
23 before a court or agency of any other state having jurisdiction over an ~~impaired or~~

1 insolvent insurer, in accordance with the laws of that state, with respect to which the  
2 fund is or may become obligated or that has jurisdiction over any person or property  
3 against which the fund may have subrogation or other rights. Standing shall extend  
4 to all matters germane to the powers and duties of the fund, including proposals for  
5 reinsuring, modifying, or guaranteeing the policies or contracts of the ~~impaired or~~  
6 insolvent insurer and the determination of the policies or contracts and contractual  
7 obligations.

8 **SECTION 25.** 646.13 (4) of the statutes is amended to read:

9 646.13 (4) WHEN DUTY TO DEFEND TERMINATES. Any obligation of the fund to  
10 defend an insured ceases upon the fund's payment, by settlement ~~releasing the~~  
11 ~~insured~~ or on a judgment, of an amount equal to the lesser of the fund's covered claim  
12 obligation limit or the applicable policy limit, subject to any express policy terms  
13 regarding tender of limits.

14 **SECTION 26.** 646.31 (1) (b) of the statutes is renumbered 646.31 (1) (b) 1.

15 **SECTION 27.** 646.31 (1) (b) 2. of the statutes is created to read:

16 646.31 (1) (b) 2. The claim does not arise out of business against which  
17 assessments are prohibited under any federal or state law.

18 **SECTION 28.** 646.31 (4) (a) of the statutes is amended to read:

19 646.31 (4) (a) Except in regard to worker's compensation insurance and except  
20 as provided in par. (b), the obligation of the fund on a single risk, loss or life may not  
21 exceed \$300,000, regardless of the number of policies or contracts.

22 **SECTION 29.** 646.31 (12) of the statutes is amended to read:

23 646.31 (12) NET WORTH OF INSURED. Except for claims under s. 646.35, payment  
24 of a first-party claim under this chapter to an insured whose net worth, as defined  
25 in s. 646.325 (1), exceeds ~~\$10,000,000~~ \$25,000,000 is limited to the amount by which

1 the aggregate of the insured's claims that satisfy subs. (1) to (7), (9) and (9m) plus the  
2 amount, if any, recovered from the insured under s. 646.325 exceeds 10% of the  
3 insured's net worth.

4 **SECTION 30.** 646.32 (1) of the statutes is amended to read:

5 646.32 (1) APPEAL. A claimant whose claim is reduced or declared ineligible  
6 shall promptly be given notice of the determination and of the right to object under  
7 this section. The claimant may appeal to the board within 30 days after the mailing  
8 of the notice. The board may appoint a committee of the board or a hearing examiner  
9 to decide any such appeal. The claimant may not pursue the claim in court except as  
10 provided in sub. (2).

11 **SECTION 31.** 646.32 (2) of the statutes is amended to read:

12 646.32 (2) REVIEW. Decisions of the board or its appointed committee or hearing  
13 examiner under sub. (1) are subject to judicial review in the circuit court for Dane  
14 County. A petition for judicial review shall be filed within 60 days of the decision.

15 **SECTION 32.** 646.325 (1) of the statutes is amended to read:

16 646.325 (1) DEFINITION. In this section, "net worth" means the amount of an  
17 insured's total assets less the insured's total liabilities at the end of the insured's  
18 fiscal year immediately preceding the date the liquidation order was entered, as  
19 shown on the insured's audited financial statement, ~~and~~ or other substantiated  
20 financial information acceptable to the fund in its sole discretion. "Net worth"  
21 includes the consolidated net worth of all of the corporate affiliates, subsidiaries,  
22 operating divisions, holding companies, ~~and~~ parent entities that are, and, if the  
23 insured is privately owned, natural persons who have an ownership interest, shown  
24 as insureds or additional insureds on the policy issued by the insurer. If the insured  
25 is a natural person, "net worth" means the insured's total assets less the insured's

1 total liabilities on December 31 immediately preceding the date the liquidation order  
2 was entered.

3 **SECTION 33.** 646.325 (2) (a) 1. of the statutes is amended to read:

4 646.325 (2) (a) 1. An insured whose net worth exceeds \$10,000,000  
5 \$25,000,000.

6 **SECTION 34.** 646.325 (4) of the statutes is created to read:

7 646.325 (4) COSTS AND FEES. In addition to recovery under sub. (2), the fund may  
8 recover reasonable attorney fees, disbursements, and all other actual costs expended  
9 in pursuing recovery under sub. (2), plus interest calculated at the legal rate under  
10 s. 138.04, which shall begin to accrue on all amounts not paid within 30 days after  
11 the date of the fund's written notification to the insured of the amount due.

12 **SECTION 35.** 646.51 (3) (c) of the statutes is amended to read:

13 646.51 (3) (c) *Administrative assessments.* The board may authorize  
14 assessments on a prorated or nonprorated basis to meet administrative costs and  
15 other expenses whether or not related to the liquidation or rehabilitation of a  
16 particular insurer. Nonprorated assessments may not exceed \$200 \$500 per insurer  
17 in any year.

18 **SECTION 36.** 646.51 (5) of the statutes is amended to read:

19 646.51 (5) COLLECTION. After the rate of assessment has been fixed, the fund  
20 shall send to each insurer a statement of the amount it is to pay. The fund shall  
21 designate whether the assessments shall be made payable in one sum or in  
22 installments. ~~Assessments shall be collected by the same procedures as premium~~  
23 ~~taxes or license fees under ch. 76.~~

24 **SECTION 37.** 646.51 (6) of the statutes is amended to read:

1           646.51 (6) APPEAL AND REVIEW. Within 30 days after the fund sends the  
 2 statement under sub. (5), an insurer, after paying the assessment under protest, may  
 3 appeal the assessment to the board or a committee thereof. The decision of the board  
 4 or committee on the appeal is subject to judicial review in the circuit court for Dane  
 5 County. A petition for judicial review shall be filed within 60 days of the board's or  
 6 committee's decision.

7           **SECTION 38. Initial applicability.**

8           (1) The treatment of sections 646.32 (2) and 646.51 (6) of the statutes first  
 9 applies to decisions of the board of directors of the insurance security fund or its  
 10 appointed committee or hearing examiner that are issued on the effective date of this  
 11 subsection.

12           (2) The treatment of sections 646.31 (12) and 646.325 (2) (a) 1. of the statutes  
 13 first applies to claims made in a liquidation for which a petition is filed on the  
 14 effective date of this subsection.

\*\*\*\*NOTE: Is it correct to refer to the filing of the petition for a liquidation here?

15

(END)

Insert 15-15

→ D-note

1 coverage offered. An insurer is required to provide the offers required under this  
2 subsection only one time with respect to any policy in the manner provided in par.  
3 (b).✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

4 **SECTION 10. 632.32 (4r) (c)** of the statutes, as created by 2009 Wisconsin Act  
5 28, is amended to read:

6 632.32 (4r) (c) An applicant or a named insureds insured✓ may reject one or both  
7 of the coverages offered, but must do so in writing. If the applicant or named insureds  
8 reject insured rejects✓ either of the coverages offered, the insurer is not required to  
9 provide the rejected coverage under ~~or~~ the policy that is renewed to the person at  
10 renewal✓ by that insurer unless an insured under the policy subsequently requests  
11 the rejected coverage in writing. The action of one named insured to reject or request  
12 coverage applies to all persons insured under the policy.✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

(END OF INSERT 10-21)

INSERT 15-15

13 (b) If a motor vehicle insurance policy or an umbrella or excess liability policy  
14 that is in effect on the effective date of this subsection contains a provision that is  
15 inconsistent with the treatment of section 632.32 (2) (be), (e) (intro.), 2., or 3., (g)  
16 (intro.) or 1., (4) (a) (intro.) or (d), or (4r) (a) or (c) of the statutes, the treatment of  
17 section 632.32 (2) (be), (e) (intro.), 2., or 3., (g) (intro.) or 1., (4) (a) (intro.) or (d), or  
18 (4r) (a) or (c) of the statutes, whichever is applicable, first applies to that motor  
19 vehicle insurance policy or umbrella or excess liability policy on the date on which  
20 it is renewed.

(END OF INSERT 15-15)



INSERT 4-A

*current law*

12. The bill makes a number of changes to the provisions that relate to motor vehicle insurance policies and umbrella and excess liability policies, including the following:

a. Exempts from the requirements related to coverages and coverage limits, policies insuring motor vehicles that are not owned by the insured or that are leased by the insured for a term that is less than six months.

b. Excludes umbrella and excess liability policies from the uninsured, underinsured, and medical payments coverage requirements that apply to motor vehicle insurance policies. Insurers are still required to affirmatively offer uninsured and underinsured coverages under umbrella and excess liability policies, however.

c. Clarifies that only one named insured is required to reject or request uninsured or underinsured coverage for an umbrella or excess liability policy and that one named insured's rejection of or request for the coverage applies to all persons insured under the policy.

d. Generally, excludes from the definitions of uninsured and underinsured motor vehicles, motor vehicles that are owned by a governmental entity.

(END OF INSERT 4-A)

INSERT 10-21

1 SECTION 1. 632.32 (2) (be) of the statutes is created to read:

2 632.32 (2) (be) "Owned motor vehicle" means a motor vehicle that is owned by  
3 the insured or that is leased by the insured for a term of 6 months or longer.

4 SECTION 2. 632.32 (2) (e) (intro.) of the statutes, as created by 2009 Wisconsin  
5 Act 28, is amended to read:

6 632.32 (2) (e) (intro.) "Underinsured motor vehicle" means a motor vehicle,  
7 other than a motor vehicle owned by a governmental entity, to which all of the  
8 following apply:

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

\*\*\*\*NOTE: I used governmental entity instead of governmental unit or agency. Is this ok? Both terms are somewhat ambiguous. You could provide a specific definition. A comprehensive one for "governmental unit" is in s. 50.33 (1r).

9 SECTION 3. 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act  
10 28, is amended to read:

*longer strike*

1           632.32 (2) (e) 2. A At the time of the accident, a bodily injury liability insurance  
2           policy applies to the motor vehicle at the time of the accident or the owner or operator  
3           of the motor vehicle has furnished proof of financial responsibility for the future  
4           under subch. III of ch. 344 and it is in effect.✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

5           **SECTION 4.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act  
6           28, is amended to read:

7           632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or  
8           with respect to the proof of financial responsibility are less than the amount needed  
9           to fully compensate the insured for his or her damages.✓

NOTE: NOTE: Par. (e) is created eff. 11-1-09 by 2009 Wis. Act 28.

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

10           **SECTION 5.** 632.32 (2) (g) (intro.) of the statutes, as created by 2009 Wisconsin  
11           Act 28, is amended to read:

12           632.32 (2) (g) (intro.) “Uninsured motor vehicle” means a motor vehicle, other  
13           than a motor vehicle owned by a governmental entity, that is involved in an accident  
14           with a person who has uninsured motorist coverage and with respect to which, at the  
15           time of the accident, a bodily injury liability insurance policy is not in effect and the  
16           owner or operator has not furnished proof of financial responsibility for the future  
17           under subch. III of ch. 344. “Uninsured motor vehicle” also includes any of the  
18           following motor vehicles, other than a motor vehicle owned by governmental entity,  
19           involved in an accident with a person who has uninsured motorist coverage:✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

\*\*\*\*NOTE: I used governmental entity instead of governmental unit or agency. Is this ok? Both terms are somewhat ambiguous. You could provide a specific definition. A comprehensive one for “governmental unit” is in s. 50.33 (1r).✓

20           **SECTION 6.** 632.32 (2) (g) 1. of the statutes, as created by 2009 Wisconsin Act  
21           28, is amended to read:

1           632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to  
2 which the owner or operator is a self-insurer under any applicable motor vehicle law,  
3 if before or after the accident the liability insurer of the motor vehicle, or the  
4 self-insurer, is declared insolvent by a court of competent jurisdiction.✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

5           **SECTION 7.** 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin  
6 Act 28, is amended to read:

7           632.32 (4) (a) (intro.) ~~Every~~ Except as provided in par. (d), every policy of  
8 insurance subject to this section that insures with respect to any owned motor vehicle  
9 registered or principally garaged in this state against loss resulting from liability  
10 imposed by law for bodily injury or death suffered by any person arising out of the  
11 ownership, maintenance, or use of a motor vehicle shall contain therein or  
12 supplemental thereto provisions for all of the following coverages:✓

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

13           **SECTION 8.** 632.32 (4) (d) of the statutes is created to read:

14           632.32 (4) (d) This subsection✓ does not apply to umbrella or excess liability  
15 policies, which are subject to sub. (4r).✓

16           **SECTION 9.** 632.32 (4r) (a) of the statutes, as created by 2009 Wisconsin Act 28,  
17 is amended to read:

18           632.32 (4r) (a) An insurer writing umbrella or excess liability policies that  
19 insure with respect to ~~a~~ an owned motor vehicle registered or principally garaged in  
20 this state against loss resulting from liability imposed by law for bodily injury or  
21 death suffered by a person arising out of the ownership, maintenance, or use of a  
22 motor vehicle shall provide written offers of uninsured motorist coverage and  
23 underinsured motorist coverage, which offers shall include a brief description of the

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0172/P4dn

PJK:↓:....

nwn

Date

I did not include any language about an uninsured motor vehicle or an underinsured motor vehicle being one that is “not owned or operated by a self-insurer under any applicable motor vehicle law.” I don’t understand your intent. One way to show proof of financial responsibility for the future under subch. III of ch. 344 is to be a self-insurer, so in the definition for “uninsured motor vehicle” it seems redundant to the language about the owner or operator not furnishing proof of financial responsibility for the future under subch. III of ch. 344. Is the idea that the person is a self-insurer under the law of another state? If a self-insurer is excluded from the definition of “underinsured motor vehicle,” is the idea that the person has provided proof of financial responsibility for the future under subch. III of ch. 344 in some way *other than* by being a self-insurer (since the definition specifically includes a motor vehicle for which the owner or operator has furnished proof of financial responsibility for the future under subch. III of ch. 344)?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

**Kahler, Pam**

---

**From:** Guidry, Jim R - OCI [Jim.Guidry@wisconsin.gov]  
**Sent:** Monday, December 28, 2009 4:12 PM  
**To:** Kahler, Pam  
**Subject:** FW: OCI legislation 09-0172P4  
**Attachments:** 2009-12-28 Drafting instructions OCI Legislation.doc

Bad email address on the first time.

Jim Guidry  
Legislative Liaison  
Office of the Commissioner of Insurance  
125 South Webster Street  
PO Box 7873  
Madison, WI 53707-7873

Work: (608) 264-6239  
Cell: (608) 209-6309

---

**From:** Guidry, Jim R - OCI  
**Sent:** Monday, December 28, 2009 4:08 PM  
**To:** Pam Kahler (PKahler); Dodge, Tamara  
**Cc:** Mallow, Eileen K - OCI; Nepple, Fred - OCI  
**Subject:** OCI legislation 09-0172P4

Pam, Tami;

I've attached a memo that responds to the drafting notes and memos that accompanied the "P4" version of OCI's legislative package. Also, there are (alas!) a couple more additions to the legislation which, hopefully, will not slow the process down too much.

Thanks for your considerable assistance with our bill.

Jim Guidry  
Legislative Liaison  
Office of the Commissioner of Insurance  
125 South Webster Street  
PO Box 7873  
Madison, WI 53707-7873

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State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Jorge Gomez, Commissioner

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Web Address: oci.wi.gov

DATE: December 28, 2009
TO: Pam Kahler
Legislative Reference Bureau
FROM: Jim Guidry
Legislative Liaison

SUBJECT: OCI Draft Legislation LRB 09-0172P4

The Office of the Commissioner of Insurance (OCI) has additional changes that are to be incorporated into the legislative draft LRB 09-0172P4.

Please make the following additions to the draft legislation:

- Amend 632.32 (2)(at) to read:

PSK

632.32(2)(at) "Motor vehicle" means a self-propelled land motor vehicle designed for travel on public roads and subject to motor vehicle registration under ch. 341. Trailers and semitrailers designed for use with motor vehicles are considered a single unit with the motor vehicle to which they are connected. It includes trailers and semitrailers designed for use with such vehicles. Motor vehicle It does not include farm tractors, well drillers, road machinery or snowmobiles.

Purpose: Some insurers interpret the current language in 632.32(2)(at) regarding trailers and semitrailers as requiring 2 policies -- one for the motor vehicle and another for the trailer or semitrailer. The purpose of this change is to clarify that the trailer does not need a separate policy and only a single policy with a single set of liability and UM/UIM limits on the motor vehicle is required. Those limits will extend to the trailer if the trailer is connected at the time that an insured event occurs.

- Repeal s. 611.33 (2) (b) 1 and 2, Stats.:

PSK

This removes restrictions on the issuance of contribution notes by mutual insurers. These restrictions can be unnecessary obstacles to a mutual insurer seeking to raise capital by issuing contribution notes. OCI must approve any such issuance as not prejudicial to the interests of policyholders regardless so the policyholder interests are protected regardless of these provisions.

- ✓ Revise s. 632.897 (11) (b) as follows:

TAD  
632.897 (11) (b) Notwithstanding subs. (2) to (10), the commissioner may promulgate rules establishing standards requiring insurers to provide continuation of coverage for any individual covered at any time under a group policy who is a terminated insured or an eligible individual under any federal program that provides for a federal premium subsidy for individuals covered under continuation of coverage under a group policy, including rule governing election or extension of election periods, notice, rates, premiums, premium payment, application of preexisting condition exclusions, election of alternative coverage and status as an eligible individual under ch. 149.

**Note: it is unclear why this provision is created as (11) (b) as there is no (11) (a).**

- ✓ Add s. 632.897:

TAD  
s. 632.897 (11) (c) The commissioner may promulgate rules under par. (b) as emergency rules under s. 227.24. Notwithstanding s. 227.24 (1) (c) emergency rules promulgated under this subsection may remain in effect for one year and may be extended under s. 227.24 (2). Notwithstanding s. 227.24 (1) (a) and (3) the commissioner is not required to provide evidence that promulgating a rules under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

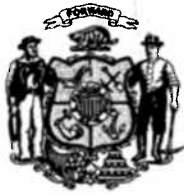
The notes and Drafter's Note dated December 1, 2009 are addressed below:

- PJK ✓  
1. Regarding the December 1, 2009 Drafter's Note from Pam Kahler: The drafter is correct that reference to subc. III of ch. 344 would include a self-insured motor vehicle – but only one that is self-insured under Wisconsin law. The intent is to exclude from the definition of uninsured motor vehicle those vehicles that are self-insured under any other state's laws in addition to Wisconsin's, and reference only to subc. III of ch. 344 wouldn't accomplish that. With the underinsured motor vehicle definition, the intent is to include a vehicle that was self-insured under Wisconsin's financial responsibility laws in subc. III of ch. 344 or any other state's laws but where the limits were less than the insured's damages. The alternatives are to go back to the language "is not owned or operated by a self-insurer under any applicable motor vehicle law." Or, acknowledge that ch. 344 already includes self insurers by saying "is not owned or operated by a self-insurer under the applicable motor vehicle law of any other state. Or, assuming other states have a way to meet the mandatory auto policy

requirement in the same way that subc. III of ch. 344 does, we could say "or the owner or operator of the motor vehicle has furnished proof of financial responsibility for the future under subch. III of ch. 344 or a similar financial responsibility law of another state." With the latter suggestion, though, we can't really be sure that we'll pick up all of the self-insured vehicles since there may be substantial differences in state financial responsibility laws. At any rate, the same kind of language, modified slightly, would apply to the underinsured motor vehicle definition.

- T ✓ Page 5, after line 23: The application is correct.
- P ✓ Page 11, after line 14: Reference to s. 50.33(lr) would provide clarity to the definition and would work fine.
- P ✓ Page 12, after line 13: Same as item 3 above.
- T ✓ Page 18, after line 20: It would be better to apply this to a liquidation that has commenced on or after the effective date of the act, i.e., "first applies to liquidations that commence on the effective date of the section."





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0172/P  
TJD&PJK:nwn&kjf:rs

PS  
r m is nwn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D. vote  
(in 1-6)

Request ↓

1 **AN ACT to repeal** 14.83, 601.415 (11), 601.59 and 646.03 (2n); **to renumber**  
2 646.31 (1) (b); **to renumber and amend** 615.10 (5); **to amend** 149.13 (1),  
3 609.91 (1) (intro.), 609.91 (2), (3) and (4) (a), (b), (cm) and (d), 612.22 (3) (a), (4)  
4 and (6), 614.29 (1), 614.42 (1) (a), 615.03 (5), 628.10 (5) (a), 632.32 (2) (e) (intro.),  
5 632.32 (2) (e) 2., 632.32 (2) (e) 3., 632.32 (2) (g) (intro.), 632.32 (2) (g) 1., 632.32  
6 (4) (a) (intro.), 632.32 (4r) (a), 632.32 (4r) (c), 645.69 (1), 646.13 (2) (d), 646.13  
7 (4), 646.31 (4) (a), 646.31 (12), 646.32 (1), 646.32 (2), 646.325 (1), 646.325 (2) (a)  
8 1., 646.51 (3) (c), 646.51 (5) and 646.51 (6); and **to create** 49.45 (31) (e), 601.31  
9 (1) (Lg), 609.91 (1p), 615.10 (5) (intro.), 615.10 (5) (b), 615.10 (5) (c), 615.10 (5)  
10 (d), 632.32 (2) (be), 632.32 (4) (d), 632.897 (11) (b), 646.01 (1) (b) 19., 646.31 (1)  
11 (b) 2. and 646.325 (4) of the statutes; **relating to:** the Interstate Insurance  
12 Receivership Compact, investment guidelines for charitable gift annuity  
13 segregated accounts, Health Insurance Risk-Sharing Plan assessment  
14 participation, reciprocity for long-term care insurance policies, voting by  
15 fraternal members, the insurance security fund, modifications to motor vehicle

providing an exemption from emergency rule procedures

- 1 insurance policy and umbrella and excess liability policy requirements, and
- 2 granting rule-making authority.

**Analysis by the Legislative Reference Bureau**

This bill makes <sup>a number of</sup> the following changes to the insurance laws:

including the following

1. The Interstate Insurance Receivership Compact was created to develop and facilitate uniform insurer receivership laws. Receiverships are established to oversee and distribute assets of insurers that have become insolvent. Although enacted as part of Wisconsin law, the compact never became effective in this state and now is dissolving. The bill repeals the compact.

2. Under current law, an issuer of a charitable gift annuity must keep its assets in a segregated account. Issuers of charitable gift annuities are subject to the same requirements for investing assets in their segregated accounts as are other annuity insurers for investing their assets, including being limited to investing no more than 20 percent of the assets in common stock and shares of mutual funds and no more than 3 percent in the common stock of a single corporation and its affiliates. The bill increases, for charitable gift annuity segregated accounts, the amount of assets that may be invested in common stock from 20 percent to 50 percent and the assets that may be invested in the common stock of a single corporation and its affiliates from 3 percent to 10 percent. The bill also provides that, if the assets of a charitable gift annuity segregated account are invested in a mutual fund, the investment will be treated as if it consists of the same percentage of common stock or bonds as that held by the mutual fund.

3. Under current law, the Health Insurance Risk-Sharing Plan is funded in part by assessments paid by health insurers. The amount of the assessment paid by each insurer is proportional to the amount of that insurer's health care coverage revenue as compared to all health care coverage revenue for all health insurers in this state. The Commissioner of Insurance (commissioner) may exempt an insurer from paying the assessment if that insurer's assessment would be smaller than the cost of collecting it. The bill allows the commissioner to exempt any insurer from the fee assessment upon the request of the insurer and after holding a public hearing.

4. Under current law, insurers authorized to do business in this state, with a number of exceptions, must participate in the insurance security fund (fund), which protects insureds under certain kinds and lines of direct insurance in the event of a liquidation of an insurer. This bill explicitly exempts from the types of insurance to which the fund applies policies issued to individuals with coverage under Medicare or the Medical Assistance program (MA) and contracts between the federal government and an insurer to provide health care or prescription drug benefits.

Under current law, the fund has standing to appear in any court having jurisdiction over an impaired or insolvent insurer. An impaired insurer, under current law, is an insurer that is subject to the requirements of the fund that is placed under an order of rehabilitation or conservation by a court of competent jurisdiction

but without a finding of insolvency. This bill eliminates the classification of impaired insurer.

Under current law, for an insured with a net worth of over \$10,000,000, with some exceptions the fund need only pay claims that in the aggregate exceed 10 percent of the insured's net worth. This bill increases the minimum net worth to \$25,000,000 for which the fund can limit payment of claims to 10 percent of the insured's net worth.

Under current law, a person with a claim against the fund whose claim is reduced or declared ineligible may appeal that determination to the board of directors of the fund (board). The person may not pursue a claim in court unless appeal is first made to and decided by the board. This bill specifies that the board may appoint a committee of the board or a hearing examiner to hear appeals, which is currently allowed under the fund's procedures. This bill requires that a person seeking review of the board's, committee's, or hearing examiner's decision in circuit court petition the Dane County Circuit Court within 60 days of the decision.

Under current law, under certain circumstances the fund may recover the costs of defending an insured if the insured has a net worth of more than \$10,000,000 or is an affiliate of an insurer in liquidation. This bill does not allow the fund to recover costs unless the insured's net worth is more than \$25,000,000. The bill also allows the fund to recover reasonable attorney fees and costs plus interest.

Under current law, an insurer is assessed by the fund, and the insurer may appeal the assessment to the board and then to the circuit court. This bill requires that petitions for review by the circuit court be filed in the Dane County Circuit Court within 60 days of the decision by the board.

Under current law, an insurer may be assessed up to \$200 on a nonprorated basis for administrative costs for the fund. The bill increases the maximum nonprorated assessment to \$500.

5. Under current law, MA disregards benefits paid under qualifying long-term care insurance policies purchased under the Long-Term Care Partnership Program in this state when considering the assets an applicant for MA has available. The bill requires the Department of Health Services to disregard benefits paid under qualifying long-term care insurance policies purchased by an MA applicant under the same type of program in another state.

6. Under current law, a fraternal insurance organization may elect its directors by mail. This bill allows fraternal to also conduct voting by electronic means or another method approved by the fraternal's board of directors in the bylaws.

7. Under current law, an insurance intermediary whose license is revoked for certain reasons may have the license reinstated if he or she satisfies certain requirements and pays the application fee for original licensure. This bill requires that an intermediary seeking reinstatement of a license pay twice the amount of the license renewal fee as specified by rule.

8. This bill imposes a fee for filing an original electronic resident intermediary license application following completion of prelicensing requirements.

9. Under current law, a person who is covered by a group health insurance policy as or through an employee may continue that coverage if the employee's

employment ends. 2009 Wisconsin Act 11, among other things, allows the commissioner to promulgate rules establishing standards requiring insurers to provide continuation coverage to coordinate with provisions of the federal American Recovery and Reinvestment Act. This bill allows the commissioner to promulgate rules establishing standards requiring insurers to provide continuation coverage for an individual covered under a group policy who is eligible under any federal program that provides for a federal premium subsidy for individuals covered under continuation of coverage under a group health insurance policy.

10. Under current law, certain enrollees and policyholders, including certain recipients of Medical Assistance, are not liable for health care costs that are covered under a policy providing prepaid health care. Under this bill, enrollees under a policy issued under Part C or Part D of Medicare are not liable for health care costs that are covered under such a policy providing prepaid or fee-for-service health care or drug benefits.

11. Under current law, one or more town mutuals may merge with an assessable or nonassessable domestic mutual, and all members of the merging mutuals vote to approve the merger plan. This bill specifies that the members of the merging town mutual or mutuals and the members of an assessable domestic mutual have the right to vote on the merger plan.

12. The bill makes a number of changes to the current law provisions that relate to motor vehicle insurance policies and umbrella and excess liability policies, including the following:

a. Exempts from the requirements related to coverages and coverage limits, policies insuring motor vehicles that are not owned by the insured or that are leased by the insured for a term that is less than six months.

b. Excludes umbrella and excess liability policies from the uninsured, underinsured, and medical payments coverage requirements that apply to motor vehicle insurance policies. Insurers are still required to affirmatively offer uninsured and underinsured coverages under umbrella and excess liability policies, however.

c. Clarifies that only one named insured is required to reject or request uninsured or underinsured coverage for an umbrella or excess liability policy and that one named insured's rejection of or request for the coverage applies to all persons insured under the policy.

d. Generally, excludes from the definitions of uninsured and underinsured motor vehicles, motor vehicles that are owned by a governmental entity → insert A-P

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1 SECTION 1. 14.83 of the statutes is repealed.

1           **SECTION 2.** 49.45 (31) (e) of the statutes is created to read:

2           49.45 (31) (e) 1. Notwithstanding par. (b) (intro.), the department, when  
3 making a determination under par. (a) 1. or 2. with respect to an individual, shall  
4 disregard an amount equal to the insurance benefit payments that are made to or  
5 on behalf of the individual under a qualified long-term care insurance policy under  
6 26 USC 7702B (b) that was purchased in a state that had a state plan amendment  
7 that provided for a qualified state long-term care partnership, as defined in 42 USC  
8 1396p (b) (1) (C) (iii), at the time of the purchase of the policy.

9           2. The department shall comply with standards established by the federal  
10 department of health and human services in accordance with section 6021 (b) of the  
11 federal Deficit Reduction Act of 2005.

12           **SECTION 3.** 149.13 (1) of the statutes is amended to read:

13           149.13 (1) Every insurer shall participate in the cost of administering the plan,  
14 except the commissioner may ~~by rule exempt as a class those insurers whose share~~  
15 ~~as determined under sub. (2) would be so minimal as to not exceed the estimated cost~~  
16 ~~of levying the assessment, at the request of an insurer and after holding a public~~  
17 ~~hearing, exempt an insurer from participating in the cost of administering the plan.~~

18 The commissioner shall advise the authority of the insurers participating in the cost  
19 of administering the plan.

20           **SECTION 4.** 601.31 (1) (Lg) of the statutes is created to read:

21           601.31 (1) (Lg) For filing an original electronic resident intermediary license  
22 application following successful completion of any required prelicensing education  
23 or examination under s. 628.04, \$10.

\*\*\*\*NOTE: Please note I put this provision in a different paragraph than was requested. I applied this fee to resident intermediary licenses. Is that correct?

1           **SECTION 5.** 601.415 (11) of the statutes is repealed.

2           **SECTION 6.** 601.59 of the statutes is repealed.

3           **SECTION 7.** 609.91 (1) (intro.) of the statutes is amended to read:

4           **609.91 (1) IMMUNITY OF ENROLLEES AND POLICYHOLDERS.** (intro.) Except as  
5 provided in sub. (1m) or (1p), an enrollee or policyholder of a health maintenance  
6 organization insurer is not liable for health care costs that are incurred on or after  
7 January 1, 1990, and that are covered under a policy or certificate issued by the  
8 health maintenance organization insurer, if any of the following applies:

9           **SECTION 8.** 609.91 (1p) of the statutes is created to read:

10           **609.91 (1p) IMMUNITY FOR CERTAIN MEDICARE RECIPIENTS.** An enrollee,  
11 policyholder, or insured under a policy issued by an insurer under Part C of Medicare  
12 under 42 USC 1395w-21 to 1395w-28 or Part D of Medicare under 42 USC  
13 1395w-101 to 1395w-152 to provide prepaid health care, fee-for-service health  
14 care, or drug benefits to enrollees of Part C or Part D of Medicare is not liable for  
15 health care costs that are covered under the policy.

16           **SECTION 9.** 609.91 (2), (3) and (4) (a), (b), (cm) and (d) of the statutes are  
17 amended to read:

18           **609.91 (2) PROHIBITED RECOVERY ATTEMPTS.** No person may bill, charge, collect  
19 a deposit from, seek remuneration or compensation from, file or threaten to file with  
20 a credit reporting agency or have any recourse against an enrollee, policyholder or  
21 insured, or any person acting on their behalf, for health care costs for which the  
22 enrollee, policyholder or insured, or person acting on their behalf, is not liable under  
23 sub. (1) ~~or~~, (1m), or (1p).

24           **(3) DEDUCTIBLES, COPAYMENTS AND PREMIUMS.** Subsections (1) to (2) do not affect  
25 the liability of an enrollee, policyholder or insured for any deductibles, copayments

1 or premiums owed under the policy or certificate issued by the health maintenance  
2 organization insurer or by the insurer described in sub. (1m) or (1p).

3 (4) (a) An agreement, other than a notice of election or termination of election  
4 in accordance with s. 609.92 or 609.925, entered into by the provider, the health  
5 maintenance organization insurer, the insurer described in sub. (1m) or (1p) or any  
6 other person, at any time, whether oral or written and whether implied or explicit,  
7 including an agreement that purports to hold the enrollee, policyholder or insured  
8 liable for health care costs.

9 (b) A breach of or default on an agreement by the health maintenance  
10 organization insurer, the insurer described in sub. (1m) or (1p) or any other person  
11 to compensate the provider, directly or indirectly, for health care costs, including  
12 health care costs for which the enrollee, policyholder or insured is not liable under  
13 sub. (1) ~~or~~, (1m), or (1p).

14 (cm) The insolvency of the insurer described in sub. (1m) or (1p) or any person  
15 contracting with the insurer or provider, or the commencement or the existence of  
16 conditions permitting the commencement of insolvency, delinquency or bankruptcy  
17 proceedings involving the insurer or other person, including delinquency  
18 proceedings, as defined in s. 645.03 (1) (b), under ch. 645, despite whether the insurer  
19 or other person has agreed to compensate, directly or indirectly, the provider for  
20 health care costs for which the enrollee, policyholder or insured is not liable under  
21 sub. (1m) or (1p).

22 (d) The inability of the provider or other person who is owed compensation for  
23 health care costs to obtain compensation from the health maintenance organization  
24 insurer, the insurer described in sub. (1m) or (1p), or any other person for health care

1 costs for which the enrollee, policyholder or insured is not liable under sub. (1) ~~or~~,  
2 (1m), or (1p).

Ins 8-2

3 **SECTION 10.** 612.22 (3) (a), (4) and (6) of the statutes are amended to read:

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

14 (4) APPROVAL BY MEMBERS OF THE MUTUALS. After being approved by the  
15 commissioner under sub. (3), the plan shall be submitted for approval to the  
16 members of the participating town mutual or mutuals for their approval and to the  
17 members of the participating domestic mutual if the domestic mutual is assessable.  
18 The members of each participating mutual who have the right to vote on the merger  
19 shall vote separately.

20 (6) REPORTS TO COMMISSIONER. Each participating mutual, the members of  
21 which have the right to vote under sub. (4), shall file with the commissioner a copy  
22 of the resolution adopted under sub. (4), stating the number of members entitled to  
23 vote, the number of members voting, and the number of votes cast in favor of the plan,  
24 stating separately in each case the mail votes and the votes cast in person.

25 **SECTION 11.** 614.29 (1) of the statutes is amended to read:



1           614.29 (1) RIGHT TO AMEND ARTICLES. The articles of a fraternal may provide for  
2 amendment by the supreme governing body or by the board of directors, and may  
3 provide also for amendment by the members by referendum. If amendment is by  
4 referendum, a majority of those members who vote must vote affirmatively. Votes  
5 cast within 60 days from the date of mailing of the ~~first ballot~~ ballots by the fraternal  
6 shall be counted. The timeliness of a vote is determined by the date of its mailing  
7 as proved by its postmark or other suitable evidence.

8           **SECTION 12.** 614.42 (1) (a) of the statutes is amended to read:

9           614.42 (1) (a) *Board of directors.* A board with some directors elected directly  
10 by the members or by their representatives in intermediate assemblies under sub.  
11 (2), and other directors prescribed in the fraternal's laws. The elected directors shall  
12 constitute a majority in number and not less than the number of votes required to  
13 amend those articles or bylaws of the fraternal that can be amended without consent  
14 of the members. The board shall meet at least quarterly to conduct the business of  
15 the fraternal. The elected directors shall be elected on a plan that ensures equal  
16 weight to each fraternal member's vote. Voting may be conducted by mail, by  
17 electronic means, or by any other method or combination of methods approved by the  
18 board and prescribed in the fraternal's bylaws.

19           **SECTION 13.** 615.03 (5) of the statutes is amended to read:

20           615.03 (5) APPLICATION OF CHAPTERS 600 TO 646. The commissioner may by rule  
21 or order impose on licensees under this chapter any other provisions of chs. 600 to  
22 646 applicable to ch. 611 corporations, if necessary to protect the interests of  
23 annuitants or the public, except that the commissioner may not impose the  
24 provisions of s. 620.23 (1) (d), (2) (a), and (5) on a licensee under this chapter.

25           **SECTION 14.** 615.10 (5) (intro.) of the statutes is created to read:

1           615.10 (5) (intro.) All of the following apply to the investment of the assets of  
2 a segregated account under this section:

3           **SECTION 15.** 615.10 (5) of the statutes, as affected by 2009 Wisconsin Act 33,  
4 is renumbered 615.10 (5) (a) and amended to read:

5           615.10 (5) (a) ~~Assets of a segregated account under this section~~ shall be  
6 invested in accordance with ch. 881.

7           **SECTION 16.** 615.10 (5) (b) of the statutes is created to read:

8           615.10 (5) (b) No more than 50 percent of the assets may be invested in common  
9 stock.

10          **SECTION 17.** 615.10 (5) (c) of the statutes is created to read:

11          615.10 (5) (c) No more than 10 percent of the assets may be invested in the  
12 common stock of any single corporation and its affiliates.

13          **SECTION 18.** 615.10 (5) (d) of the statutes is created to read:

14          615.10 (5) (d) Assets that are invested in a mutual fund or other investment  
15 company shall be treated as if the licensee directly owned, in proportion to the  
16 amount invested, the same types of assets and in the same proportional share as the  
17 assets owned by the mutual fund or other investment company.

18          **SECTION 19.** 628.10 (5) (a) of the statutes is amended to read:

19          628.10 (5) (a) *Reinstatement within 12 months.* An intermediary who is a  
20 natural person and whose license is revoked under sub. (2) (a), (am), or (cm) may have  
21 his or her license reinstated within 12 months after the date on which the license was  
22 revoked without having to satisfy any prelicensing education or examination  
23 requirements under s. 628.04. To have his or her license reinstated, the intermediary  
24 must satisfy the requirement under sub. (2) (a), (am), or (cm) for which the license  
25 was revoked, satisfactorily complete a reinstatement application, and pay the

1 application fee for original licensure twice the amount of the license renewal fee as  
2 specified by rule. The reinstatement is effective on the date on which the  
3 commissioner actually reinstates the license. If the intermediary is also a resident  
4 who is required to complete continuing education, the intermediary must have  
5 satisfied all previous continuing education requirements to have his or her license  
6 reinstated under this paragraph.

Insert 11-6

7 **SECTION 20.** 632.32 (2) (be) of the statutes is created to read:

8 632.32 (2) (be) "Owned motor vehicle" means a motor vehicle that is owned by  
9 the insured or that is leased by the insured for a term of 6 months or longer.

10 **SECTION 21.** 632.32 (2) (e) (intro.) of the statutes, as created by 2009 Wisconsin  
11 Act 28, is amended to read:

12 632.32 (2) (e) (intro.) "Underinsured motor vehicle" means a motor vehicle,  
13 other than a motor vehicle owned by a governmental <sup>unit</sup> entity to which all of the  
14 following apply:

\*\*\*\*NOTE: I used governmental entity instead of governmental unit or agency. Is this ok? Both terms are somewhat ambiguous. You could provide a specific definition. A comprehensive one for "governmental unit" is in s. 50.33 (1r).

15 **SECTION 22.** 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act  
16 28, is amended to read:

17 632.32 (2) (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance  
18 policy applies to the motor vehicle at the time of the accident or the owner or operator  
19 of the motor vehicle has furnished proof of financial responsibility for the future  
20 under subch. III of ch. 344 and it is in effect → Insert 11-20

21 **SECTION 23.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act  
22 28, is amended to read:

or self-insurance

1           632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or  
2 with respect to the proof of financial responsibility are less than the amount needed  
3 to fully compensate the insured for his or her damages. ✓

4           **SECTION 24.** 632.32 (2) (g) (intro.) of the statutes, as created by 2009 Wisconsin  
5 Act 28, is amended to read:

6           632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other  
7 than a motor vehicle owned by a governmental entity that is involved in an accident  
8 with a person who has uninsured motorist coverage and with respect to which, at the  
9 time of the accident, a bodily injury liability insurance policy is not in effect and the  
10 owner or operator has not furnished proof of financial responsibility for the future  
11 under subch. III of ch. 344. <sup>→ insert 12-11</sup> "Uninsured motor vehicle" also includes any of the  
12 following motor vehicles, other than a motor vehicle owned by governmental entity,  
13 involved in an accident with a person who has uninsured motorist coverage: ✓

(use 2x) unit ✓

\*\*\*\*NOTE: I used governmental entity instead of governmental unit or agency. Is this ok? Both terms are somewhat ambiguous. You could provide a specific definition. A comprehensive one for "governmental unit" is in s. 50.33 (1r).

14           **SECTION 25.** 632.32 (2) (g) 1. of the statutes, as created by 2009 Wisconsin Act  
15 28, is amended to read:

16           632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to  
17 which the owner or operator is a self-insurer under any applicable motor vehicle law,  
18 if before or after the accident the liability insurer of the motor vehicle, or the  
19 self-insurer, is declared insolvent by a court of competent jurisdiction.

20           **SECTION 26.** 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin  
21 Act 28, is amended to read:

22           632.32 (4) (a) (intro.) Every Except as provided in par. (d), every policy of  
23 insurance subject to this section that insures with respect to any owned motor vehicle

1 registered or principally garaged in this state against loss resulting from liability  
2 imposed by law for bodily injury or death suffered by any person arising out of the  
3 ownership, maintenance, or use of a motor vehicle shall contain therein or  
4 supplemental thereto provisions for all of the following coverages:

5 **SECTION 27.** 632.32 (4) (d) of the statutes is created to read:

6 632.32 (4) (d) This subsection does not apply to umbrella or excess liability  
7 policies, which are subject to sub. (4r).

8 **SECTION 28.** 632.32 (4r) (a) of the statutes, as created by 2009 Wisconsin Act  
9 28, is amended to read:

10 632.32 (4r) (a) An insurer writing umbrella or excess liability policies that  
11 insure with respect to ~~a~~ an owned motor vehicle registered or principally garaged  
12 in this state against loss resulting from liability imposed by law for bodily injury or  
13 death suffered by a person arising out of the ownership, maintenance, or use of a  
14 motor vehicle shall provide written offers of uninsured motorist coverage and  
15 underinsured motorist coverage, which offers shall include a brief description of the  
16 coverage offered. An insurer is required to provide the offers required under this  
17 subsection only one time with respect to any policy in the manner provided in par.  
18 (b).

19 **SECTION 29.** 632.32 (4r) (c) of the statutes, as created by 2009 Wisconsin Act  
20 28, is amended to read:

21 632.32 (4r) (c) An applicant or a named ~~insureds~~ insured may reject one or both  
22 of the coverages offered, but must do so in writing. If the applicant or named ~~insureds~~  
23 ~~reject~~ insured rejects either of the coverages offered, the insurer is not required to  
24 provide the rejected coverage under ~~a~~ the policy that ~~is renewed to the person at~~  
25 renewal by that insurer unless an insured under the policy subsequently requests

1 the rejected coverage in writing. The action of one named insured to reject or request  
2 coverage applies to all persons insured under the policy.

3 SECTION 30. 632.897 (11) (b) of the statutes is created to read:

4 632.897 (11) (b) Notwithstanding subs. (2) to (10), the commissioner may  
5 promulgate rules establishing standards requiring insurers to provide continuation  
6 of coverage for any individual covered at any time under a group policy who is a  
7 terminated insured or an eligible individual under any federal program that  
8 provides for a federal premium subsidy for individuals covered under continuation  
9 of coverage under a group policy, including rules governing election or extension of  
10 election periods, notice, rates, premiums, premium payment, application of  
11 preexisting condition exclusions, and election of alternative coverage.

↑ and status  
as an eligible  
individual,  
as  
defined  
in  
S. 149.10(2)

\*\*\*\*NOTE: Please carefully review this provision and ensure that it complies with your intent.

INS  
14-12-TD

12 SECTION 31. 645.69 (1) of the statutes is amended to read:

13 645.69 (1) A claim against a health maintenance organization insurer or an  
14 insurer described in s. 609.91 (1m) or (1p) for health care costs, as defined in s. 609.01  
15 (1j), for which an enrollee, as defined in s. 609.01 (1d), policyholder or insured of the  
16 health maintenance organization insurer or other insurer is not liable under ss.  
17 609.91 to 609.935.

18 SECTION 32. 646.01 (1) (b) 19. of the statutes is created to read:

19 646.01 (1) (b) 19. A policy issued by an insurer to an enrollee under Title XVIII  
20 of the federal social security act, 42 USC 1395 to 1395ccc, or Title XIX of the federal  
21 social security act, 42 USC 1396 to 1396v, or a contract entered into by an insurer  
22 with the federal government or an agency of the federal government under Title

1 XVIII or Title XIX of the federal social security act, to provide health care or  
2 prescription drug benefits to persons enrolled in Title XVIII or Title XIX programs.

3 **SECTION 33.** 646.03 (2n) of the statutes is repealed.

4 **SECTION 34.** 646.13 (2) (d) of the statutes is amended to read:

5 646.13 (2) (d) Have standing to appear in any liquidation proceedings in this  
6 state involving an insurer in liquidation, and have authority to appear or intervene  
7 before a court or agency of any other state having jurisdiction over an ~~impaired or~~  
8 insolvent insurer, in accordance with the laws of that state, with respect to which the  
9 fund is or may become obligated or that has jurisdiction over any person or property  
10 against which the fund may have subrogation or other rights. Standing shall extend  
11 to all matters germane to the powers and duties of the fund, including proposals for  
12 reinsuring, modifying, or guaranteeing the policies or contracts of the ~~impaired or~~  
13 insolvent insurer and the determination of the policies or contracts and contractual  
14 obligations.

15 **SECTION 35.** 646.13 (4) of the statutes is amended to read:

16 646.13 (4) WHEN DUTY TO DEFEND TERMINATES. Any obligation of the fund to  
17 defend an insured ceases upon the fund's payment, by settlement ~~releasing the~~  
18 ~~insured~~ or on a judgment, of an amount equal to the lesser of the fund's covered claim  
19 obligation limit or the applicable policy limit, subject to any express policy terms  
20 regarding tender of limits.

21 **SECTION 36.** 646.31 (1) (b) of the statutes is renumbered 646.31 (1) (b) 1.

22 **SECTION 37.** 646.31 (1) (b) 2. of the statutes is created to read:

23 646.31 (1) (b) 2. The claim does not arise out of business against which  
24 assessments are prohibited under any federal or state law.

25 **SECTION 38.** 646.31 (4) (a) of the statutes is amended to read:

1           646.31 (4) (a) Except in regard to worker's compensation insurance and except  
2 as provided in par. (b), the obligation of the fund on a single risk, loss or life may not  
3 exceed \$300,000, regardless of the number of policies or contracts.

4           **SECTION 39.** 646.31 (12) of the statutes is amended to read:

5           646.31 (12) NET WORTH OF INSURED. Except for claims under s. 646.35, payment  
6 of a first-party claim under this chapter to an insured whose net worth, as defined  
7 in s. 646.325 (1), exceeds ~~\$10,000,000~~ \$25,000,000 is limited to the amount by which  
8 the aggregate of the insured's claims that satisfy subs. (1) to (7), (9) and (9m) plus the  
9 amount, if any, recovered from the insured under s. 646.325 exceeds 10% of the  
10 insured's net worth.

11           **SECTION 40.** 646.32 (1) of the statutes is amended to read:

12           646.32 (1) APPEAL. A claimant whose claim is reduced or declared ineligible  
13 shall promptly be given notice of the determination and of the right to object under  
14 this section. The claimant may appeal to the board within 30 days after the mailing  
15 of the notice. The board may appoint a committee of the board or a hearing examiner  
16 to decide any such appeal. The claimant may not pursue the claim in court except as  
17 provided in sub. (2).

18           **SECTION 41.** 646.32 (2) of the statutes is amended to read:

19           646.32 (2) REVIEW. Decisions of the board or its appointed committee or hearing  
20 examiner under sub. (1) are subject to judicial review in the circuit court for Dane  
21 County. A petition for judicial review shall be filed within 60 days of the decision.

22           **SECTION 42.** 646.325 (1) of the statutes is amended to read:

23           646.325 (1) DEFINITION. In this section, "net worth" means the amount of an  
24 insured's total assets less the insured's total liabilities at the end of the insured's  
25 fiscal year immediately preceding the date the liquidation order was entered, as



1 shown on the insured's audited financial statement, ~~and or other substantiated~~  
2 financial information acceptable to the fund in its sole discretion. "Net worth"  
3 includes the consolidated net worth of all of the corporate affiliates, subsidiaries,  
4 operating divisions, holding companies, ~~and parent entities that are, and, if the~~  
5 insured is privately owned, natural persons who have an ownership interest, shown  
6 as insureds or additional insureds on the policy issued by the insurer. If the insured  
7 is a natural person, "net worth" means the insured's total assets less the insured's  
8 total liabilities on December 31 immediately preceding the date the liquidation order  
9 was entered.

10 **SECTION 43.** 646.325 (2) (a) 1. of the statutes is amended to read:

11 646.325 (2) (a) 1. An insured whose net worth exceeds ~~\$10,000,000~~  
12 \$25,000,000.

13 **SECTION 44.** 646.325 (4) of the statutes is created to read:

14 646.325 (4) COSTS AND FEES. In addition to recovery under sub. (2), the fund may  
15 recover reasonable attorney fees, disbursements, and all other actual costs expended  
16 in pursuing recovery under sub. (2), plus interest calculated at the legal rate under  
17 s. 138.04, which shall begin to accrue on all amounts not paid within 30 days after  
18 the date of the fund's written notification to the insured of the amount due.

19 **SECTION 45.** 646.51 (3) (c) of the statutes is amended to read:

20 646.51 (3) (c) *Administrative assessments.* The board may authorize  
21 assessments on a prorated or nonprorated basis to meet administrative costs and  
22 other expenses whether or not related to the liquidation or rehabilitation of a  
23 particular insurer. Nonprorated assessments may not exceed ~~\$200~~ \$500 per insurer  
24 in any year.

25 **SECTION 46.** 646.51 (5) of the statutes is amended to read:

1           646.51 (5) COLLECTION. After the rate of assessment has been fixed, the fund  
2 shall send to each insurer a statement of the amount it is to pay. The fund shall  
3 designate whether the assessments shall be made payable in one sum or in  
4 installments. ~~Assessments shall be collected by the same procedures as premium~~  
5 ~~taxes or license fees under ch. 76.~~

6           **SECTION 47.** 646.51 (6) of the statutes is amended to read:

7           646.51 (6) APPEAL AND REVIEW. Within 30 days after the fund sends the  
8 statement under sub. (5), an insurer, after paying the assessment under protest, may  
9 appeal the assessment to the board or a committee thereof. The decision of the board  
10 or committee on the appeal is subject to judicial review in the circuit court for Dane  
11 County. A petition for judicial review shall be filed within 60 days of the board's or  
12 committee's decision.

13           **SECTION 48. Initial applicability.**

14           (1) The treatment of sections 646.32 (2) and 646.51 (6) of the statutes first  
15 applies to decisions of the board of directors of the insurance security fund or its  
16 appointed committee or hearing examiner that are issued on the effective date of this  
17 subsection.

18           (2) The treatment of sections 646.31 (2) and 646.325 (2) (a) 1. of the statutes  
19 first applies to claims made in a liquidation <sup>that commences</sup> for which a petition is filed on the  
20 effective date of this subsection. ✓

\*\*\*\*NOTE: Is it correct to refer to the filing of the petition for a liquidation here?

21           (3) If a motor vehicle insurance policy or an umbrella or excess liability policy  
22 that is in effect on the effective date of this subsection contains a provision that is  
23 inconsistent with the treatment of section 632.32 (2) <sup>(ag), (af)</sup> (be), (e) (intro.), 2., or 3., (g)  
24 (intro.) or 1., (4) (a) (intro.) or (d), or (4r) (a) or (c) of the statutes, the treatment of

I am concerned the term "commences" is too vague! Is there a particular action that commences a liquidation, such as the filing of a petition or issuance of a court order, that would clarify the exact date the liquidation commences

(ag), (at)

1 section 632.32 (2) (be), (e) (intro.), 2., or 3., (g) (intro.) or 1., (4) (a) (intro.) or (d), or  
2 (4r) (a) or (c) of the statutes, whichever is applicable, first applies to that motor  
3 vehicle insurance policy or umbrella or excess liability policy on the date on which  
4 it is renewed.

5

(END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0172/P5ins  
PJK:.....

WOF  
one that is owned or operated by a person

INSERT A-P  
keep this text

in addition to

; excludes from the definition of an uninsured motor vehicle, one that is owned or operated by a person who has furnished proof of financial responsibility ~~or who is self-insured under any other applicable motor vehicle law~~; and includes in the definition of an underinsured motor vehicle, one that is owned or operated by a person who has furnished proof of financial responsibility or who is self-insured under any other applicable motor vehicle law but with limits that are less than needed to compensate the insured for his or her damages

keep "who"  
delete "or"

(END OF INSERT A-P)

INSERT 11-6

Ins 8-2 ✓

1 SECTION 1. 611.33 (2) (b) 1. of the statutes is repealed. ✓

2 SECTION 2. 611.33 (2) (b) 2. of the statutes is repealed. ✓

End of Ins 8-2

3 SECTION 3. 632.32 (2) (ag) of the statutes is created to read:

4 632.32 (2) (ag) "Governmental unit" has the meaning given in s. 50.33 (1r). ✓

5 SECTION 4. 632.32 (2) (at) of the statutes is amended to read: ✓

as affected by 2009 Wisconsin Act 28

6 632.32 (2) (at) "Motor vehicle" means a self-propelled land motor vehicle  
7 designed for travel on public roads and subject to motor vehicle registration under  
8 ch. 341. ~~It includes trailers and semitrailers~~ A trailer or semitrailer that is designed  
9 for use with such vehicles. It and connected to a motor vehicle shall be considered  
10 a single unit with the motor vehicle. "Motor vehicle" does not include farm tractors,  
11 well drillers, road machinery, or snowmobiles. ✓

NOTE: NOTE: Par. (at) is shown as renumbered from par. (a) eff. 11-1-09 by 2009 Wis. Act 28. NOTE:

History: 1975 c. 375, 421; 1979 c. 102, 104; 1979 c. 177 ss. 67, 68; 1979 c. 221; 1981 c. 284; 1983 a. 243, 459; 1985 a. 146 s. 8; 1995 a. 21, 448; 1997 a. 48; 1999 a. 31, 162; 2007 a. 168; 2009 a. 28.

(END OF INSERT 11-6)

INSERT 11-20

12 or is a self-insurer under another applicable motor vehicle law ✓

WOF

(END OF INSERT 11-20)

INSERT 12-11



*Ins 12-11*

1

*not*

and is not a self-insurer under any other applicable motor vehicle law ✓

(END OF INSERT 12-11)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0172/P5insTD  
TJD:.....

1           INSERT 14-12-TD

2           (b) The commissioner<sup>✓</sup> may promulgate the rules under par. (a) as emergency  
3 rules under s. 227.24<sup>✓</sup>. Notwithstanding s. 227.24 (1) (c)<sup>✓</sup>, emergency rules  
4 promulgated under this paragraph may remain in effect for one year and may be  
5 ~~extended~~<sup>extended</sup> under s. 227.24 (2)<sup>✓</sup>. Notwithstanding s. 227.24 (1) (a)<sup>✓</sup> and (3)<sup>✓</sup>, the  
6 commissioner is not required to provide evidence that promulgating a rule under this  
7 paragraph<sup>✓</sup> as an emergency rule is necessary for the preservation of the public peace,  
8 health, safety, or welfare<sup>✓</sup> and is not required to provide a finding of emergency for a  
9 rule promulgated under this paragraph<sup>✓</sup>.

10

(END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0172/P5dn

PJK:|:....

nwn

Date

I included the change in the definition of "motor vehicle" with respect to trailers and semitrailers in the initial applicability provision. Let me know if you think it should not be included because there is no possible contract impairment.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0172/P5dn  
PJK:nwn:ph

January 13, 2010

I included the change in the definition of "motor vehicle" with respect to trailers and semitrailers in the initial applicability provision. Let me know if you think it should not be included because there is no possible contract impairment.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
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## Kahler, Pam

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**From:** Williams, Ritch  
**Sent:** Monday, January 25, 2010 9:31 AM  
**To:** Kahler, Pam  
**Subject:** RE: OCI Technical Bill legislative draft

Hi Pam –

OCI has talked to us about the draft and we'll be doing it. Thanks for making the change as he indicated and we'll be looking for the draft.

## Ritch Williams

*Clerk, Committee on Insurance*  
Office of Rep. David Cullen  
216 North, State Capitol  
(608) 267-9836

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**From:** Kahler, Pam  
**Sent:** Monday, January 25, 2010 9:30 AM  
**To:** Williams, Ritch  
**Subject:** FW: OCI Technical Bill legislative draft

Ritch:

I assume from Jim's email that you are taking over the draft. We'll make the change in a slash 1 so that it can be jacketed. You'll get a copy of the slash 1 first, though. Let me know if you are not taking over the file. Thanks!

Pam

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**From:** Guidry, Jim R - OCI [mailto:Jim.Guidry@wisconsin.gov]  
**Sent:** Sunday, January 24, 2010 10:00 PM  
**To:** Williams, Ritch  
**Cc:** Mallow, Eileen K - OCI; Nepple, Fred - OCI; Kahler, Pam; Frings, Roger - OCI; Stegall, Jennifer L - OCI  
**Subject:** OCI Technical Bill legislative draft

Ritch,

Attached is the draft of OCI's technical bill. We also have a summary document we can provide for you. The draft needs to have one additional change that was raised by Pam Kahler. It is on page 19 (lines 15 and 16) in the applicability section.

(2) The treatment of sections 646.31 (12) and 646.325 (2) (a) 1. of the statutes first applies to liquidations ~~that commence on the effective date of this subsection~~ for which an order of liquidation is issued on the effective date of this subsection.

I spoke with Pam Kahler and she indicated that this change could be made when you request the bill be jacketed.

Once you've reviewed the bill, if you have any questions please let me know.

Thanks.

01/25/2010

Jim Guidry  
Legislative Liaison  
Office of the Commissioner of Insurance  
125 South Webster Street  
PO Box 7873  
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