



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0172/1
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~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*SOON
(in 1-25)*

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Regen.

1 AN ACT *to repeal* 14.83, 601.415 (11), 601.59, 611.33 (2) (b) 1., 611.33 (2) (b) 2.
2 and 646.03 (2n); *to renumber* 646.31 (1) (b); *to renumber and amend* 615.10
3 (5); *to amend* 149.13 (1), 609.91 (1) (intro.), 609.91 (2), (3) and (4) (a), (b), (cm)
4 and (d), 612.22 (3) (a), (4) and (6), 614.29 (1), 614.42 (1) (a), 615.03 (5), 628.10
5 (5) (a), 632.32 (2) (at), 632.32 (2) (e) (intro.), 632.32 (2) (e) 2., 632.32 (2) (e) 3.,
6 632.32 (2) (g) (intro.), 632.32 (2) (g) 1., 632.32 (4) (a) (intro.), 632.32 (4r) (a),
7 632.32 (4r) (c), 645.69 (1), 646.13 (2) (d), 646.13 (4), 646.31 (4) (a), 646.31 (12),
8 646.32 (1), 646.32 (2), 646.325 (1), 646.325 (2) (a) 1., 646.51 (3) (c), 646.51 (5) and
9 646.51 (6); and *to create* 49.45 (31) (e), 601.31 (1) (Lg), 609.91 (1p), 615.10 (5)
10 (intro.), 615.10 (5) (b), 615.10 (5) (c), 615.10 (5) (d), 632.32 (2) (ag), 632.32 (2)
11 (be), 632.32 (4) (d), 632.897 (11), 646.01 (1) (b) 19., 646.31 (1) (b) 2. and 646.325
12 (4) of the statutes; **relating to:** the Interstate Insurance Receivership
13 Compact, investment guidelines for charitable gift annuity segregated
14 accounts, Health Insurance Risk-Sharing Plan assessment participation,
15 reciprocity for long-term care insurance policies, voting by fraternal members,

1 the insurance security fund, modifications to motor vehicle insurance policy
2 and umbrella and excess liability policy requirements, providing an exemption
3 from emergency rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes a number of 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 precicensing 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; 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 in addition to, one that is owned or operated by a person 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.

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.

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:

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

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

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

2 601.31 (1) (Lg) For filing an original electronic resident intermediary license
3 application following successful completion of any required prelicensing education
4 or examination under s. 628.04, \$10.

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

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

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

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

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

14 609.91 (1p) IMMUNITY FOR CERTAIN MEDICARE RECIPIENTS. An enrollee,
15 policyholder, or insured under a policy issued by an insurer under Part C of Medicare
16 under 42 USC 1395w-21 to 1395w-28 or Part D of Medicare under 42 USC
17 1395w-101 to 1395w-152 to provide prepaid health care, fee-for-service health
18 care, or drug benefits to enrollees of Part C or Part D of Medicare is not liable for
19 health care costs that are covered under the policy.

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

22 609.91 (2) PROHIBITED RECOVERY ATTEMPTS. No person may bill, charge, collect
23 a deposit from, seek remuneration or compensation from, file or threaten to file with
24 a credit reporting agency or have any recourse against an enrollee, policyholder or
25 insured, or any person acting on their behalf, for health care costs for which the

1 enrollee, policyholder or insured, or person acting on their behalf, is not liable under
2 sub. (1) ~~or~~, (1m), or (1p).

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

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

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

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

1 (d) The inability of the provider or other person who is owed compensation for
2 health care costs to obtain compensation from the health maintenance organization
3 insurer, the insurer described in sub. (1m) or (1p), or any other person for health care
4 costs for which the enrollee, policyholder or insured is not liable under sub. (1) ~~or~~,
5 (1m), or (1p).

6 **SECTION 10.** 611.33 (2) (b) 1. of the statutes is repealed.

7 **SECTION 11.** 611.33 (2) (b) 2. of the statutes is repealed.

8 **SECTION 12.** 612.22 (3) (a), (4) and (6) of the statutes are amended to read:

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

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

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

6 **SECTION 13.** 614.29 (1) of the statutes is amended to read:

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

14 **SECTION 14.** 614.42 (1) (a) of the statutes is amended to read:

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

25 **SECTION 15.** 615.03 (5) of the statutes is amended to read:

1 615.03 (5) APPLICATION OF CHAPTERS 600 TO 646. The commissioner may by rule
2 or order impose on licensees under this chapter any other provisions of chs. 600 to
3 646 applicable to ch. 611 corporations, if necessary to protect the interests of
4 annuitants or the public, except that the commissioner may not impose the
5 provisions of s. 620.23 (1) (d), (2) (a), and (5) on a licensee under this chapter.

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

7 615.10 (5) (intro.) All of the following apply to the investment of the assets of
8 a segregated account under this section:

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

11 615.10 (5) (a) ~~Assets of a segregated account under this section~~ shall be
12 invested in accordance with ch. 881.

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

14 615.10 (5) (b) No more than 50 percent of the assets may be invested in common
15 stock.

16 **SECTION 19.** 615.10 (5) (c) of the statutes is created to read:

17 615.10 (5) (c) No more than 10 percent of the assets may be invested in the
18 common stock of any single corporation and its affiliates.

19 **SECTION 20.** 615.10 (5) (d) of the statutes is created to read:

20 615.10 (5) (d) Assets that are invested in a mutual fund or other investment
21 company shall be treated as if the licensee directly owned, in proportion to the
22 amount invested, the same types of assets and in the same proportional share as the
23 assets owned by the mutual fund or other investment company.

24 **SECTION 21.** 628.10 (5) (a) of the statutes is amended to read:

1 628.10 (5) (a) *Reinstatement within 12 months.* An intermediary who is a
2 natural person and whose license is revoked under sub. (2) (a), (am), or (cm) may have
3 his or her license reinstated within 12 months after the date on which the license was
4 revoked without having to satisfy any preclicensing education or examination
5 requirements under s. 628.04. To have his or her license reinstated, the intermediary
6 must satisfy the requirement under sub. (2) (a), (am), or (cm) for which the license
7 was revoked, satisfactorily complete a reinstatement application, and pay ~~the~~
8 ~~application fee for original licensure~~ twice the amount of the license renewal fee as
9 specified by rule. The reinstatement is effective on the date on which the
10 commissioner actually reinstates the license. If the intermediary is also a resident
11 who is required to complete continuing education, the intermediary must have
12 satisfied all previous continuing education requirements to have his or her license
13 reinstated under this paragraph.

14 **SECTION 22.** 632.32 (2) (ag) of the statutes is created to read:

15 632.32 (2) (ag) "Governmental unit" has the meaning given in s. 50.33 (1r).

16 **SECTION 23.** 632.32 (2) (at) of the statutes, as affected by 2009 Wisconsin Act
17 28, is amended to read:

18 632.32 (2) (at) "Motor vehicle" means a self-propelled land motor vehicle
19 designed for travel on public roads and subject to motor vehicle registration under
20 ch. 341. ~~It includes trailers and semitrailers~~ A trailer or semitrailer that is designed
21 for use with such vehicles. It and connected to a motor vehicle shall be considered
22 a single unit with the motor vehicle. "Motor vehicle" does not include farm tractors,
23 well drillers, road machinery, or snowmobiles.

24 **SECTION 24.** 632.32 (2) (be) of the statutes is created to read:

1 632.32 (2) (be) "Owned motor vehicle" means a motor vehicle that is owned by
2 the insured or that is leased by the insured for a term of 6 months or longer.

3 **SECTION 25.** 632.32 (2) (e) (intro.) of the statutes, as created by 2009 Wisconsin
4 Act 28, is amended to read:

5 632.32 (2) (e) (intro.) "Underinsured motor vehicle" means a motor vehicle,
6 other than a motor vehicle owned by a governmental unit, to which all of the
7 following apply:

8 **SECTION 26.** 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act
9 28, is amended to read:

10 632.32 (2) (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance
11 policy applies to the motor vehicle ~~at the time of the accident~~ or the owner or operator
12 of the motor vehicle has furnished proof of financial responsibility for the future
13 under subch. III of ch. 344 and it is in effect or is a self-insurer under another
14 applicable motor vehicle law.

15 **SECTION 27.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act
16 28, is amended to read:

17 632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or
18 with respect to the proof of financial responsibility or self-insurance are less than
19 the amount needed to fully compensate the insured for his or her damages.

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

22 632.32 (2) (g) (intro.) "Uninsured motor vehicle" means a motor vehicle, other
23 than a motor vehicle owned by a governmental unit, that is involved in an accident
24 with a person who has uninsured motorist coverage and with respect to which, at the
25 time of the accident, a bodily injury liability insurance policy is not in effect and the

1 owner or operator has not furnished proof of financial responsibility for the future
2 under subch. III of ch. 344 and is not a self-insurer under any other applicable motor
3 vehicle law. "Uninsured motor vehicle" also includes any of the following motor
4 vehicles, other than a motor vehicle owned by governmental unit, involved in an
5 accident with a person who has uninsured motorist coverage:

6 **SECTION 29.** 632.32 (2) (g) 1. of the statutes, as created by 2009 Wisconsin Act
7 28, is amended to read:

8 632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to
9 which the owner or operator is a self-insurer under any applicable motor vehicle law,
10 if before or after the accident the liability insurer of the motor vehicle, or the
11 self-insurer, is declared insolvent by a court of competent jurisdiction.

12 **SECTION 30.** 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin
13 Act 28, is amended to read:

14 632.32 (4) (a) (intro.) ~~Every~~ Except as provided in par. (d), every policy of
15 insurance subject to this section that insures with respect to any owned motor vehicle
16 registered or principally garaged in this state against loss resulting from liability
17 imposed by law for bodily injury or death suffered by any person arising out of the
18 ownership, maintenance, or use of a motor vehicle shall contain therein or
19 supplemental thereto provisions for all of the following coverages:

20 **SECTION 31.** 632.32 (4) (d) of the statutes is created to read:

21 632.32 (4) (d) This subsection does not apply to umbrella or excess liability
22 policies, which are subject to sub. (4r).

23 **SECTION 32.** 632.32 (4r) (a) of the statutes, as created by 2009 Wisconsin Act
24 28, is amended to read:

1 632.32 (4r) (a) An insurer writing umbrella or excess liability policies that
2 insure with respect to ~~a~~ an owned motor vehicle registered or principally garaged
3 in this state against loss resulting from liability imposed by law for bodily injury or
4 death suffered by a person arising out of the ownership, maintenance, or use of a
5 motor vehicle shall provide written offers of uninsured motorist coverage and
6 underinsured motorist coverage, which offers shall include a brief description of the
7 coverage offered. An insurer is required to provide the offers required under this
8 subsection only one time with respect to any policy in the manner provided in par.
9 (b).

10 **SECTION 33.** 632.32 (4r) (c) of the statutes, as created by 2009 Wisconsin Act
11 28, is amended to read:

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

19 **SECTION 34.** 632.897 (11) of the statutes is created to read:

20 632.897 (11) (a) Notwithstanding subs. (2) to (10), the commissioner may
21 promulgate rules establishing standards requiring insurers to provide continuation
22 of coverage for any individual covered at any time under a group policy who is a
23 terminated insured or an eligible individual under any federal program that
24 provides for a federal premium subsidy for individuals covered under continuation
25 of coverage under a group policy, including rules governing election or extension of

1 election periods, notice, rates, premiums, premium payment, application of
2 preexisting condition exclusions, election of alternative coverage, and status as an
3 eligible individual, as defined in s. 149.10 (2t).

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

12 **SECTION 35.** 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 36.** 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
23 XVIII or Title XIX of the federal social security act, to provide health care or
24 prescription drug benefits to persons enrolled in Title XVIII or Title XIX programs.

25 **SECTION 37.** 646.03 (2n) of the statutes is repealed.

1 **SECTION 38.** 646.13 (2) (d) of the statutes is amended to read:

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

12 **SECTION 39.** 646.13 (4) of the statutes is amended to read:

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

18 **SECTION 40.** 646.31 (1) (b) of the statutes is renumbered 646.31 (1) (b) 1.

19 **SECTION 41.** 646.31 (1) (b) 2. of the statutes is created to read:

20 646.31 (1) (b) 2. The claim does not arise out of business against which
21 assessments are prohibited under any federal or state law.

22 **SECTION 42.** 646.31 (4) (a) of the statutes is amended to read:

23 646.31 (4) (a) Except in regard to worker's compensation insurance and except
24 as provided in par. (b), the obligation of the fund on a single risk, loss or life may not
25 exceed \$300,000, regardless of the number of policies or contracts.

1 **SECTION 43.** 646.31 (12) of the statutes is amended to read:

2 646.31 (12) NET WORTH OF INSURED. Except for claims under s. 646.35, payment
3 of a first-party claim under this chapter to an insured whose net worth, as defined
4 in s. 646.325 (1), exceeds ~~\$10,000,000~~ \$25,000,000 is limited to the amount by which
5 the aggregate of the insured's claims that satisfy subs. (1) to (7), (9) and (9m) plus the
6 amount, if any, recovered from the insured under s. 646.325 exceeds 10% of the
7 insured's net worth.

8 **SECTION 44.** 646.32 (1) of the statutes is amended to read:

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

15 **SECTION 45.** 646.32 (2) of the statutes is amended to read:

16 646.32 (2) REVIEW. Decisions of the board or its appointed committee or hearing
17 examiner under sub. (1) are subject to judicial review in the circuit court for Dane
18 County. A petition for judicial review shall be filed within 60 days of the decision.

19 **SECTION 46.** 646.325 (1) of the statutes is amended to read:

20 646.325 (1) DEFINITION. In this section, "net worth" means the amount of an
21 insured's total assets less the insured's total liabilities at the end of the insured's
22 fiscal year immediately preceding the date the liquidation order was entered, as
23 shown on the insured's audited financial statement, ~~and~~ or other substantiated
24 financial information acceptable to the fund in its sole discretion. "Net worth"
25 includes the consolidated net worth of all of the corporate affiliates, subsidiaries,

1 operating divisions, holding companies, and parent entities ~~that are, and, if the~~
2 insured is privately owned, natural persons who have an ownership interest, shown
3 as insureds or additional insureds on the policy issued by the insurer. If the insured
4 is a natural person, "net worth" means the insured's total assets less the insured's
5 total liabilities on December 31 immediately preceding the date the liquidation order
6 was entered.

7 **SECTION 47.** 646.325 (2) (a) 1. of the statutes is amended to read:

8 646.325 (2) (a) 1. An insured whose net worth exceeds \$10,000,000
9 \$25,000,000.

10 **SECTION 48.** 646.325 (4) of the statutes is created to read:

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

16 **SECTION 49.** 646.51 (3) (c) of the statutes is amended to read:

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

22 **SECTION 50.** 646.51 (5) of the statutes is amended to read:

23 646.51 (5) COLLECTION. After the rate of assessment has been fixed, the fund
24 shall send to each insurer a statement of the amount it is to pay. The fund shall
25 designate whether the assessments shall be made payable in one sum or in

1 installments. ~~Assessments shall be collected by the same procedures as premium~~
2 ~~taxes or license fees under ch. 76.~~

3 SECTION 51. 646.51 (6) of the statutes is amended to read:

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

10 SECTION 52. Initial applicability.

11 (1) The treatment of sections 646.32 (2) and 646.51 (6) of the statutes first
12 applies to decisions of the board of directors of the insurance security fund or its
13 appointed committee or hearing examiner that are issued on the effective date of this
14 subsection. *for which an order of liquidation is issued*

15 (2) The treatment of sections 646.31 (12) and 646.325 (2) (a) 1. of the statutes
16 first applies to liquidations that commence on the effective date of this subsection. ✓

****NOTE: I am concerned the term "commence" 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?

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

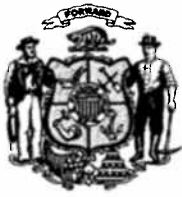
1 motor vehicle insurance policy or umbrella or excess liability policy on the date on
2 which it is renewed.

3 (END)

Barman, Mike

From: Williams, Ritch
Sent: Monday, February 01, 2010 1:40 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0172/1 Topic: Group Retirement Board staff. Repeal of Interstate Insurance Receivership Compact. Investments for Charitable Gift Annuity Segregated Accounts. HIRSP assessments. Wisconsin Insurance Security Fund.

Please Jacket LRB 09-0172/1 for the ASSEMBLY.



State of Wisconsin
2009 - 2010 LEGISLATURE

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

2
r w s n

Thursday, please
see change on p. 4

2009 BILL

Regen.

1 AN ACT *to repeal* 14.83, 601.415 (11), 601.59, 611.33 (2) (b) 1., 611.33 (2) (b) 2.
2 and 646.03 (2n); *to renumber* 646.31 (1) (b); *to renumber and amend* 615.10
3 (5); *to amend* 149.13 (1), 609.91 (1) (intro.), 609.91 (2), (3) and (4) (a), (b), (cm)
4 and (d), 612.22 (3) (a), (4) and (6), 614.29 (1), 614.42 (1) (a), 615.03 (5), 628.10
5 (5) (a), 632.32 (2) (at), 632.32 (2) (e) (intro.), 632.32 (2) (e) 2., 632.32 (2) (e) 3.,
6 632.32 (2) (g) (intro.), 632.32 (2) (g) 1., 632.32 (4) (a) (intro.), 632.32 (4r) (a),
7 632.32 (4r) (c), 645.69 (1), 646.13 (2) (d), 646.13 (4), 646.31 (4) (a), 646.31 (12),
8 646.32 (1), 646.32 (2), 646.325 (1), 646.325 (2) (a) 1., 646.51 (3) (c), 646.51 (5) and
9 646.51 (6); and *to create* 49.45 (31) (e), 601.31 (1) (Lg), 609.91 (1p), 615.10 (5)
10 (intro.), 615.10 (5) (b), 615.10 (5) (c), 615.10 (5) (d), 632.32 (2) (ag), 632.32 (2)
11 (be), 632.32 (4) (d), 632.897 (11), 646.01 (1) (b) 19., 646.31 (1) (b) 2. and 646.325
12 (4) of the statutes; **relating to:** the Interstate Insurance Receivership
13 Compact, investment guidelines for charitable gift annuity segregated
14 accounts, Health Insurance Risk-Sharing Plan assessment participation,

BILL

1 reciprocity for long-term care insurance policies, voting by fraternal members,
2 the insurance security fund, modifications to motor vehicle insurance policy
3 and umbrella and excess liability policy requirements, providing an exemption
4 from emergency rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes a number of 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.

BILL

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.

BILL

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; 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 (in addition to, one that is owned or operated by a person 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

(move "in addition to" up in front of "one")

BILL

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.

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.

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:

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

BILL**SECTION 3**

1 The commissioner shall advise the authority of the insurers participating in the cost
2 of administering the plan.

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

4 601.31 (1) (Lg) For filing an original electronic resident intermediary license
5 application following successful completion of any required prelicensing education
6 or examination under s. 628.04, \$10.

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

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

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

10 609.91 (1) IMMUNITY OF ENROLLEES AND POLICYHOLDERS. (intro.) Except as
11 provided in sub. (1m) or (1p), an enrollee or policyholder of a health maintenance
12 organization insurer is not liable for health care costs that are incurred on or after
13 January 1, 1990, and that are covered under a policy or certificate issued by the
14 health maintenance organization insurer, if any of the following applies:

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

16 609.91 (1p) IMMUNITY FOR CERTAIN MEDICARE RECIPIENTS. An enrollee,
17 policyholder, or insured under a policy issued by an insurer under Part C of Medicare
18 under 42 USC 1395w-21 to 1395w-28 or Part D of Medicare under 42 USC
19 1395w-101 to 1395w-152 to provide prepaid health care, fee-for-service health
20 care, or drug benefits to enrollees of Part C or Part D of Medicare is not liable for
21 health care costs that are covered under the policy.

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

24 609.91 (2) PROHIBITED RECOVERY ATTEMPTS. No person may bill, charge, collect
25 a deposit from, seek remuneration or compensation from, file or threaten to file with

BILL

1 a credit reporting agency or have any recourse against an enrollee, policyholder or
2 insured, or any person acting on their behalf, for health care costs for which the
3 enrollee, policyholder or insured, or person acting on their behalf, is not liable under
4 sub. (1) ~~or~~, (1m), or (1p).

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

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

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

20 (cm) The insolvency of the insurer described in sub. (1m) or (1p) or any person
21 contracting with the insurer or provider, or the commencement or the existence of
22 conditions permitting the commencement of insolvency, delinquency or bankruptcy
23 proceedings involving the insurer or other person, including delinquency
24 proceedings, as defined in s. 645.03 (1) (b), under ch. 645, despite whether the insurer
25 or other person has agreed to compensate, directly or indirectly, the provider for

BILL**SECTION 9**

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

3 (d) The inability of the provider or other person who is owed compensation for
4 health care costs to obtain compensation from the health maintenance organization
5 insurer, the insurer described in sub. (1m) or (1p), or any other person for health care
6 costs for which the enrollee, policyholder or insured is not liable under sub. (1) ~~or~~,
7 (1m), or (1p).

8 **SECTION 10.** 611.33 (2) (b) 1. of the statutes is repealed.

9 **SECTION 11.** 611.33 (2) (b) 2. of the statutes is repealed.

10 **SECTION 12.** 612.22 (3) (a), (4) and (6) of the statutes are amended to read:

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

21 (4) **APPROVAL BY MEMBERS OF THE MUTUALS.** After being approved by the
22 commissioner under sub. (3), the plan shall be submitted for approval to the
23 members of the participating town mutual or mutuals for their approval and to the
24 members of the participating domestic mutual if the domestic mutual is assessable.

BILL

1 The members of each participating mutual who have the right to vote on the merger
2 shall vote separately.

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

8 **SECTION 13.** 614.29 (1) of the statutes is amended to read:

9 614.29 (1) RIGHT TO AMEND ARTICLES. The articles of a fraternal may provide for
10 amendment by the supreme governing body or by the board of directors, and may
11 provide also for amendment by the members by referendum. If amendment is by
12 referendum, a majority of those members who vote must vote affirmatively. Votes
13 cast within 60 days from the date of mailing of the ~~first ballot~~ ballots by the fraternal
14 shall be counted. The timeliness of a vote is determined by the date of its mailing
15 as proved by its postmark or other suitable evidence.

16 **SECTION 14.** 614.42 (1) (a) of the statutes is amended to read:

17 614.42 (1) (a) *Board of directors.* A board with some directors elected directly
18 by the members or by their representatives in intermediate assemblies under sub.
19 (2), and other directors prescribed in the fraternal's laws. The elected directors shall
20 constitute a majority in number and not less than the number of votes required to
21 amend those articles or bylaws of the fraternal that can be amended without consent
22 of the members. The board shall meet at least quarterly to conduct the business of
23 the fraternal. The elected directors shall be elected on a plan that ensures equal
24 weight to each fraternal member's vote. Voting may be conducted by mail, by

BILL**SECTION 14**

1 electronic means, or by any other method or combination of methods approved by the
2 board and prescribed in the fraternal's bylaws.

3 **SECTION 15.** 615.03 (5) of the statutes is amended to read:

4 615.03 (5) APPLICATION OF CHAPTERS 600 TO 646. The commissioner may by rule
5 or order impose on licensees under this chapter any other provisions of chs. 600 to
6 646 applicable to ch. 611 corporations, if necessary to protect the interests of
7 annuitants or the public, except that the commissioner may not impose the
8 provisions of s. 620.23 (1) (d), (2) (a), and (5) on a licensee under this chapter.

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

10 615.10 (5) (intro.) All of the following apply to the investment of the assets of
11 a segregated account under this section:

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

14 615.10 (5) (a) ~~Assets of a segregated account under this section shall be~~
15 ~~invested in accordance with ch. 881.~~

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

17 615.10 (5) (b) No more than 50 percent of the assets may be invested in common
18 stock.

19 **SECTION 19.** 615.10 (5) (c) of the statutes is created to read:

20 615.10 (5) (c) No more than 10 percent of the assets may be invested in the
21 common stock of any single corporation and its affiliates.

22 **SECTION 20.** 615.10 (5) (d) of the statutes is created to read:

23 615.10 (5) (d) Assets that are invested in a mutual fund or other investment
24 company shall be treated as if the licensee directly owned, in proportion to the

BILL

1 amount invested, the same types of assets and in the same proportional share as the
2 assets owned by the mutual fund or other investment company.

3 **SECTION 21.** 628.10 (5) (a) of the statutes is amended to read:

4 628.10 (5) (a) *Reinstatement within 12 months.* An intermediary who is a
5 natural person and whose license is revoked under sub. (2) (a), (am), or (cm) may have
6 his or her license reinstated within 12 months after the date on which the license was
7 revoked without having to satisfy any preclicensing education or examination
8 requirements under s. 628.04. To have his or her license reinstated, the intermediary
9 must satisfy the requirement under sub. (2) (a), (am), or (cm) for which the license
10 was revoked, satisfactorily complete a reinstatement application, and pay the
11 ~~application fee for original licensure~~ twice the amount of the license renewal fee as
12 specified by rule. The reinstatement is effective on the date on which the
13 commissioner actually reinstates the license. If the intermediary is also a resident
14 who is required to complete continuing education, the intermediary must have
15 satisfied all previous continuing education requirements to have his or her license
16 reinstated under this paragraph.

17 **SECTION 22.** 632.32 (2) (ag) of the statutes is created to read:

18 632.32 (2) (ag) "Governmental unit" has the meaning given in s. 50.33 (1r).

19 **SECTION 23.** 632.32 (2) (at) of the statutes, as affected by 2009 Wisconsin Act
20 28, is amended to read:

21 632.32 (2) (at) "Motor vehicle" means a self-propelled land motor vehicle
22 designed for travel on public roads and subject to motor vehicle registration under
23 ch. 341. ~~It includes trailers and semitrailers~~ A trailer or semitrailer that is designed
24 for use with such vehicles. It and connected to a motor vehicle shall be considered

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1 a single unit with the motor vehicle. "Motor vehicle" does not include farm tractors,
2 well drillers, road machinery, or snowmobiles.

3 **SECTION 24.** 632.32 (2) (be) of the statutes is created to read:

4 632.32 (2) (be) "Owned motor vehicle" means a motor vehicle that is owned by
5 the insured or that is leased by the insured for a term of 6 months or longer.

6 **SECTION 25.** 632.32 (2) (e) (intro.) of the statutes, as created by 2009 Wisconsin
7 Act 28, is amended to read:

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

11 **SECTION 26.** 632.32 (2) (e) 2. of the statutes, as created by 2009 Wisconsin Act
12 28, is amended to read:

13 632.32 (2) (e) 2. ~~A~~ At the time of the accident, a bodily injury liability insurance
14 policy applies to the motor vehicle at the time of the accident or the owner or operator
15 of the motor vehicle has furnished proof of financial responsibility for the future
16 under subch. III of ch. 344 and it is in effect or is a self-insurer under another
17 applicable motor vehicle law.

18 **SECTION 27.** 632.32 (2) (e) 3. of the statutes, as created by 2009 Wisconsin Act
19 28, is amended to read:

20 632.32 (2) (e) 3. The limits under the bodily injury liability insurance policy or
21 with respect to the proof of financial responsibility or self-insurance are less than
22 the amount needed to fully compensate the insured for his or her damages.

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

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1 632.32 (2) (g) (intro.) “Uninsured motor vehicle” means a motor vehicle, other
2 than a motor vehicle owned by a governmental unit, that is involved in an accident
3 with a person who has uninsured motorist coverage and with respect to which, at the
4 time of the accident, a bodily injury liability insurance policy is not in effect and the
5 owner or operator has not furnished proof of financial responsibility for the future
6 under subch. III of ch. 344 and is not a self-insurer under any other applicable motor
7 vehicle law. “Uninsured motor vehicle” also includes any of the following motor
8 vehicles, other than a motor vehicle owned by governmental unit, involved in an
9 accident with a person who has uninsured motorist coverage:

10 **SECTION 29.** 632.32 (2) (g) 1. of the statutes, as created by 2009 Wisconsin Act
11 28, is amended to read:

12 632.32 (2) (g) 1. An insured motor vehicle, or a motor vehicle with respect to
13 which the owner or operator is a self-insurer under any applicable motor vehicle law,
14 if before or after the accident the liability insurer of the motor vehicle, or the
15 self-insurer, is declared insolvent by a court of competent jurisdiction.

16 **SECTION 30.** 632.32 (4) (a) (intro.) of the statutes, as affected by 2009 Wisconsin
17 Act 28, is amended to read:

18 632.32 (4) (a) (intro.) ~~Every~~ Except as provided in par. (d), every policy of
19 insurance subject to this section that insures with respect to any owned motor vehicle
20 registered or principally garaged in this state against loss resulting from liability
21 imposed by law for bodily injury or death suffered by any person arising out of the
22 ownership, maintenance, or use of a motor vehicle shall contain therein or
23 supplemental thereto provisions for all of the following coverages:

24 **SECTION 31.** 632.32 (4) (d) of the statutes is created to read:

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1 632.32 (4) (d) This subsection does not apply to umbrella or excess liability
2 policies, which are subject to sub. (4r).

3 **SECTION 32.** 632.32 (4r) (a) of the statutes, as created by 2009 Wisconsin Act
4 28, is amended to read:

5 632.32 (4r) (a) An insurer writing umbrella or excess liability policies that
6 insure with respect to ~~a~~ an owned motor vehicle registered or principally garaged
7 in this state against loss resulting from liability imposed by law for bodily injury or
8 death suffered by a person arising out of the ownership, maintenance, or use of a
9 motor vehicle shall provide written offers of uninsured motorist coverage and
10 underinsured motorist coverage, which offers shall include a brief description of the
11 coverage offered. An insurer is required to provide the offers required under this
12 subsection only one time with respect to any policy in the manner provided in par.
13 (b).

14 **SECTION 33.** 632.32 (4r) (c) of the statutes, as created by 2009 Wisconsin Act
15 28, is amended to read:

16 632.32 (4r) (c) An applicant or a named insureds insured may reject one or both
17 of the coverages offered, but must do so in writing. If the applicant or named ~~insureds~~
18 ~~reject insured rejects~~ either of the coverages offered, the insurer is not required to
19 provide the rejected coverage under ~~a~~ the policy that is renewed to the person at
20 renewal by that insurer unless an insured under the policy subsequently requests
21 the rejected coverage in writing. The action of one named insured to reject or request
22 coverage applies to all persons insured under the policy.

23 **SECTION 34.** 632.897 (11) of the statutes is created to read:

24 632.897 (11) (a) Notwithstanding subs. (2) to (10), the commissioner may
25 promulgate rules establishing standards requiring insurers to provide continuation

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1 of coverage for any individual covered at any time under a group policy who is a
2 terminated insured or an eligible individual under any federal program that
3 provides for a federal premium subsidy for individuals covered under continuation
4 of coverage under a group policy, including rules governing election or extension of
5 election periods, notice, rates, premiums, premium payment, application of
6 preexisting condition exclusions, election of alternative coverage, and status as an
7 eligible individual, as defined in s. 149.10 (2t).

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

16 **SECTION 35.** 645.69 (1) of the statutes is amended to read:

17 645.69 (1) A claim against a health maintenance organization insurer or an
18 insurer described in s. 609.91 (1m) or (1p) for health care costs, as defined in s. 609.01
19 (1j), for which an enrollee, as defined in s. 609.01 (1d), policyholder or insured of the
20 health maintenance organization insurer or other insurer is not liable under ss.
21 609.91 to 609.935.

22 **SECTION 36.** 646.01 (1) (b) 19. of the statutes is created to read:

23 646.01 (1) (b) 19. A policy issued by an insurer to an enrollee under Title XVIII
24 of the federal social security act, 42 USC 1395 to 1395ccc, or Title XIX of the federal
25 social security act, 42 USC 1396 to 1396v, or a contract entered into by an insurer

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

4 **SECTION 37.** 646.03 (2n) of the statutes is repealed.

5 **SECTION 38.** 646.13 (2) (d) of the statutes is amended to read:

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

16 **SECTION 39.** 646.13 (4) of the statutes is amended to read:

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

22 **SECTION 40.** 646.31 (1) (b) of the statutes is renumbered 646.31 (1) (b) 1.

23 **SECTION 41.** 646.31 (1) (b) 2. of the statutes is created to read:

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

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1 **SECTION 42.** 646.31 (4) (a) of the statutes is amended to read:

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

5 **SECTION 43.** 646.31 (12) of the statutes is amended to read:

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

12 **SECTION 44.** 646.32 (1) of the statutes is amended to read:

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

19 **SECTION 45.** 646.32 (2) of the statutes is amended to read:

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

23 **SECTION 46.** 646.325 (1) of the statutes is amended to read:

24 646.325 (1) DEFINITION. In this section, "net worth" means the amount of an
25 insured's total assets less the insured's total liabilities at the end of the insured's

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

11 **SECTION 47.** 646.325 (2) (a) 1. of the statutes is amended to read:

12 646.325 (2) (a) 1. An insured whose net worth exceeds ~~\$10,000,000~~
13 \$25,000,000.

14 **SECTION 48.** 646.325 (4) of the statutes is created to read:

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

20 **SECTION 49.** 646.51 (3) (c) of the statutes is amended to read:

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

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1 **SECTION 50.** 646.51 (5) of the statutes is amended to read:

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

7 **SECTION 51.** 646.51 (6) of the statutes is amended to read:

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

14 **SECTION 52. Initial applicability.**

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

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

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

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

5 (END)

Barman, Mike

From: Barman, Mike
Sent: Monday, February 01, 2010 4:52 PM
To: Guidry, Jim R - OCI
Subject: RE: Draft review: LRB 09-0172/2 Topic: Group Retirement Board staff. Repeal of Interstate Insurance Receivership Compact. Investments for Charitable Gift Annuity Segregated Accounts. HIRSP assessments. Wisconsin Insurance Security Fund.

I forwarded your comments to the drafting attorneys.

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau

Legal Section - Front Office

1 East Main Street, Suite 200, Madison, WI 53703

(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Guidry, Jim R - OCI [<mailto:Jim.Guidry@wisconsin.gov>]
Sent: Monday, February 01, 2010 4:49 PM
To: Barman, Mike
Subject: RE: Draft review: LRB 09-0172/2 Topic: Group Retirement Board staff. Repeal of Interstate Insurance Receivership Compact. Investments for Charitable Gift Annuity Segregated Accounts. HIRSP assessments. Wisconsin Insurance Security Fund.

Mike,

We are ok with this bill. One thing though, the Group retirement board provisions were taken out so you might want to take it out of the subject line.

Jim Guidry
Legislative Liaison/Public Information
Office of the Commissioner of Insurance
(608) 264-6239 Work
(608) 209-6309 Mobile

From: Barman, Mike [<mailto:Mike.Barman@legis.wisconsin.gov>]
Sent: Monday, February 01, 2010 4:47 PM
To: Guidry, Jim R - OCI
Subject: Draft review: LRB 09-0172/2 Topic: Group Retirement Board staff. Repeal of Interstate Insurance Receivership Compact. Investments for Charitable Gift Annuity Segregated Accounts. HIRSP assessments. Wisconsin Insurance Security Fund.

Draft Requester: David Cullen

Following is the PDF version of draft LRB 09-0172/2.

Basford, Sarah

From: Williams, Ritch
Sent: Tuesday, February 02, 2010 9:00 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-0172/2 Topic: Group Retirement Board staff. Repeal of Interstate Insurance Receivership Compact. Investments for Charitable Gift Annuity Segregated Accounts. HIRSP assessments. Wisconsin Insurance Security Fund.

Please Jacket LRB 09-0172/2 for the ASSEMBLY.

Barman, Mike

From: Dodge, Tamara
Sent: Tuesday, February 02, 2010 9:03 AM
To: Barman, Mike
Cc: Kahler, Pam
Subject: RE: LRB-0172/2

I changed the request sheet. The draft is in hold. It can be re-jacketed.
Thanks.

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Barman, Mike
Sent: Tuesday, February 02, 2010 8:52 AM
To: Dodge, Tamara; Kahler, Pam
Subject: LRB-0172/2

Are you going to have to re-draft LRB-072/2 or is good to go and OK to re-jacket?

Mike