



## 2013 SENATE BILL 581

1     **AN ACT** *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)  
2           (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)  
3           (intro.), 227.11 (2) (intro.) and 227.27 (2); and *to create* 13.92 (4) (bm) and  
4           227.265 of the statutes; **relating to:** rule-making procedures and modifying  
5           and creating administrative rules related to long-term care insurance.

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*Analysis by the Legislative Reference Bureau*

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

6           **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:  
7           13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.  
8           227.265 affect the same unit of the Wisconsin administrative code without taking  
9           cognizance of the effect thereon of the other rules and if the legislative reference  
10          bureau finds that there is no mutual inconsistency in the changes made by each such

**SENATE BILL 581****SECTION 1**

1 rule, the legislative reference bureau shall incorporate the changes made by each  
2 rule into the text of the unit and document the incorporation in a note to the unit.  
3 For each such incorporation, the legislative reference bureau shall include in a  
4 correction bill a provision formally validating the incorporation. Section 227.27 (2)  
5 is not affected by printing decisions made by the legislative reference bureau under  
6 this paragraph.

7 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

8 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin  
9 administrative code a note explaining any change made under par. (b) or (bm).

10 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

11 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not  
12 apply to any change made by the legislative reference bureau under par. (b) or (bm).

13 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

14 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a  
15 record of each change made under par. (b) or (bm).

16 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

17 13.92 (4) (f) The legislative reference bureau shall notify the agency involved  
18 of each change made under par. (b) or (bm).

19 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,  
20 is amended to read:

21 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau  
22 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the  
23 preceding register, including emergency rules filed under s. 227.24 (3).

24 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,  
25 is amended to read:

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1           35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been  
2 affected by rules filed with legislative reference bureau under s. 227.20 (1) or  
3 modified under s. 227.265, in accordance with sub. (3) (e) 1.

4           **SECTION 8.** 35.93 (3) of the statutes is amended to read:

5           35.93 (3) The legislative reference bureau shall compile and deliver to the  
6 department for printing copy for a register which shall contain all the rules filed  
7 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the  
8 preceding issue of the register was made and those executive orders which are to be  
9 in effect for more than 90 days or an informative summary thereof. The complete  
10 register shall be compiled and published before the first day of each month and a  
11 notice section of the register shall be compiled and published before the 15th day of  
12 each month. Each issue of the register shall contain a title page with the name  
13 “Wisconsin administrative register”, the number and date of the register, and a table  
14 of contents. Each page of the register shall also contain the date and number of the  
15 register of which it is a part in addition to the other necessary code titles and page  
16 numbers. The legislative reference bureau may include in the register such  
17 instructions or information as in the bureau’s judgment will help the user to correctly  
18 make insertions and deletions in the code and to keep the code current.

19           **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin  
20 Act 20, is amended to read:

21           35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the  
22 appropriate chapters of the Wisconsin administrative code each permanent rule filed  
23 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265  
24 and, for each chapter of the administrative code affected by a rule, do all of the  
25 following:

**SENATE BILL 581****SECTION 10**

1           **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act  
2 20, is amended to read:

3           35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register  
4 in accordance with the filing deadline for publication established in the rules  
5 procedures manual published under s. 227.15 (7) or, in an end-of-month register  
6 agreed to by the submitting agency and the legislative reference bureau, or, in the  
7 case of a rule modified under s. 227.265, in the end-of-month register for the month  
8 in which the bill modifying the rule is enacted.

9           **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

10           227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,  
11 or general order of general application which has the effect of law and which is issued  
12 by an agency to implement, interpret, or make specific legislation enforced or  
13 administered by the agency or to govern the organization or procedure of the agency.  
14 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and  
15 s. 227.10 does not apply to, any action or inaction of an agency, whether it would  
16 otherwise meet the definition under this subsection, which:

17           **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

18           227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency  
19 as follows:

20           **SECTION 13.** 227.265 of the statutes is created to read:

21           **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule  
22 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.  
23 Instead, the legislative reference bureau shall publish the repeal or modification in  
24 the Wisconsin administrative code and register as required under s. 35.93, and the  
25 repeal or modification shall take effect as provided in s. 227.22.

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1           **SECTION 14.** 227.27 (2) of the statutes is amended to read:

2           227.27 (2) The code shall be prima facie evidence in all courts and proceedings  
3 as provided by s. 889.01, but this does not preclude reference to or, in case of a  
4 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~  
5 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy  
6 of a rule shall also and in the same degree be prima facie evidence in all courts and  
7 proceedings.

8           **SECTION 15.** Ins 3.46 (13) (a) (intro.) and 2. of the administrative code are  
9 consolidated, renumbered Ins 3.46 (13) (a) and amended to read:

10           Ins 3.46 (13) (a) An insurer may provide compensation to an intermediary ~~or~~  
11 ~~other representative~~, and an intermediary ~~or representative~~ may accept  
12 compensation for the sale of a long-term care policy or certificate only if: ~~2. The~~ the  
13 compensation provided in the 2nd year or period and subsequent years is the same  
14 as ~~provided in the 2nd year or period~~ and is provided for at least 5 renewal years.

15           **SECTION 16.** Ins 3.46 (13) (a) 1. of the administrative code is repealed.

16           **SECTION 17.** Ins 3.46 (13) (b) of the administrative code is amended to read:

17           Ins 3.46 (13) (b) ~~No~~ Except as provided in par. (c), no person may provide  
18 compensation to an intermediary, ~~representative or producer~~, and no intermediary,  
19 ~~representative or producer~~ may accept compensation, relating to the replacement of  
20 a long-term care policy or certificate which is greater than the renewal compensation  
21 provided by the replacing insurer for the replacing policy or certificate. Long-term  
22 care policies this paragraph ~~applies~~ and par. (c) apply to include, but are not limited  
23 to, long-term care policies, nursing home policies and home health care policies  
24 issued prior to June 1, 1991.

25           **SECTION 18.** Ins 3.46 (13) (c) of the administrative code is created to read:

**SENATE BILL 581****SECTION 18**

1           Ins 3.46 (13) (c) A person may provide to an intermediary, and an intermediary  
2 may accept, compensation relating to the replacement of a long-term care policy or  
3 certificate; which compensation is no greater than the first-year compensation  
4 provided by the replacing insurer for the replacing policy or certificate if, in addition  
5 to requirements contained in sub. (14), all of the following criteria are satisfied:

6           1. The replacing insurer has established reasonable standards for which  
7 first-year compensation is appropriate for the replacement.

8           2. The standards referenced in subd. 1. include all of the following standards:

9           a. The replacing policy is suitable for the applicant.

10           b. The replacing policy materially improves the position of the applicant,  
11 including, but not limited to, the coverage, price, premium stability, or financial  
12 strength ratings of the insurer.

13           c. The intermediary has done an assessment of the replacement transaction  
14 justifying the replacement according to the insurer's replacement standards and this  
15 subd. 2. c. and submits that assessment to the insurer as part of the application for  
16 replacement.

17           d. The insurer evaluates each replacement and affirmatively approves or  
18 denies the replacement's qualification for first-year compensation of the replacing  
19 policy.

20           e. The standards and methodology are subject to review by the office of the  
21 commissioner of insurance.

22           3. The replacing insurer has established an auditable methodology for  
23 evaluating replacements that qualify for first-year compensation.

24           **SECTION 19. Effective dates.** This act takes effect on the day after publication,  
25 except as follows:

