



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 14-075

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

1. Statutory Authority

While ss. 227.11 (2) (a), 601.41 (3), and 628.38, Stats., appear to provide authority for this rule-making, it is unclear how s. 628.34 (12), Stats., which the department also lists as authority, is relevant to this rule-making.

2. Form, Style and Placement in Administrative Code

a. SECTION 1 of the rule proposes to repeal s. Ins 2.14 (4) (g) 1. However, the reference to sub. (4) is absent from the treatment clause of that SECTION. Additionally, if this subdivision is eliminated, it would be much clearer to also eliminate s. Ins. (4) (g) 2. and amend par. (g) to incorporate the language from subd. 2. into that paragraph.

b. The rule proposes to amend s. Ins 2.15 (3) (b) 2. and divide it into two subdivision paragraphs [s. Ins. 2.15 (3) (b) 2. a. and b.]. This is problematic for two reasons. First, it disrupts the grammatical structure of s. Ins. 2.15 (3) (b). Currently, that paragraph is organized as a list in which each item in the list is represented by a separate subdivision and separated by a semicolon. Inserting two separate complete sentences between items in the list, as the department proposes, is confusing and would render the paragraph grammatically incorrect. Second, division beyond the subdivision level should be avoided whenever possible. [s. 1.03 (2) (f), Manual.] The department might instead consider incorporating the relevant language from proposed s. Ins. 2.15 (3) (b) 2. a. into s. Ins. 2.15 (3) (b) 2., using the words “except that” instead

of “notwithstanding subdivision 2. above.”. The department might also consider whether the language in proposed s. Ins. 2.15 (3) (b) 2. b. is necessary.

c. The introductory clause of the definition of “Buyer’s Guide”, in SECTION 3 of the proposed rule, should be reworded to read: ““Buyer’s Guide” means one of the following buyer’s guides adopted by the National Association of Insurance Commissioner (NAIC):”. Additionally, although division beyond the subdivision level should generally be avoided, in this instance dividing the two subdivisions that follow the first clause of the definition might improve the clarity of the definition. For example, “1. With respect to sales of fixed or fixed index annuities, either: a. The Buyer’s Guide for Fixed and Variable Annuities (2013); or b. The Buyer’s Guide for Deferred Annuities – Fixed Only (2013).”. In any event, the department should ensure that all references to the NAIC documents contain the documents’ complete titles and dates. In the proposed rule, dates are listed only after the second document in each subdivision. Also, the phrase “for purposes of this section” in the definition is superfluous and should be eliminated.

d. In SECTION 4 of the proposed rule, the word “applicable” is unnecessary because the department’s revisions to the definition of buyer’s guide already specify when each buyer’s guide applies. The department should replace “the applicable Buyer’s Guide” with “a buyer’s guide” throughout this SECTION. Also, in instances such as this--when the rule refers to a buyer’s guide, rather than the title of a specific document--the term should not be capitalized.

e. In SECTION 4 of the proposed rule, the department has included new language in at least two places without underscoring it to indicate that it is new language. For example, in the revisions to s. Ins. 2.15 (8) (a) 2. and s. Ins. 2.15 (8) (c), the words “the applicable” are not underscored. Also, note that new, underscored material always follows stricken text. [s. 1.06 (1) (a), Manual.]

f. In SECTION 5 of the proposed rule, the department has underscored existing language that is not changed by the rule.

g. It appears the proposed rule would eliminate all of the references to the Wisconsin Buyer’s Guide to Annuities in ch. Ins. 2 with the exception of that guide itself, which is contained in Appendix 1 to s. Ins. 2.15. Why does the rule not repeal the Wisconsin Buyer’s Guide?

h. In SECTION 6 of the proposed rule, “These changes” should be changed to “This rule”. Also, SECTION 6 should include a title, “Effective Date”, in the format specified in s. 1.04, Manual.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The department should ensure that all citations within the rule are formatted correctly and that the same citation format is used throughout.