



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor  
Mark V. Afable, Commissioner

Wisconsin.gov

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**Legal Unit**  
125 South Webster Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 267-9586 • Fax: (608) 264-6228  
oci.wi.gov

## Report From Agency

Report on Section Ins 4.10, Wis. Adm. Code, relating to the Wisconsin Insurance Plan ("WIP")

### **Clearinghouse Rule No. 18-097** Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

#### **(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:**

The Wisconsin Insurance Plan (WIP) is a residual property insurer that was created to provide basic property insurance on certain properties rejected by other insurers for coverage and is governed by s. Ins 4.10, Wis. Adm. Code. The Office of the Commissioner of Insurance (OCI) intends to update outdated provisions in the section based on recommendations from the WIP governing committee regarding obsolete coverages and insufficient maximum coverage limits. In addition, the proposed rule will make revisions to the structure of the governing board to allow WIP to operate in a more effective and efficient manner.

Under the current rule, WIP provides coverages for builders risk under s. Ins 4.10 (3) (a) 1., Wis. Adm. Code, and crime under s. Ins. 4.10 (3) (a) 2., Wis. Adm. Code. Both coverages have become obsolete as the standard market has done a good job in providing for these coverages. In the past 20 years WIP has not written a policy with a builders risk endorsement. In addition, WIP has only received approximately three applications for theft/burglary coverage in the past 30 years with none in the past 18 years. Accordingly, the proposed rule will delete these two coverages as they are no longer necessary.

The proposed rule will also reduce the number of positions on the governing board to address changing circumstances and allow WIP to operate more effectively and efficiently. Section Ins 4.10 (6) (b), Wis. Adm. Code, currently provides for a governing board consisting of 15 members. However, due to changing circumstances, including the amount of business WIP writes and the consolidation of associations, a 15 member board is no longer warranted. The proposed rule will reduce the size of the board to 11 members with the following changes.

Initially, the proposed rule planned to eliminate three positions reserved for associations by eliminating a member from the Alliance of American Insurers (AAI) and two of the four positions reserved for members of the Wisconsin Insurance Alliance (WIA) under s. Ins 4.10 (6) (b) 1., Wis. Adm. Code. This change was made based on the fact that the AAI no longer existed and WIA had indicated to OCI that two positions were a more

appropriate level of representation in light of the overall desire to reduce the size of the governing board. In addition, the National Association of Independent Insurers (NAII) was changed to the Property and Casualty Insurers of America (PCIA) to reflect the association's new name after a merger with another association. However, during the hearing OCI was informed that the PCIA had merged with the American Association of Insurance making the revisions under the current proposed rule outdated; it was suggested that OCI revise the provision to provide for more flexibility as associations often merge and change names. Accordingly, the proposed rule now reserves four membership positions to be nominated by national and state property and casualty trade associations.

The proposed rule will also eliminate one of the five consumer positions appointed by the Commissioner under s. Ins 4.10 (6) (b) 3., Wis. Adm. Code., which has remained vacant over the past year. Lastly, the proposed rule will reduce the required number for quorum from eight to six members under s. Ins 4.10 (7) (a) and (8) (c), Wis. Adm. Code., in light of the reduced board size. Accordingly, these changes will allow the governing board to operate more effectively and efficiently while still providing an adequate level of representation for the current members and their interests.

Finally, the proposed rule will increase the maximum coverage limits for Customary Fire and Extend Coverage and Homeowner's risk under s. Ins 4.10 (4) (b) and (d), Wis. Adm. Code. The current maximum coverage limits of \$200,000 have not been revised since the late 1990's and are no longer sufficient. The proposed rule will increase the coverage limits to \$350,000. In addition, the proposed rule will increase the maximum coverage limit for personal property from \$100,000 to \$175,000 under s. Ins 4.10 (4) (b), Wis. Adm. Code. This change was made at the request of WIP in order to comply with their filed form for dwelling coverage, which automatically sets personal property coverage at 50 percent of the dwelling coverage limit set by the policy. These changes are necessary to ensure that WIP has the ability to provide insureds with the appropriate level of coverage for these risks.

**(b) Summary of the public comments and the agency's responses to those comments:**

**Comment:** During the hearing Andy Franken, Wisconsin Insurance Alliance, suggested the provision governing the appointment/election of board members by associations be amended to provide for more flexibility in assigning which associations name/elect members to the board. The issue arises in the fact that associations often merge/change names/dissolve leaving the rule outdated when it names a specific association that no longer exists, which actually occurred during the promulgation of this proposed rule when the PCIA merged with the American Insurance Association.

Response: OCI is revising the provision to allow for more flexibility for national and state property and casualty associations to designate board members, which remains at four positions.

**Comment:** On July 17, 2019, OCI held a telephone conversation with the Plan Manager for WIP, Kate Manna. Ms. Manna notified OCI of one additional change that was necessary to avoid significant disruption to WIP, which was increasing the maximum coverage limit for personal property from \$100,000 to \$175,000 under s. Ins 4.10 (4) (b), Wis. Adm. Code. WIP explained that their current filed form for

dwelling coverage automatically sets personal property coverage at 50 percent of the dwelling coverage limit set by the policy. Accordingly, increasing the maximum dwelling coverage limit to \$350,000 also necessitated increasing the personal property coverage limit to \$175,000. Alternatively, WIP would have to refile their dwelling form in order to avoid being in noncompliance with this provision, which would cause an administrative burden on WIP.

Response: OCI increased the personal property maximum coverage limit from \$100,000 to \$175,000 under s. Ins 4.10 (4) (b), Wis. Adm. Code. This change not only mitigates an administrative burden on WIP, but will also provide for a more appropriate level of coverage, which is the primary purpose of increasing the coverage limits.

**(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:**

Please see Section (b).

**(d) Persons who appeared or registered regarding the proposed rule:**

**Appearances for:**

Andy Franken  
Representing Wisconsin Insurance Alliance

**Appearances against:**

None

**Appearances for information:**

None

**Registrations for:**

Jess Alanis  
6000 American Parkway  
Madison, WI 53783  
Representing American Family Insurance

**Registrations against:**

None

**Registrations neither for nor against:**

None

**Letters received:**

**(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.**

OCI made two changes to the plain language analysis to reflect modifications OCI made based on public comments. As described above in more detail, OCI revised the provision governing the appointment/election of board members by national and state property and casualty trade associations to allow for more flexibility in designating members. This revision was made since associations often merge and change names leaving the provision outdated if new associations cannot be designated. In addition, the proposed rule will increase the maximum coverage limit for personal property from \$100,000 to \$175,000 under s. Ins 4.10 (4) (b), Wis. Adm. Code. This change was made at the request of WIP in order to comply with their filed form for dwelling coverage, which automatically sets personal property coverage at 50 percent of the dwelling coverage limit. Since the new maximum coverage limit for dwelling will be \$350,000, the maximum coverage limit for personal property also must be increased to \$175,000.

In addition, OCI updated Sections 4 and 13 of the Fiscal Estimate and Economic Impact Analysis to reflect the modification of increasing the maximum coverage limit for personal property from \$100,000 to \$175,000 under s. Ins 4.10 (4) (b), Wis. Adm. Code. Under Section 13 the potential fiscal impact was increased from \$750,000 to \$1,125,000. Despite the increased potential fiscal impact, OCI's position regarding increasing the maximum coverage limits has not changed for the same reasons initially outlined in Section 13. First, historical loss data suggests it is extremely unlikely that the fiscal impact would ever be fully realized, and if it did occur, WIP is positioned to handle the increased exposure. In addition, the increased coverage limits will provide for a more appropriate level of coverage for Wisconsin insureds as the current levels are outdated.

**(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:**

All comments were complied with and corrected.

**(g) The response to the report prepared by the small business regulatory review board:**

The small business regulatory review board did not prepare a report.

**(h) Final Regulatory Flexibility Analysis**

A Final Regulatory Flexibility Analysis is Not Required because the rule will not have a significant economic impact on a substantial number of small businesses.

**(i) Fiscal Effect**

See Fiscal Estimate and Economic Impact Analysis attached to proposed rule.

Attachment: Legislative Council Staff Recommendations