

Chapter Ins 2

LIFE INSURANCE

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Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with section 209.07, Wis. Stats., or shall indulge in any practice which is at variance with said section.

91 — Ins 2.02 Stock companies writing participating policies. (1) Section 206.13, Wis. Stats., sets out special requirements that must be met before a stock life insurance company issuing both participating and nonparticipating policies may be licensed to do business in this state. Briefly stated, the requirements are that: (a) Participating policies must " * * by their terms, give to the holders thereof full right to participate annually in the surplus accumulations from the participating business of such company as provided by law of this state."

(b) An agreement must be filed with the commissioner that " * * in consideration of being permitted to issue both participating and nonparticipating policies, the accounts of each class will be kept separate, and that no part of the funds accumulated or belonging to the participating class shall ever be voluntarily transferred to the nonparticipating class, except such as the existing charter of the company may require."

(2) Section 206.36, Wis. Stats., prescribes the payment of annual dividends on participating life insurance policies and is no doubt the "law of this state" referred to in section 206.13, Wis. Stats. This section authorizes " * * making provision for the payment of authorized dividends upon the capital stock * * *" as a deduction from earnings on participating policies in the computation of the amount available for dividends to policyholders.

(3) (a) Section 206.14 (1), Wis. Stats., concerns stock companies "doing business on the participating plan" and provides that before such a company may secure a license to do business in this state, it must file with the commissioner a statement under oath of the president and secretary, stating "(a) the amount of the unassigned surplus of such company; (b) the amount of said surplus or the interest or right therein belonging to the policyholders; (c) the amount of such surplus or the interest or right therein belonging to the stockholders; (d) the method of ascertainment and the action determining the rights of such policyholders and stockholders respectively; (e) the agreement of the company that such method shall not be changed so as to affect policies issued thereunder."

(b) Section 206.14 (2), Wis. Stats., provides that no license shall be issued to any such stock company " * * * until the commissioner is satisfied that the rights of such policyholders are fully and legally determined."

(4) (a) Both of these sections of the statutes were enacted in 1907, following the legislative investigation of life insurance companies in 1906. Both sections have since been amended with the result that earlier rulings construing the same cannot now be applied. It is our purpose in issuing this ruling to set out what we consider to be minimum general requirements that must be met in order that the commissioner of insurance may be "satisfied that the rights of such policyholders are fully and legally determined."

(b) Section 206.13, Wis. Stats., recognizes that there may be a charter provision permitting the transfer of a part of the profits on the participating business to the nonparticipating department, hence available for dividends to stockholders. Section 206.14, Wis. Stats., implies that a portion of the profits on the participating business may be taken by the stockholders. Any stock life insurance company which issues any participating policies is required to file the statement required by section 206.14, Wis. Stats., and is subject to the further provision that a license shall not be issued "until the commissioner is satisfied that the rights of such policyholders are fully and legally determined." Stock companies issuing participating policies as described in section 206.14, Wis. Stats., come within the language of section 206.13 (1), Wis. Stats., and therefore must issue contracts providing for full participation.

(c) The statutes thus requiring "full right to participate" to be granted participating policyholders and that the commissioner "be satisfied" that the rights of the policyholders are "fully and legally determined", place upon the commissioner a duty to determine the value of the benefit, if any, the policyholders derive from the contributions made by the stockholders in the purchase of the capital stock. As the investment of the capital presents little underwriting hazard during the first few years because of recent medical examination of the policyholders, and in the course of time the amount of the capital is but a small proportion of the investment made by the policyholders, to hold that the stockholders are entitled to a certain rate of return, such as 5 per cent, on their total contributions, without regard to the payment or nonpayment of dividends to policyholders would result in great inequity to the policyholders. To avoid any inequities and to prevent nullification of the "full right to participate" provision of the law, the commissioner must be "satisfied that the rights of the policyholders are fully and legally determined." The word "legally" may be taken to refer to the limitation of the amount that can be taken by the stockholders (who are in control of the management) as well as to the form of the agreement filed. The whole purpose of the law is to protect the policyholders and not to restrict the commissioner's action to passing upon the form of an agreement regardless of its effect upon the vital interests of the policyholders. To act upon the premise that the commissioner's action can deal only with the form of the agreement would be to work a fraud upon the policyholders who may rightfully expect to receive some degree of protection from those whom they have placed in positions of trust.

(5) (a) A thorough consideration of the purpose and intent of sections 206.13, 206.14 and 206.36, Wis. Stats., convinces us that the following general limitations are just, reasonable and in keeping with the tenor of the statutes and may properly serve as a basis for action by the commissioner of insurance in passing upon applications for license by stock life insurance companies issuing participating policies, to wit:

(b) All policies purporting to be issued on the participating basis shall in fact be fully participating in the surplus developed on the total participating business of the company. In the determination of the surplus accruing upon the participating business, such class shall be charged annually only with the actual losses and expenses properly chargeable thereto and such amount as may be transferred to the account of the stockholders in keeping with this ruling.

(c) The agreement to be filed by the company shall limit the amount that may be taken in any year from the earnings on the participating business for the benefit of stockholders or be credited to their account to 5 per cent simple interest on their contributions to the capital and surplus accounts or 10 per cent of the profits on the participating business, whichever method of computation produces the lower amount. It shall also provide that upon mutualization or liquidation of the company, the total available to the stockholders shall not exceed their cash contribution to capital and surplus plus the amounts credited annually by the foregoing rule accumulated with interest at a rate not in excess of 5 per cent simple interest and less dividends paid in cash similarly accumulated on the same interest basis.

(d) The limitations on the amount available to stockholders from the surplus produced by the participating business which may be adopted by the company in conformity with subsection (5) (c) above, shall also be set out in the charter or articles of incorporation.

Ins 2.03 Policies not dated back to lower insurance age. (1) No company shall issue for delivery in this state any policy or contract of life insurance which purports to be issued or to take effect as of a date more than six months before the application therefor was made, if thereby the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. The date of application must be considered to be the date on which the application (Part I) or the medical examination (Part II) is completed, whichever is the later.

(2) This ruling does not prohibit the exchange, alteration or conversion of policies of life insurance as of the original date of such policies if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy would have purchased if the new policy had been originally applied for, whichever is greater; nor prohibit the exercise of any conversion privilege contained in any policy or contract.

Ins 2.04 Substandard risk rates. Life insurance companies may charge premiums in excess of the maximum premiums as defined in section 206.26, Wis. Stats., provided the addition to the maximum

premium is made to cover the extra risk owing to the fact that the person is a substandard risk, or is engaged in a hazardous occupation.

Ins 2.05 Total permanent disability benefits in life insurance premiums and reserves. (1) A policy of life insurance which provides for waiver of premium or special surrender value, not exceeding the face of the policy, in case of the total and permanent disability of the insured, by reason of accidental bodily injury or sickness, is permitted under the laws of this state. Such policies are required to have printed or stamped thereon a statement specifying separately the amount of premium charged for such benefits; provided, however, if such provision or provisions are incorporated in life policies now being issued, without additional premium charge, the ultimate cost thereof to be charged against the surplus accruing on such policy, a statement setting forth that fact printed or stamped upon the policy will be sufficient.

(2) Reserve values on account of such provisions will be based upon such standards as this department may prescribe. The company issuing such policies will be required to file in this department such data concerning such policies and such provisions as the commissioner may direct.

Ins 2.06 Credit life insurance. (1) **PURPOSE.** This rule implements and interprets applicable statutes for the purpose of establishing minimum requirements for the transaction of credit life insurance.

(2) **POLICY PROVISIONS.** (a) Credit life insurance policies may include total and permanent disability benefits or may include credit accident and health benefits as defined in section 201.04 (4a), Wis. Stats. Credit life insurance policies which include credit accident and health insurance benefits shall contain all of the appropriate required provisions relating to such insurance.

(b) Each individual policy or group certificate of credit life insurance shall, in addition to other filing requirements, set forth:

1. The name and home office address of the insurer.
2. The name of the debtor.
3. The amount and term of the coverage.
4. The amount of premium or identifiable charge separately for credit life insurance, for total and permanent disability benefits, and for credit accident and health insurance when the debtor has paid or obligated himself to pay all or any part of the premium or identifiable charge.
5. A description of the coverage, including any exceptions, limitations, or restrictions.
6. A provision that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness.
7. A provision that the insurance on any debtor will be cancelled if his indebtedness is terminated through prepayment, refinancing, or otherwise.
8. A provision that a refund will be granted, in the event of cancellation, calculated in accordance with a formula filed with the commissioner of insurance. This provision shall not be required if the debtor has not paid or obligated himself to pay all or any part of the premium or identifiable charge.

(c) If a contract of credit life insurance provides for a limitation of coverage based upon an excessive amount of insurance on the life

of the debtor, such limitation shall be explained to him in connection with the placing of the insurance and shall be evidenced by an appropriate question in the application over the signature of the debtor. Such question may be substantially of the following form which may be varied to meet the requirements of particular cases: Do you understand that the amount payable on this policy shall not be more than the excess of \$_____ over the amount of other credit life insurance which shall be payable upon your death? Answer _____.

(d) If a contract of credit life insurance provides for a limitation of coverage based upon the age of the debtor, such limitation shall be explained to him in connection with the placing of the insurance and shall be evidenced by an appropriate question in the application over the signature of the debtor. Such question may be substantially of the following form which may be varied to meet the requirements of particular cases: Do you understand that the amount payable on this policy shall be the following percentages of the amount otherwise payable under this contract except for the restrictions based upon your present age? Answer _____.

Age	Percent Payable
Below 50 _____	100%
51-54 _____	75%
55-59 _____	50%
60-64 _____	25%
65 and over _____	None

(3) **TERM OF CREDIT LIFE INSURANCE.** The term of any credit life insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. The term of such insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor.

(4) **AMOUNT OF CREDIT LIFE INSURANCE.** The amount of credit life insurance shall not exceed the maximum set forth in section 206.63 (2) (a), Wis. Stats.

(5) **REFUNDS IN EVENT OF CANCELLATION OF INSURANCE.** Schedules for computing refunds in event of cancellation of credit life insurance prior to the scheduled maturity date of the indebtedness must meet the following minimum requirements:

(a) Schedules used to compute the refund in connection with decreasing life insurance contracts must provide for a return at least equal to that which would be provided by application of the so-called "Rule of 78" sometimes referred to as the "sum of the digits rule."

(b) Schedules used to compute the refund in connection with level amount credit life insurance written on single payment, irregular, or balloon note transactions must provide for a refund at least equal to the amount which would be granted if the so-called "calendar pro rata method" were used.

(c) Refunds shall be based upon the number of full months prepaid from the maturity date of the policy, counting a fractional month of 16 days or more as a full month.

(d) Upon termination of indebtedness repayable in a single sum prior to the scheduled maturity date, the refund shall be computed from the date of termination to the maturity date with allowance for a full month for an unexpired fractional period of 15 days or more. For example, consider a credit life insurance policy issued in connection with an indebtedness incurred January 1, 1958, to be repaid January 1, 1959. If the indebtedness terminated June 15, 1958, use June 1, 1958, to compute the refund for 7 months. If the indebtedness terminated June 16, 1958, use July 1 to compute the refund for 6 months.

(e) Credit must be given to the debtor for all refunds, regardless of amount, provided that no refund or credit need be made by an insurer if the amount thereof is less than one dollar.

(6) EVIDENCE OF INSURANCE. A policy or certificate of credit life insurance must be delivered to the debtor within at least 30 days of the date upon which indebtedness is incurred. If a policy or certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the amounts of premium or identifiable charge separately in connection with credit life insurance and credit accident and health insurance, and a description of the coverage provided, shall be delivered to the debtor at the time the indebtedness is incurred. The copy of the application for or notice of proposed insurance shall refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement unless the information is prominently set forth therein. Said application for or notice of proposed insurance shall state that, upon acceptance by the insurer, the insurance shall become effective as of the date the indebtedness is incurred.

(7) APPROVAL OF FORMS AND RATES. (a) All forms of policies, riders, endorsements, certificates, applications, notices of proposed insurance, or other instruments which will be issued or delivered in Wisconsin as a part of a credit life insurance contract shall be submitted to the commissioner of insurance for approval under the terms of this rule.

(b) No policy, rider, endorsement, certificate, application, notice of proposed insurance, or other form pertaining to a credit life insurance contract shall be issued or delivered in Wisconsin on or after the effective date of this rule unless such forms are filed with the commissioner of insurance and approved by him. No credit life insurance shall be effected on a debtor under an existing group policy, commencing with the policy anniversary date on or after the effective date of this regulation, unless a certificate of group insurance or a notice of proposed group insurance, as required herein, is delivered to the debtor on a form filed with the commissioner of insurance and approved by him.

(c) In considering a form of policy, rider, or endorsement for approval, the commissioner of insurance will also consider information submitted in the rate schedule which shall accompany such form. The rate schedule shall also be subject to approval by the commis-

sioner of insurance and shall contain or be accompanied by the following information:

1. The form number or identification symbol of each policy, rider, or endorsement to which the rates apply.

2. A schedule of rates including variations, if any, based on age, sex, occupation, or other classification.

3. An indication of the anticipated benefits payable under the policy, including loss ratio.

4. If the rate filing is a revision of a prior filing, the new filing shall be accompanied by a statement of the experience on the form and the anticipated loss ratio under the revised rate filing.

(d) If an identifiable charge is made to the debtor under a policy of credit life insurance, such identifiable charge shall not exceed the premium set forth in the rate schedule filed with the commissioner of insurance.

(e) On or before February 16, 1959, each insurer authorized to do business in Wisconsin shall furnish the commissioner of insurance a list of all policies, riders, endorsements, certificates, applications, notices of proposed insurance, or any other instruments which it intends to issue to insure residents of Wisconsin for credit life insurance.

(8) **ACCOUNTING.** Insurers shall maintain records regarding premiums, losses, and other benefits and expenses separately for credit life insurance, for total and permanent disability benefits, and for credit accident and health insurance provided by a policy form so that such experience may be filed with the commissioner of insurance at such times and in such manner as may be prescribed by him. The commissioner of insurance may require insurers to file with him such other information as he may deem necessary for the administration of credit life insurance.

(9) **NONWAIVER OF OTHER REQUIREMENTS.** This rule does not confer any rights on lenders or other creditors which are not permitted by the laws which apply to them.

History: Cr. Register, December, 1958, No. 36, eff. 1-1-59; am. (5) (c), Register, March, 1959, No. 39, eff. 4-1-59.

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