

(7) RESERVE VALUES. Reserve values, on account of included provisions, will be based upon the requirements of section 206.201, Wis. Stats., or other applicable statutes or, in the absence of specific requirements, on such additional standards as the commissioner of insurance may prescribe.

(8) EFFECTIVE DATE. On or after April 1, 1965, no life insurance policy shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless it meets the requirements of this rule.

(9) SEPARABILITY. If any provision of this rule shall be held invalid, the remainder of the rule shall not be affected thereby.

*Note:* The repeal of the previous rule and the adoption of this rule was prompted by the inconsistency which existed between the repealed rule and provision 2 of section 206.18 (1), Wis. Stats. This inconsistency caused an erosion in the application of the old Wisconsin Administrative Code section Ins 2.05 to the point where any of the benefits listed in the new rule were acceptable for inclusion in a life policy without a separate statement—a practice which is in almost complete disagreement with the apparent intent of the statute.

Provision 2 of section 206.18 (1), Wis. Stats., requires an individual statement of the premium charged for any benefit provided in a life or endowment policy separate from the premium charged for the basic life or endowment coverage which is based on a life contingency table and provided by the policy. The department feels that this full disclosure has strong merit even in the present insurance market. However, in the years since the enactment of this statute in 1909 several changes have taken place in the life insurance industry that necessitate a rule providing standards to determine whether certain disability benefits may be included in a life or endowment insurance policy without a separate statement of the premium charge in line with the original intent of the statute. The principal changes are:

1. The automatic inclusion of some benefits in a policy enables an insurance company to provide some additional disability benefits at a relatively small cost in relation to the charge for the basic life or endowment insurance coverage.

2. Custom of the business through the years has now classed some disability coverages as benefits which are a supplemental policy provision in most life or endowment policies and sometimes needed as an integral part of the policy.

The public interest dictates that it is expedient to recognize these two changes when the cost for the disability benefit is low or nominal, the coverage is needed, and is easily understood by the applicant or insured. This rule provides criteria to determine disability coverages which may be defined as an integral part of the basic life and endowment insurance and are, therefore, benefits which may be included without a separate and distinct statement of premium.

The new rule was developed as a result of the following main considerations:

1. The department has a strong concern for disclosure in situations where intentional or unintentional misrepresentation may be present to mislead or confuse prospective purchasers of life insurance. The statutory basis for this authority is set forth in section 207.04, Wis. Stats. *present*

2. The disclosure philosophy in Wisconsin in respect to life insurance coverage premiums originated in the year 1909 when the Legislature enacted section 1948m (now section 206.18 (1), provision 2, Wis. Stats.) requiring that a policy of life insurance specify "separately the premium charged for any benefit promised in the policy other than life or endowment insurance."

The 1908 Wisconsin Insurance Report to the Governor stated:

"Notwithstanding the liberal provisions for expenses which are possible under the new laws, several devices for increasing this amount far beyond the proposed benefits have been submitted to this department for its approval. There is an increasing tendency to introduce into contracts for life insurance provisions for additional benefits such as old age, disability and sick benefits. These forms of insurance in many cases are very desirable but it is rarely that the addition of these benefits to policies spring from an honest desire on the part of the companies to furnish the insurance protection. Their addition to policies of life insurance ordinarily only serves as a cloak for the addition of a greatly increased premium. The policyholder should be informed separately of what is charged him for the life insurance and what is charged him for the old age, disability or sick benefit insurance. This information should be contained in the contract of insurance. Policyholders can then judge for themselves whether the additional benefits are worth the charges which it is proposed to exact and both the company and the policyholder can get the resulting economy in agency and medical expenses from writing the two contracts at the same time."

These observations apparently prompted the Legislature in the following year to enact section 1948m.

3. Additional insight in respect to the original intent of the disclosure statute is given in Commissioner Cleary's letter on this subject dated October 22, 1915. In this letter the Commissioner had under consideration two filings in which a waiver of premium benefit was included in a policy form previously used. The new coverage with the total and permanent disability benefit was to be sold at the same price previously used only for the basic coverage. Commissioner Cleary indicated the following in respect to liberalization of policies where no direct charge is made for the additional benefit.

"Subdivision 2, of section 1948m, Wisconsin statutes, provides that no policy of insurance (Life) shall be delivered in Wisconsin after the year 1909 unless it contains a table specifying separately the premium charged for any benefit promised in the policy other than life or endowment insurance \* \* \*'. It is argued that policies such as those proposed by the Prudential are subject to said section, and are required to show in a separate table the charge for such additional benefits.

"I cannot agree with this contention. I do not believe that it was the intention of the legislature, when it enacted this law, to restrict insurance companies in a liberalizing of their policies where no direct charge to the assured was made for the added benefit and where such additional benefit would not endanger the solvency of the company. I conclude, after considering the statute carefully, that what the legislature had in mind was rather a situation where the company proposed to give benefits other than death and endowment benefits which involved additional premium charges, in which event the company must specifically state what that additional charge is. I take it that this provision was incorporated so that the assured might know what he was paying for the benefit promised; that the cost should not be concealed in a lump premium charge."

Commissioner Cleary also commented on the fact that even though there is no significant premium charge there is an increased company liability because of the provision and that a limited disclosure was needed to obtain approval. The last paragraph of the letter sets forth this position as follows:

"There can be no question that the added benefits promised in these policies cost the company something. The liability of the company on every outstanding policy containing this provision is greater than it would be if pure life or endowment insurance were the only benefits promised. It will be necessary, therefore, to take this additional benefit into account in valuing these policies. For this reason the policy should, by a printed or stamped provision incorporated in the policy, state the amount estimated as the cost of such benefit. This provision may also state that such sum is included in the premium charged. The sum so stated should be adequate, and will be a guide to actuaries in valuing the policies. The approval hereby given to the policies is subject to the incorporation of such a provision."

The above considerations provide a basis for the standards or criteria adopted in this rule.

**History:** 1-2-56; r. and recr., Register, March, 1965, No. 111, eff. 4-1-65.

**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 by description, formula, schedule, or by equating both to the amount and term of the indebtedness. An insurer may submit other methods for indicating amount

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and term, subject to the approval of the commissioner, which it believes are equally clear.

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 or termination. The individual policy or group certificate shall either describe the method of computing the refund or state that the formula or schedule for such computation has been 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 the amount of coverage related to credit life insurance provided by other contracts in force on the life of the debtor, such limitation shall be explained to the debtor at the time the indebtedness is incurred and shall be acknowledged in writing by him in an instrument separate from the individual policy or group certificate. Alternatively, the individual policy or group certificate shall include a *brief description* or *separate statement* referring to the limitation of amount of coverage. The *brief description* or *separate statement*, if used to meet the foregoing requirement, shall be printed on the first page of the individual policy or group certificate in type more prominent than that used in the text of the policy or certificate and shall clearly indicate the limitation.

(d) If a contract of credit life insurance provides for a limitation of coverage related to the age of the debtor, such limitation shall be explained to the debtor at the time the indebtedness is incurred and shall be acknowledged in writing by him in an instrument separate from the individual policy or group certificate. Alternatively, the individual policy or group certificate shall include a *brief description* or *separate statement* referring to the age limitation. The *brief description* or *separate statement*, if used to meet the foregoing requirement, shall be printed on the first page of the individual policy or group certificate in type more prominent than that used in the text of the policy or certificate and shall clearly indicate the limitation.

(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 or when provided by a group policy the additional premium for which is paid by the policyholder without any additional direct identifiable charge to the debtor. R

(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. If credit life insurance and credit accident and health insurance have been in force on the same indebtedness, the sum of the refunds due on all such contracts shall be used to determine if a refund is due the debtor.

(6) EVIDENCE OF INSURANCE. If an individual policy or group 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 shall be delivered at such time to the debtor. The copy of the application for, or notice of proposed insurance, shall be signed by the debtor and shall set forth the name of the debtor, a description of the coverage, the amounts of premium or identifiable charge separately in connection with credit life insurance and credit accident and health insurance. The copy of the application for or notice of proposed insurance shall also 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 required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer the insurance shall become effective as provided in subsection (3) of this rule.

(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 nor shall a refund schedule be used in Wisconsin on or after the effective date of this rule unless such form and refund schedule 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 commissioner 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; am. (2) (b) 3 and 8; (2) (c) and (d); (5) (e); (6) and (7) (b), Register, October, 1961, No. 70, eff. 11-1-61; am. (3), Register, August, 1962, No. 80, eff. 9-1-62.

**Ins 2.065 Replacement of life insurance policies; disclosure requirements.**

**History:** Cr. Register, March, 1962, No. 75, eff. 5-15-62; am. (3) and (9) (intro. par.), Register, April, 1965, No. 112, eff. 5-1-65; am. (2), Register, June, 1968, No. 150, eff. 7-1-68; renum. Ins 2.07 to be Ins 2.065, and cr. (10), Register, March, 1972, No. 195, eff. 4-1-72; expires June 1, 1972.

**Ins 2.07 Replacement of life insurance policies; disclosure requirements.** (1) PURPOSE. The interest of the life insurance and annuity policyholders must be protected by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of such policies; by making available full and clear information on which an applicant can make a decision in his own best interest; by reducing the opportunity for misrepresentation in replacement or possible replacement situations, and by precluding unfair methods of competition and unfair practices in the business of insurance. This rule implements and interprets sections 201.53 (13), 206.41 (10) (a) 8., and 207.04 (1) (a), Wis. Stats., by establishing minimum standards for the replacement of life insurance and annuities.

(2) SCOPE. This rule shall apply to the solicitation of life insurance and annuities authorized by section 201.04 (3), Wis. Stats., covering residents of this state, and issued by insurance corporations, fraternal benefit societies, the federal government or the state life insurance

fund. The procedures required by this rule shall not apply to the solicitation of group, industrial or credit life insurance described by subsections (3a), (3b) and (3c) of section 201.04, Wis. Stats., nor to the solicitation of insurance which is not in force but which may be purchased under a guaranteed insurability option, nor to the solicitation of short term nonrenewable life insurance policies written for periods not in excess of 31 days, nor to conversions of term insurance to permanent insurance within the same company. All of the provisions of this rule shall apply to non-group annuities except those provisions relating to the Proposal form described in Exhibit A.

(3) DEFINITION. For the purpose of this rule, "replacement" is any transaction wherein new life insurance or a new annuity is to be purchased and it is known to the agent or company at the time of application that as a part of the transaction, existing life insurance or an existing annuity has been or is to be lapsed, surrendered, converted into paid-up insurance, become extended insurance, be subjected to substantial borrowing of loan values whether in a single loan or under a schedule of borrowing over a period of time, or changed to a lower cash value plan of insurance. For the purposes of this paragraph the word substantial shall be construed to mean either a loan of \$250 or more or a loan in excess of 50% of the policy tabular loan values.

(4) DUTIES OF THE AGENT. (a) The agent must:

1. Obtain with or as a part of each application for life insurance or an annuity a statement signed by the applicant as to whether such insurance will replace existing life insurance or an existing annuity on the same life and he must leave a copy of the statement with the applicant for his records;

2. Submit to his company in connection with each application for life insurance or an annuity a statement as to whether, to the best of his knowledge, replacement is involved in the transaction; and the name of every company whose policy he has reason to believe may be replaced.

(b) Where replacement is involved, the agent must:

1. Present a written proposal to each prospect solicited not later than at the time of taking the application and leave it with the applicant for his records;

2. Submit with the application to his company a copy of the proposal and related sales material or a clear identification of the sales material;

3. Immediately notify every applicable company of the possibility of replacement, and promptly furnish a copy of the proposal, and related sales material to each applicable company;

4. Present the notice required by subsection (9) of this rule and related sales material to each prospect solicited not later than at the time of taking the application and leave it with the applicant for his records.

(5) DUTIES OF THE COMPANY. (a) If agents are involved with the solicitation of life insurance or annuities on residents of this state, every authorized company must inform its agents of the requirements of this rule and:

1. Secure with or as part of the application a statement signed by the applicant as to whether the new insurance or annuity will replace