

36. Warehousemen's legal liability.
37. Well drilling equipment.
38. Miscellaneous individual risk floaters.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; emerg. am. (2), eff. 6-22-76; am. (2), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 4.10 Wisconsin insurance plan. (1) **PURPOSE.** This rule is intended to implement and interpret chapter 619, Wis. Stats., for the purpose of establishing procedures and requirements for a mandatory risk sharing facility for basic property insurance coverage. The implementation of the plan shall be in accordance with the urban property protection and reinsurance act of 1968, P.L. 90-448, 82 Stat. 476. This rule is also intended to encourage improvement and reasonable loss prevention measures of properties located in Wisconsin and further orderly community development.

(2) **SCOPE.** This rule shall apply to all insurers included in subsection (3) (b) of this rule, except those organized under chapter 612, Wis. Stats., and farm assessment mutual insurance companies which insure farm property on an assessment basis. This rule shall apply to the state insurance fund established under chapter 605, Wis. Stats., insofar as necessary to qualify for reinsurance under P.L. 90-448.

(3) **DEFINITIONS.** (a) The *Wisconsin Insurance Plan*, hereinafter referred to as the Plan, means the nonprofit, unincorporated facility established by this rule to provide for the issuance of basic property insurance, for risk sharing, and to assist applicants in securing basic property insurance.

(b) *Insurer* means any insurance company authorized to transact in this state on a direct basis basic property insurance, including the property insurance components of multi-peril policies.

(c) *Basic property insurance* means the insurance coverages described below in subdivisions 1., 2., 3. and 4. of this paragraph against direct loss to real and tangible property at a fixed location. The Plan may use customary forms and endorsements to effect coverage contemplated by this paragraph. Other coverage may be added to the Plan by endorsement or policy provision upon approval by the Commissioner.

1. Coverage provided in the standard fire policy under subsection 203.01 of Ins 6.70 and in the customary extended coverage and builder's risk endorsements.

2. Coverage against loss or damage by burglary or theft, or both, as authorized by subsection 201.04 (10) of Ins 6.70.

3. Coverage against the breakage of glass, except in transit, as authorized by subsection 201.04 (11) of Ins 6.70.

4. Coverage at least equivalent to that provided in an actual cash value homeowners policy.

(d) *Location* means a single building and its contents or contiguous buildings and their contents under one ownership.

(e) *Motor vehicles* means vehicles which are self-propelled, including trackless trolley busses.

(f) *Farm risks* are those risks eligible to be written under the customary rates, premiums, and policy forms approved by the commissioner for farm property.

(g) *Manufacturing risks* are those risks eligible to be written under the customary manufacturing business interruption policy forms approved by the commissioner. The following are not considered as being manufacturing risks:

1. Dry cleaning and laundering—Carpet, rug, furniture, or upholstery cleaning; diaper service or infants' apparel laundries; dry cleaning; laundries; linen supply.

2. Installation, servicing and repair—Electrical equipment; electronic equipment; glazing; household furnishings and appliances; office machines; plumbing, heating and air conditioning; protective systems for premises, vaults and safes.

3. Laboratories—Blood banks; dental laboratories; medical or X-ray laboratories.

4. Duplicating and similar services—Blueprinting and photocopying services; bookbinding; electrotyping; engraving; letter service (mailing or addressing companies); linotype or hand composition; lithographing; photo engraving; photo finishing; photographers (commercial).

5. Warehousing—Cold storage (locker establishments); warehouse, cold storage; warehouse, furniture or general merchandise.

6. Miscellaneous—Barber shops; beauty parlors; cemeteries; dog kennels; electroplating; equipment rental (not contractors' equipment); film and tape rental; funeral directors; galvanizing, tinning, and detinning; radio broadcasting, commercial wireless and television broadcasting; taxidermists; telephone or telegraph companies; textiles (bleaching, dyeing, mercerizing or finishing of property of others); veterinarians and veterinary hospitals.

(h) *Weighted premiums written* shall be computed by the Plan as follows:

1. Gross direct premiums less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits, with respect to property in this state (excluding premiums on risks insured under the Plan), shall be computed for basic property insurance, for homeowners multiple peril policies, and for the basic property insurance premium components of all other multiple peril policies.

2. To 50% of the figures obtained for homeowners multiple peril policies shall be added 100% of the figures obtained for the other 2 classes. The basic year for the computation shall be the second preceding calendar year.

(i) *Habitational risks* mean:

1. Dwellings, permanent or seasonal, designed for occupancy by not more than 4 families or containing not more than 4 apartments.

2. Private boarding and rooming houses and tourist homes, permanent or seasonal, with not more than 20 rooms for lodging and (or) with not more than 20 boarders.

3. Nurses' and sisters' homes with not over 10 sleeping rooms.

4. Private outbuildings used in connection with any of the foregoing.

5. Trailer homes at a fixed location.

6. Household and personal property in risks described in subparagraphs 1 through 5.

7. Tenants' contents in apartment houses.

(j) *Servicing company* means an insurer which issues and services policies referred to it by the Plan.

(k) *Non-servicing company* means an insurer which does not issue policies under the Plan.

(4) **ELIGIBLE RISKS.** (a) All risks at a fixed location shall be eligible for inspection and insurance under this Plan except motor vehicles, farm risks, and manufacturing risks as defined in subsection (3) (e), (f), and (g).

(b) The maximum limits of coverage for the type of basic property insurance defined in subdivisions 1. and 4. of subsection (3) (c) which may be placed under this Plan are \$100,000 on any habitational risk at one location and \$500,000 on any other eligible property at one location. If the full insurable value at one location is in excess of applicable limits, the Plan, upon specific application, will seek to place the additional amounts of coverage.

(c) The maximum limits of coverage for the type of basic property insurance defined in subsection (3) (c) 2. which may be placed under this plan are \$5,000 on any habitational risk at one location and \$15,000 on any other eligible property at one location. If the full insurable value at one location is in excess of applicable limits, the Plan, upon specific application, will seek to place the additional amounts of coverage.

(5) **MEMBERSHIP.** (a) Every insurer, as defined in subsection (3) (b), licensed to write one or more components of basic property insurance, as defined in subsection (3) (c), shall be considered a member of this Plan. Any other insurer may, upon application to and approval by the governing committee, become a member.

(b) An insurer's membership terminates when the insurer is no longer authorized to write basic property insurance in Wisconsin, but the effective date of termination shall be the last day of the fiscal year of the Plan in which termination occurs. Any insurer so terminated shall continue to be governed by the provisions of this rule until it completes all of its obligations under the Plan.

(c) Any voluntary insurer member may terminate its membership only as of the last day of the fiscal year of the Plan by giving written notice to the Plan 30 days prior to the last day of the fiscal year of the Plan. The governing committee upon a majority vote may terminate the membership of a voluntary insurer. Any such terminated member

shall continue to be governed by the provisions of this rule until it completes all of its obligations under the Plan.

(d) Subject to the approval of the commissioner, the governing committee may charge a reasonable annual membership fee.

(6) ADMINISTRATION. (a) This Plan shall be administered by a governing committee, subject to the supervision of the commissioner, and operated by a manager appointed by the governing committee.

(b) The governing committee shall consist of 9 members, each of whom shall serve for a period of one year or until a successor is elected or designated. Each shall have one vote.

1. The following associations shall appoint or elect:
American Insurance Association—one member
American Mutual Insurance Alliance—one member
National Association of Independent Insurers—one member
Wisconsin Insurance Alliance—three members

2. All other insurers not members of the associations in subparagraph 1 shall elect one member by weighted votes based on each insurer's weighted premiums written.

3. The commissioner shall appoint members to represent:
Stock agents—one member
Mutual agents—one member

4. Not more than one insurer in a group under the same management or ownership shall serve on the governing committee at the same time.

(7) DUTIES OF THE GOVERNING COMMITTEE. (a) The governing committee shall meet as often as may be required to perform the general duties of the administration of the Plan or on the call of the commissioner. Five insurers of the committee shall constitute a quorum.

(b) The governing committee shall be empowered to appoint a manager, who shall serve at the pleasure of the committee, to budget expenses, levy assessments, disburse funds, and perform all other duties provided herein as necessary or incidental to the proper administration of the Plan. The adoption of or substantive changes in pension plans or employee benefit programs shall be subject to approval of insurers.

(c) The governing committee may designate, with the approval of the commissioner, a rate service organization as defined in section 625.02 (2), Wis. Stats., to make inspections as required under this Plan and to perform such other duties as may be authorized by the governing committee.

(d) The manager shall annually prepare an operating budget which shall be subject to approval of the governing committee. Such budget shall be furnished to the insurers after approval. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the governing committee.

(e) The governing committee shall submit to the commissioner and to the secretary of the U.S. department of housing and urban development periodic reports setting forth the number of requests for

inspection, the number of risks inspected, accepted, declined and conditionally declined, the number of reinspections made, and such other information as the commissioner or the secretary may request.

(f) The governing committee shall cause all policies written pursuant to this Plan to be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the Plan.

(g) The governing committee shall determine, subject to the approval of the commissioner, the eligibility of an insurer to act as a servicing company. No insurer which elects to be a non-servicing company shall be required to be one, but if not enough insurers elect to be servicing companies, the governing committee may authorize the manager to perform directly the duties of a servicing company.

(h) The governing committee shall prepare such agreements and contracts as may be necessary for the execution of this rule consistent with its provisions.

(8) ANNUAL AND SPECIAL MEETINGS. (a) There shall be an annual meeting of the insurers on a date fixed by the governing committee at which time members may be chosen under subsection (6) (b).

(b) A special meeting may be called at any time by the governing committee and shall be called within 40 days by the governing committee after receipt of a written request from any 10 insurers, not more than one of which may be in a group under the same management or ownership.

(c) The time and place of all meetings shall be reasonable. Twenty days' notice of such annual or special meeting shall be given in writing by the governing committee to all insurers under subsection (3) (b). A majority of the insurers present in person or by proxy shall constitute a quorum. Voting by proxy shall be permitted.

(d) Any matter not inconsistent with the law or this rule may be proposed and voted upon by mail by unanimous action of the members of the governing committee present and voting at any meeting of the committee. Notice of any such proposal shall be mailed to each insurer not less than 20 days prior to the final date fixed by the committee for voting thereon.

(e) Any vote of insurers shall be counted on a weighted basis in proportion to each insurer's weighted premiums written. A proposal shall become effective when approved by at least two-thirds of the weighted votes cast.

(9) APPLICATION FOR INSPECTION OR INSURANCE. (a) Any person having an insurable interest in an eligible risk under paragraphs (a) or (b) of subsection (4), may apply for inspection of the property or for insurance by the Plan. The application for inspection need not be in writing.

(b) With regard to property insurance defined in subsection (3) (c) 2. and 3., inspection need not be made if the governing committee determines that insurance can be provided for specified classes of risks on the basis of representations of the applicant or the insurance agent.

(c) The Plan may bind coverage.

(10) **INSPECTION PROCEDURE.** (a) The inspection by the Plan shall be without cost for the applicant.

(b) The manner and scope of the inspection shall be prescribed by the Plan with the approval of the commissioner.

(c) An inspection report shall be made for each property inspected covering pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. Representative photographs may be taken during the inspection to indicate the pertinent features of building, construction, maintenance, occupancy, and surrounding property.

(d) During the inspection, the inspector shall point out features of structure and occupancy to the applicant or his representative and shall indicate those features which may result in additional charges for deficient physical conditions if the risk is accepted. The inspector shall have no authority to advise whether any insurer will provide the coverage.

(e) After the inspection, a copy of the completed inspection report and any relevant photographs shall be sent to the Plan within 5 business days or, if requested by the applicant, to an insurer of his choice. The report shall include a rate make-up statement, including any deficient physical condition charges proposed by the inspector. A copy of the inspection report shall be made available to the applicant or his agent upon request.

(11) **PROCEDURE AFTER INSPECTION.** (a) The Plan shall, within 3 business days after receipt of the inspection report and application, complete and send to the applicant an action report advising him of one of the following:

1. That the risk is acceptable. If the inspection reveals substandard conditions, appropriate charges may be imposed but the report shall specify the improvements necessary for removal of each such charge.

2. That the risk will be acceptable if reasonable improvements noted in the action report are made by the applicant and confirmed by reinspection.

3. That the risk is not acceptable because it fails to meet reasonable underwriting standards specified in the action report. Reasonable underwriting standards shall not include neighborhood or area location or any environmental hazard beyond the control of the property owner. They may include but are not limited to the following:

a. Serious defects in the physical condition of the property, such as its construction, heating, wiring, evidence of previous losses, general deterioration or lack of protective measures;

b. Serious hazards resulting from its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials.;

c. Violation of law which results in increased exposure to loss;

d. Previous loss history or matters of public record concerning the applicant.

(b) If the risk is accepted by the Plan, the servicing company shall deliver the policy to the applicant upon payment of the premium to

the servicing company. The servicing company shall remit the commissions to the licensed agent designated by the applicant; if no licensed agent is so designated, the commissions shall be remitted to the Plan.

(c) If the risk is conditionally declined under paragraph (a) 2. or declined under paragraph (a) 3. but can be improved to meet reasonable standards the Plan shall promptly advise the applicant what improvements noted in the action report should be made to the property. Upon completion of the improvements by the applicant or property owner, the Plan, when so notified, will have the property promptly reinspected under subsection (10) and shall send a new action report to the applicant.

(d) If a risk is conditionally declined under paragraph (a) 2. or declined under paragraph (a) 3., the Plan shall, within 3 business days, send copies of the inspection and action reports to the property owner and to the commissioner and shall advise the property owner of his right to appeal and the procedure therefor.

(12) DISTRIBUTION OF PLAN INSURANCE. (a) The Plan shall equitably distribute risks under subsection (11) (a) 1 to servicing companies with consideration of the servicing company experience in servicing such risks in the areas where the risks are located.

(b) Any risk which has been accepted by the Plan and a policy issued by a servicing company may be renewed by the same servicing company and credit will be given to said servicing company against its share of servicing company assignments.

(13) ASSESSMENTS. (a) Participation and assessments by and upon each insurer in the Plan for losses and expenses in connection with Plan business shall be levied and assessed by the governing committee of the Plan on the basis of participation factors determined annually, giving effect to the proportion which such insurer's weighted premiums written bears to the aggregate weighted premiums written by all insurers in the Plan.

(b) All servicing expenses, losses, and loss adjustment expenses of a servicing company will be recoverable from the Plan upon approval of the governing committee.

(c) If any member fails to pay an assessment within 30 days after it is due, the unpaid assessment may be collected from the remaining members. The Plan may then collect the delinquent assessment on behalf of the remaining members in any liquidation proceeding or by the use of any other available remedy and shall have full authority to act in their behalf in any action or proceeding.

(14) RATES. (a) The rate and surcharge schedules shall be subject to approval by the commissioner prior to use.

(b) The rates to be charged for coverage shall be determined after an actual inspection of the premises by the Plan.

(c) The renewal rates shall be the rates in effect on the renewal date unless an inspection reveals an indicated increase or decrease in rates.

(15) VOLUNTARY BUSINESS—CANCELLATION AND NONRENEWAL. (a) Any insurer cancelling or not renewing voluntarily written basic

property insurance covering any risk eligible under this Plan shall inform the policyholder of the availability of insurance under the Plan. Any such notice of cancellation or nonrenewal shall allow ample time for application to the Plan and for the issuance of coverage.

(b) No servicing company shall cancel or refuse to renew a policy issued under this Plan except for:

1. Facts as confirmed by inspection which would have been grounds for nonacceptance of the risk under the Plan had they been known to the Plan at the time of acceptance; or

2. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable under the Plan rules; or

3. Nonpayment of premiums; or

4. Conviction of the policyholder of arson or fraudulent claim.

(c) Notice of cancellation or nonrenewal under paragraph (b), containing a statement of the reasons therefor, shall be sent to the insured with a copy to the Plan. Any cancellation or nonrenewal notice to the insured shall be accompanied by a conspicuous statement that the insured has a right of appeal as provided in subsection (19).

(16) COMMISSION. (a) Commission to the licensed agent designated by the applicant shall be 10% of the policy premium. The agent need not be licensed by the servicing company.

(b) In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the agent shall refund ratably to the insurer commissions on the return premium at the same rate at which such commissions were originally paid.

(17) PUBLIC EDUCATION. The Plan shall undertake a continuing public education program to assure that the Plan receives adequate public attention. All insurers and agents shall cooperate fully in the public education program.

(18) COOPERATION OF AGENTS. Each insurer shall require its licensed insurance agents to cooperate fully in the accomplishment of the intents and purposes of the Plan.

(19) RIGHT OF APPEAL. Any affected person may appeal to the governing committee within 30 days after any final ruling, action, or decision of the Plan. The governing committee must consider the appeal and render a decision promptly after receipt of any such appeal. Any decision of the governing committee may be further appealed to the commissioner within 30 days. Orders of the commissioner shall be subject to judicial review.

(20) REVIEW BY COMMISSIONER. The governing committee shall report to the commissioner the name of any insurer or agent which fails to comply with the provisions of the Plan or with any rules prescribed thereunder by the governing committee or to pay within 30 days any assessment levied.

(21) INDEMNIFICATION. Each person serving on the governing committee or any subcommittee thereof, each member of the Plan, and

the manager and each officer and employee of the Plan shall be indemnified by the Plan against all cost, settlement, judgment, and expense actually and necessarily incurred by him or it in connection with the defense of any action, suit, or proceeding in which he or it is made a party by reason of his or its being or having been a member of the governing committee, or a member or manager or officer or employee of the Plan except in relation to matters as to which he or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his or its duties as a member of such governing committee, or a member or manager or officer or employee of the Plan. This indemnification shall not apply to any loss, cost or expense on insurance policy claims under the Plan. Indemnification hereunder shall not be exclusive of other rights to which the member, manager, officer, or employee may be entitled as a matter of law.

(22) **TRANSITION.** The voluntary Wisconsin Insurance Plan shall terminate as of January 1, 1970, and the assets and liabilities of such plan shall be assumed by the Plan established by this rule effective January 1, 1970, in accordance with the procedures established by the governing committee of the respective plans.

(23) **EFFECTIVE DATE.** Basic property insurance coverage as defined in subsection (3) (c) 4. must be available to acceptable risks no later than 30 days after the effective date of the amendment of that subsection.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (3) (c) and (4) (b), cr. (4) (c), am. (5) (a) and (9) (a), renum. (9) (b) to be (c), and cr. (9) (b), am. (11) (a) 3. a. and c. and cr. 3. d, am. (15) (b) 2. and 4., Register, June, 1971, No. 186, 7-1-71; am. (3) (c) 3., Register, August, 1971, No. 188, eff. 9-1-71; emerg. am. (2), (3) (c) 1, 2, and 3, eff. 6-22-76; am. (2), (3) (c) 1, 2, and 3, Register, September, 1976, No. 249, eff. 10-1-76; am. (3) (c), (4) (b) and (23), Register, April, 1977, No. 256, eff. 5-1-77.