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STATE OF WISCONSIN
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SEP 13 1982

VEL PHILLIPS
SECRETARY OF STATE

STATE OF WISCONSIN)
)
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Ann J. Haney, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order amending Ins 3.09, Ins 6.75 and Ins 7.01 relating to mortgage guaranty insurance and classifications of insurance was issued by this office on September 13, 1982.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 13th day of September, 1982.

Ann J. Haney
Ann J. Haney
Commissioner of Insurance

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11-1-82

ORDER OF THE COMMISSIONER OF INSURANCE

RENUMBERING, AMENDING, REPEALING, RECREATING AND CREATING RULES

To renumber Ins 3.09 (6); to amend Ins 3.09 (2), (4), (8), (13), and (16) and Ins 6.75 (2) (i) and (j); to repeal and recreate Ins 3.09 (1), (3), (5), (12), and (14); and to create Ins 3.09 (7m) and Ins 7.01 (24) (t), relating to mortgage guaranty insurance and classifications of insurance.

ANALYSIS BY THE COMMISSIONER OF INSURANCE

The major changes proposed in s. Ins 3.09 are to revise the standards for a sound financial condition for mortgage guaranty insurers. These are needed because of radical changes in the mortgage guaranty insurance business since the rule was last amended.

The concept of policyholders position, the sum of the contingency reserve and surplus as regards policyholders, is defined. Factors for calculation of the minimum policyholders provision are developed dependent on whether the mortgage guaranty insurer covers individual loans or group loans; on the percentage of coverage; and on the loan-to-value or policyholders equity category. Different factors are applicable if the coverage is for loans secured by junior liens.

The requirement for contribution to the contingency reserve is revised to coordinate with the policyholders position concept.

Changes are made in the rule to correct and clarify statutory references and definitions, particularly the definition of mortgage guaranty insurance. The definition of credit insurance is expanded to include insurance on loans served by junior liens on real estate. Insurance on such loans is subject to s. Ins 3.09. Other definitions are expanded for better cross-reference.

Subsection (4) of s. Ins 3.09 is amended to prohibit a mortgage guaranty insurer discriminating on the basis of the geographical location of the property.

A provision is added in s. Ins 3.09 (7) to prohibit mortgage guaranty insurance on certain accelerated maturity contracts (including balloon payments) unless certain criteria are met.

A minimum compulsory surplus of $2,000,000 is established in sub. (7m) for insurers organized after January 1, 1982.

Subsection (8) has been amended to delete the requirement that reinsurance must be in licensed mortgage guaranty insurers.

The reporting requirements in subsection (12) have been simplified by removing some of the references to specific annual statement reporting requirements. Subsection 13 (a) has been amended to add unearned premium factors for three year coverage.

Section Ins 6.75 (2) (i) and (j) has been amended to provide more clearly for the various classes of mortgage guaranty insurance.

Section Ins 7.01 (24) 2. has been created to refer to the Mortgage Guaranty Insurers Report of Policyholders Position which is being developed.

The authority for these rule changes is in ss. 227.014 (2), 601.41 (3), 623.02, 623.03, 623.04, 627.05 and 628.34 (12), Stats. The rule changes implement and interpret ss. 601.42, 611.19 (1), 611.24, 618.21, 620.02, 623.02, 623.03, 623.04, 627.05, and 628.34 (11), Stats.

Pursuant to the authority vested in the State of Wisconsin, Commissioner of Insurance by ss. 227.014 (2), 601.41 (3), 623.02, 623.03, 623.04, 627.05 and 628.34 (12), Stats., the Commissioner of Insurance renumbers, amends, repeals and recreates and creates rules interpreting ss. 601.42, 611.19 (1), 611.24, 618.21, 620.02, 623.02, 623.03, 623.04, 627.05, and 628.34 (11), Stats., as follows:

SECTION 1. Ins 3.09 (1) is repealed and recreated to read:

Ins 3.09 (1) PURPOSE. This section implements and interprets ss. Ins 6.75 (2) (i) and (j) and ss. 601.42, 611.19 (1), 611.24, 618.21, 620.02, 623.02, 623.03, 623.04, 627.05 and 628.34 (12), Stats., for the purpose of establishing minimum requirements for the transaction of mortgage guaranty insurance.

SECTION 2. Ins 3.09 (2) is amended to read:

Ins 3.09 (2) SCOPE. This rule shall apply to the underwriting, investment, marketing, rating, accounting and reserving activities of insurers which write the type of insurance authorized by s. Ins 6.75 (2) (i) <u>and (j)</u>.

SECTION 3. Ins 3.09 (3) is repealed and recreated to read:

Ins 3.09 (3) DEFINITIONS.

(a) "Amount at risk" means the coverage percentage or the claim settlement option percentage multiplied by the face of amount of a mortgage or by the insured amount of a lease.

(b) "Annual Statement" means the fire and casualty annual statement form specified in s. Ins 7.01 (5) (a).

(c) "Contingency reserve" means the reserve established for the protection of policyholders against the effect of losses resulting from adverse economic cycles.

(d) "Equity" means the complement of the Loan-to-Value.

(e) "Face amount" means the entire indebtedness under an insured mortgage before computing any reduction because of an insurer's option limiting its coverage.

(f) "Loan-to-value" means the ratio of the entire indebtedness to value of the collateral property expressed as a percentage.

(g) "Mortgage guaranty account" means the portion of the Contingency Reserve which complies with 26 U.S.C. s. 832 (e) as amended.

(h) "Mortgage guaranty insurance" means that kind of insurance authorized by s. Ins 6.75 (2) (i).

(i) "Mortgage guaranty insurer" means an insurer which:

1. Insures pursuant to Ins 6.75 (2) (i), or

2. Insures pursuant to s. Ins 6.75 (2) (j) against loss arising from failure of debtors to meet financial obligations to creditors under evidences of indebtedness secured by a junior lien or charge on real estate.

(j) "Mortgage guaranty insurers report of policyholders position" means the annual supplementary report required by s. Ins 7.01 (24) (t).

(k) "NAIC Ratio - Investment Yield" means net investment income earned after taxes from the annual statement divided by mean invested assets.

(l) "Person" means any individual, corporation, association, partnership or any other legal entity.

(m) "Policyholders position" includes the contingency reserve established under sub. (14) and surplus as regards policyholders. "Minimum policyholders position" is calculated as described in sub. (5).

(n) "Surplus as regards policyholders" means an insurer's net worth, the difference between its assets and liabilities, as reported in its annual statement.

SECTION 4. Ins 3.09 (4) is amended to read:

Ins 3.09 (4) DISCRIMINATION. No mortgage guaranty insurer may discriminate in the issuance or extension of mortgage guaranty insurance on the basis of the <u>geographic location of the property or the</u> applicant's sex, marital status, race, color, creed or national origin.

SECTION 5. Ins 3.09 (5) is repealed and recreated to read:

Ins 3.09 (5) MINIMUM POLICYHOLDERS POSITION. (a) A mortgage guaranty insurer shall maintain at all times a minimum policyholders position in the amount required by this section. The policyholders position shall be net of reinsurance ceded but shall include reinsurance assumed.

(b) If a mortgage guaranty insurer does not have the minimum amount of policyholders position required by this section it shall cease transacting new business until such time that its policyholders position is in compliance with this section.

(c) If a policy of mortgage guaranty insurance insures individual loans with a percentage claim settlement option on such loans, a mortgage guaranty insurer shall maintain a policyholders position based on: each $100 of the face amount of the mortgage; the percentage coverage; and the loan-to-value category. The minimum amount of policyholders position shall be calculated in the following manner:

1. If the loan-to-value is greater than 75%, the minimum policyholders position per $100 of the face amount of the mortgage for the specific percent coverage shall be as shown in the schedule below:

Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage	Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage
5	$0.20	55	$1.50
10	0.40	60	1.55
15	0.60	65	1.60
20	0.80	70	1.65
25	1.00	75	1.75
30	1.10	80	1.80
35	1.20	85	1.85
40	1.30	90	1.90
45	1.35	95	1.95
50	1.40	100	2.00

2. If the loan-to-value is at least 50% and not more than 75%, the minimum amount of the policyholders position shall be 50% of the minimum of the amount calculated under subd. 1.

3. If the loan-to-value is less than 50%, the minimum amount of policyholders position shall be 25% of the amount calculated under subd. 1.

(d) If a policy of mortgage guaranty insurance provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be:

1. If the equity is not more than 50% and is at least 20%, or equity plus prior insurance or a deductible is at least 25% and not more than 55%, the minimum amount of policyholders position shall be calculated as follows:

Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage	Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage
1	$0.30	50	$0.825
5	0.50	60	0.85
10	0.60	70	0.875
15	0.65	75	0.90
20	0.70	80	0.925
25	0.75	90	0.95
30	0.775	100	1.00
40	0.80		

2. If the equity is less than 20%, or the equity plus prior insurance or a deductible is less than 25%, the minimum amount of policyholders position shall be 200% of the amount required by subd. 1.

3. If the equity is more than 50%, or the equity plus prior insurance or a deductible is more than 55%, the minimum amount of policyholders position shall be 50% of the amount required by subd. 1.

(e) If a policy of mortgage guaranty insurance provides for layers of coverage, deductibles or excess reinsurance, the minimum amount of policyholders position shall be computed by subtraction of the minimum position for the lower percentage coverage limit from the minimum position for the upper or greater coverage limit.

(f) If a policy of mortgage guaranty insurance provides for coverage on loans secured by junior liens, the policyholders position shall be:

1. If the policy provides coverage on individual loans, the minimum amount of policyholders position shall be calculated as in par. (c) as follows: a. the loan-to-value percent is the entire loan indebtedness on the property divided by the value of the property; b. the percent coverage is the insured portion of the junior loan divided by the entire loan indebtedness on the collateral property; and c. the face amount of the insured mortgage is the entire loan indebtedness on the property.

2. If the policy provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be calculated according to par. (d) as follows: a. the equity is the complement of the loan-to-value percent calculated as in subd. 1; b. the percent coverage is calculated as in subd. 1; and c. the face amount of the insured mortgage is the entire loan indebtedness on the property.

(g) If a policy of mortgage guaranty insurance provides for coverage on leases, the policyholders position shall be $4 for each $100 of the insured amount of the lease.

(h) If a policy of mortgage guaranty insurance insures loans with a percentage loss settlement option coverage between any of the entries in the schedules in this subsection, then the factor for policyholders position per $100 of the face amount of the mortgage shall be prorated between the factors for the nearest Percent Coverage listed.

SECTION 6. Ins 3.09 (7) is renumbered Ins 3.09 (7) (a).

SECTION 7. Ins 3.09 (7) (b) is created to read:

Ins 3.09 (7) (b) A mortgage guaranty insurer shall not insure loans with balloon payment provisions unless the policy provides:

1. That liability for the balloon payment is specifically excluded; or

2. That at the time the lender calls the loan, the lender will offer new or extended financing at the then market rates; or

3. The scheduled maturity date of the balloon payment.

SECTION 8. Ins 3.09 (7m) is created to read:

Ins 3.09 (7m) MINIMUM CAPITAL OR PERMANENT SURPLUS. The minimum amount of capital or permanent surplus of a mortgage guaranty insurer shall be $2 million for an insurer first authorised to do business in Wisconsin on or after January 1, 1982, or the amount required by statute or administrative order before that date for other insurers.

SECTION 9. Ins 3.09 (8) is amended to read:

Ins 3.09 (8) REINSURANCE. A mortgage guaranty reinsurer may, by contract, reinsure any insurance it transacts ~~in-any-assuming-insurer-authorized-to-transact-mortgage-guaranty-insurance-in-this-state~~, except it shall not enter into reinsurance arrangements designed to circumvent the compensation control provisions of sub. (15) or the contingency reserve requirement of sub. (14). ~~It-is-the-intent-of-this-rule-that~~ The unearned premium reserve required by sub. (13) and the contingency reserve required by sub. (14) shall be established and maintained in appropriate proportions in relation to risk retained by the original insured and by the assuming reinsurer so that the total reserve established shall not be less than the reserve required by subs. (13) and (14).

SECTION 10. Ins 3.09 (12) is repealed and recreated to read:

Ins 3.09 (12) REPORTING. (a) The financial condition and operations of a mortgage guaranty insurer shall be reported annually on the annual statement.

(b) The total contingency reserve required by sub. (14) shall be reported as a liability in the annual statement. This liability may be reported as unpaid losses, mortgage guaranty account or other appropriately labeled write-in item. Appropriate entries shall be made in the underwriting and investment exhibit - statement of income of the annual statement. The change in contingency reserve for the year shall be reported in the annual statement as a reduction of or a deduction from underwriting income. If the contingency reserve is recorded as a loss liability the change in the reserve shall be excluded from loss development similar to fidelity and surety losses incurred but not reported. The development of the contingency reserve and policyholders position shall be shown in an appropriate supplemental schedule to the annual statement.

(c) A mortgage guaranty insurer shall compute and maintain adequate case basis loss reserves to be reported in the underwriting and investment exhibit, unpaid losses and loss adjustment expenses, of the annual statement. The method used to determine the loss reserve shall accurately reflect loss frequency and loss severity and shall include components for claims reported and unpaid, and for claims incurred but not reported, including estimated losses on:

1. Insured loans which have resulted in the conveyance of property to the insurer which remains unsold;

2. Insured loans in the process of foreclosure;

3. Insured loans in default for four months or for any lesser period which is defined as a default in the policy provision; and

4. Insured leases in default for four months or for any lesser period which is defined as a default in the policy provisions.

(d) In computing the case basis reserves required by par. (c), the following factors shall be considered together with the prospective adjustments reflecting historic data relative to prior claim settlements:

1. Prior to the exercise of the claim settlement option, the potential liability for which there must be a reserve shall consider the amount at risk or the potential claim amount minus the value of the real estate.

2. If the claim settlement option exercised results in recording the claim amount as the cost of acquisition of the property, the potential

liability is the claim amount minus the value of the real estate unless the real estate is recorded at market value.

3. If the claim settlement option exercised results in the payment of amounts equal to the monthly loan payments or lease rents, the potential liability is the present value, utilizing the insurer's NAIC financial ratio-investment yield, of the claim amounts minus the present value of the real estate or current rental income.

(e) Any property acquired pursuant to the exercise of the claim settlement option shall be valued net of encumbrances; and an amount of such property may be held as is permitted for nonlife insurer investments pursuant to s. 620.22 (5), Stats.

(f) Expenses shall be recorded and reported in accordance with ss. Ins 6.30 and Ins 6.31.

(g) Amounts released from the contingency reserve pursuant to sub. (14) shall be treated on a first-in-first-out basis.

(h) An insurer which writes mortgage guaranty insurance and any other class of insurance business shall establish a segregated account for mortgage guaranty insurance or an insurer which writes more than one class of mortgage guaranty insurance shall establish a segregated account for each class of mortgage guaranty insurance. The classes of mortgage guaranty insurance are those types of insurance defined in:

1. s. Ins 6.75 (2) (i) 1 a and c; or

2. s. Ins 6.75 (2) (i) 1 b and 2; or

3. s. Ins 6.75 (2) (i) 1 d and s. Ins 6.75 (2) (j).

(i) Each segregated account established under par. (h) shall contain:

1. the loss reserves required by par. (c);

2. the unearned premium reserve required by subs. (13) or (18);

3. the contingency reserve required by subs. (14) or (18); and

4. any surplus required by the commissioner.

SECTION 11. Ins 3.09 (13) (a) is amended by adding two columns of figures at the beginning of the part of the table headed "Unearned Premium Factor to be Applied to Premiums in Force on Valuation Date" with headings and entries as follows:

TWO-YEAR COVERAGE PERIOD	THREE-YEAR COVERAGE PERIOD
88.7%	93.9%
38.7%	66.7%
	22.9%

SECTION 12. Ins 3.09 (14) is repealed and recreated to read:

Ins 3.09 (14) CONTINGENCY RESERVE. (a) Subject to sub. (8), there shall be an annual contribution to the contingency reserve which in the aggregate shall be the greater of:

1. 50% of the net earned premium reported in the annual statement; or

2. The sum of:

a. the policyholders position established under sub. (5) on residential buildings designed for occupancy by not more than four families divided by 7;

b. the policyholders position established under sub. (5) on residential buildings designed for occupancy by five or more families divided by 5;

c. the policyholders position established under sub. (5) on buildings occupied for industrial or commercial purposes divided by 3; and

d. the policyholders position established under sub. (5) for leases divided by 10.

(b) If the mortgage guaranty coverage is not expressly provided for in this section, the commissioner may establish a rate formula factor that will produce a contingency reserve adequate for the risk assumed.

(c) The contingency reserve established by this subsection shall be maintained for 120 months. That portion of the contingency reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve.

(d) Subject to the approval of the commissioner, withdrawals may be made from the contingency reserve for incurred loss payments in any year exceeding the greater of 35% of the net earned premium or 70% of the amount contributed to the contingency reserve in that year. Funds used in this manner shall be accounted for on a first-in, first-out basis as provided in sub. (12) (e).

(e) The computations required by pars. (a) and (d) shall be made prior to increment or decrement because of contributions to the contingency reserve.

SECTION 13. Ins 3.09 (16) is amended to read:

Ins 3.09 (16) TRANSITION. Policyholders Position, ~~Unearned~~ unearned premium reserves and contingency loss reserves shall be computed and maintained on risks insured after the effective date of this ~~rule~~ section as required by ~~subsections~~ subs. (5), (13) and (14). Unearned premium reserves and contingency loss reserves on risks insured before the effective date of this section may be computed and maintained either as required by ~~subsection~~ subs. (13) and (14) or as required by ~~Wis. Adm. Code~~ this section ~~Ins 3.09~~ as previously in effect ~~and which was repealed on the effective date of this rule~~.

SECTION 14. Ins 6.75 (2) (i) and (j) are amended to read:

Ins 6.75 (2) (i) Mortgage guaranty insurance-insurance against loss arising from failure of ~~debtors~~:

1. Debtors to meet financial obligations to creditors under evidences of indebtedness which are secured by either:

a. A first lien or charge on residential real estate designed for occupancy by not more than four families; or

b. i. A first lien or charge on residential real estate designed for occupancy by five or more families; or

ii. A first lien or charge on real estate designed for industrial or commercial purposes; or

c. A stock or membership certificate issued to the tenant stockholders or resident members of a completed fee simple cooperative housing corporation as defined in 26 U.S.C. s. 216 (b) (1); or

d. A junior lien or charge on residential real estate.

2. Lessees to make payment of rentals under leases of real estate in which the lease extends for three years or longer.

Ins 6.75 (2) (j). Credit insurance-insurance against loss arising from failure of debtors to meet financial obligations to creditors, except as defined in par. (i) 1 a, b, c, and par. (i) 2 of this ~~rule~~ section;

SECTION 15. Section Ins 7.01 (24) (t) is created to read:

Ins 7.01 (24) (t) Mortgage Guaranty Insurers Report Of Policyholder's Position.

The changes in these rules shall become effective as provided in s. 227.026 (1) (intro.), Stats.

Dated at Madison, Wisconsin, this 13 day of August, 1982.

Ann J. Haney
Ann J. Haney
Commissioner of Insurance

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