

Chapter Ins 2

LIFE INSURANCE

*Ins 2.20
Unisex non perfect
We value
no
certain
life
insurance
policies*

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as annuity contracts

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 ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 2.02 Stock life insurance corporations writing participating policies. (1) **PURPOSE.** The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including ss. 601.04, 601.42, 601.43, 628.34, 632.62, Stats., and chs. 611 and 618, Stats.

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by s. Ins 6.75 (1) (a) in the form of participating policies.

(3) **LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS.** The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of a) 10% of such profits or b) 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) **LICENSE REQUIREMENTS.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

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(a) No profits on participating policies and contracts in excess of the larger of 10% of such profits or 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(b) The profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company.

(c) Such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually.

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) **EXCEPTIONS.** In accordance with s. 632.62, Stats., the agreement required by sub. (4) (e) of this rule may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) **ANNUAL FILING.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by s. 601.42, Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by ss. 201.045 and 201.34, Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, s. 206.36, Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. SS. 206.51 (1)

and 207.04 (1) (a), Stats., prohibit the misrepresentation of the dividends or share in surplus to be received on any policy.

It is evident that a stock insurance corporation should not have complete freedom in determining the amounts that are to be removed from the funds accumulated or belonging to the participating class of policyholders and used for the benefit of stockholders. A reasonable limitation in the amounts that shall inure to the benefit of stockholders is necessary for the fair and equitable treatment of stock life insurance corporations, stockholders, and policyholders. Section 216 (6) of the New York insurance statutes provides for a limitation comparable to that stated in the rule. The record in that state indicates such a limitation to be reasonable and workable and we believe it to be a proper safeguard of the interests of the people of this state. All present tense statutory references herein are to 1973 Stats.

History: 1-2-56; r. and recr. Register, August, 1962, No. 80, eff. 9-1-62; renun. (4) (d) to be (4) (f) cr. (4) (d), (4) (e), (5) and (6), Register, January, 1964, No. 97, eff. 2-1-64; am. (1) and (6), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), (2), (5) and (6), eff. 6-22-76; am. (1), (2), (5) and (6), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79.

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 take effect as of a date more than 6 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 Standard risk rates. Life insurance companies may charge premiums in excess of the maximum premiums as defined in s. 206.26, 1973 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.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 2.05 Separate statement of premiums for certain disability insurance benefits included in life or endowment insurance policies. (1) **PURPOSE.** This rule provides guidelines to determine which disability coverages may be included in life or endowment insurance policies without a separate statement of premium charge. This rule interprets and implements the separation of premium requirements stated in s. 632.44 (1) Stats., as they relate to the inclusion of disability insurance by policy provision or rider in life or endowment insurance policies such as authorized by sections Ins 6.70 Wis. Adm. Code and s. 627.06, Stats.

(2) **SCOPE.** This rule shall apply to the kinds of disability insurance authorized by section Ins 6.75 (1) (a) and (c), when such insurance is provided in a life or endowment policy either by specific policy provision or by a rider attached to such policy.

(3) **DEFINITIONS.** (a) *Life or endowment insurance.* The basic life or endowment insurance coverage provided by the policy and additional disability benefits which have been determined by the standards in subsection (4) to be benefits which are life or endowment insurance or an integral part of such coverages.

(b) *Disability insurance benefit.* Insurance coverages written under the authority of section Ins 6.75 (1) (a) and (c), to indemnify persons in whole or in part for financial loss due to bodily injury, death by accident, or health of persons.

(c) *Separate statement of premium.* Individual statement of the exact gross premium charged for each distinct disability insurance coverage required by this rule to be stated separately from the premium charge for the basic life or endowment insurance coverage.

(4) **STANDARDS AND PROCEDURES FOR DETERMINATION.** The following criteria or standards in paragraphs (a) through (e) shall be used to determine whether a disability benefit, coverage, or clause may be included in the basic life or endowment policy without a separate statement of the premium charged for such disability benefit. Subject to the approval of the department of insurance, a disability benefit, coverage, or clause which satisfies the standards listed below may be included in the basic life or endowment coverage without a separate statement of cost. Disability coverages not meeting these standards may be included in or attached to the policy only with a separate statement of the premium if they otherwise meet the statutory requirements in respect to combination of coverages. The rule in no way requires that a disability benefit, coverage, or clause be included in the premium charge for the basic life or endowment coverage if the company desires to show the premium separately.

(a) Small or very nominal cost for the disability coverage when compared with the cost of the basic life or endowment coverage.

(b) Logical reason for including the disability benefit without a separate statement of premium.

(c) There is a demonstrated need for, and the applicant would usually desire, the inclusion of the disability benefit.

(d) Inclusion of the disability coverage could be easily understood by the applicant and is not subject to possible misinterpretation.

(e) Custom of the insurance business has classed the disability coverage as basically a life insurance benefit.

(5) **DISABILITY BENEFITS WHICH REQUIRE A SEPARATE STATEMENT.** The following list constitutes a partial listing of disability coverages considered by the department to be additional benefits which generally require a separate statement of premium charge if they are attached to or included in life or endowment coverage in accordance with other statutory requirements. Any such benefit may be included in a life or endowment insurance policy without a separate statement of premium if it is demonstrated that it meets the requirements listed in subsection (4) of this rule.

(a) Waiver of premium benefit for death and/or disability of payor.

(b) Loss of sight and/or dismemberment benefit.

- (c) Disability income benefit.
- (d) Hospital insurance.
- (e) Basic or primary medical insurance.
- (f) Major medical benefit.
- (g) Surgical benefit.

(6) **DISABILITY BENEFITS NOT LISTED.** Disability benefits which are not specifically listed above will be examined at the time of filing to determine whether a separate statement of premium is required.

(7) **RESERVE VALUES.** Reserve values, on account of included provisions, will be based upon the requirements of s. 623.06, 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 s. 206.18 (1), 1973 Stats. This inconsistency caused an erosion in the application of the old section Ins 2.05 at 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 s. 206.17 (1), 1973 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 commissioner 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 2 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 commissioner 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 s. 207.04, 1973 Stats.
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 s. 206.18 (1), provision 2, 1973 Stats.) requiring that a policy of life insurance specify "separately for

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 has 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, provided 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; emerg. am. (1), (2) and (3) (b), eff. 6-22-76; am. (1), (2) and (3) (b), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (3) (b), Register, March, 1979, No. 279, eff. 4-1-79.

Register, January, 1982, No. 313

Ins 2.07 Replacement of life insurance or annuity contracts; disclosure requirements. (1) **PURPOSE.** The interest of 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 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 section implements and interprets s. 628.34, Stats., by establishing minimum standards for the replacement of life insurance and annuities.

(2) **SCOPE.** This section shall apply to the solicitation of life insurance and annuities authorized by s. Ins 6.75 (1) (a) and (b), Wis. Adm. Code, covering residents of this state, and issued by insurance corporations, fraternal benefit societies, or the State Life Insurance Fund. This section shall not apply credit life insurance; group life insurance or group annuities; contracts issued in connection with employee benefit or welfare plans as defined by Section 3 (3) of the federal employee retirement income security act of 1974 (ERISA) as amended from time to time, except policies or contracts issued in connection with plans providing for purchase of life insurance policies or annuity contracts solely by reason of salary reduction agreements under section 403 (b) of the Internal Revenue Code; to the purchase, within the same insurer, of insurance under a guaranteed insurability option or conversion option; nor to short-term nonrenewable life insurance policies written for periods of 31 days or less.

(3) **DEFINITION.** (a) For the purposes of this section, "replacement" is any transaction in which new life insurance or a new annuity is to be purchased and existing individual life insurance or an annuity has been, may possibly be, or is to be lapsed, surrendered, converted into paid-up insurance, become extended insurance, or the cash or loan value (or a portion thereof) is utilized or contemplated for use in the future in connection with the purchase of new insurance or annuities.

(b) For the purpose of this section, the "Notice" means a document completed by the applicant and the agent or insurer prior to completing a new application for a life insurance or annuity contract, which provides necessary information regarding replacement transactions, in substantially the same format for all insurers, as specified by the commissioner. Appendix I to this section contains the "Notice" to be used when an agent is involved in a solicitation, and Appendix II contains the "Notice" to be used when no agent is involved. Appendix III to this section contains the definitions to be printed on the reverse side of the "Notice".

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

1. Determine prior to completing a new application whether or not replacement is involved.

2. Obtain with or as a part of each application for life insurance or an annuity a statement signed by the applicant as to whether the insurance or annuity will replace existing life insurance or an existing annuity on the same life.

3. Submit to the insurer in connection with each application for life insurance or an annuity the statement obtained under subd. 2 together

with a statement as to whether, to the best of the agent's knowledge, replacement is involved in the transaction.

(b) Where replacement is involved or proposed, the agent shall:

1. Before taking an application for life insurance or an annuity furnish the notice contained in Appendix I to the applicant for review and completion of the applicant's portion of the Notice.

2. Complete the certification statement on the Notice, sign and date the Notice, and list the policy number and name of insurer of each policy which there is reason to think may be replaced.

3. Leave a completed copy of the Notice with the applicant for his or her records prior to completing the application for the new policy.

4. Submit a completed copy of the Notice with the application to the proposed insurer.

5. Maintain a copy of the Notice in the agent's file for that applicant for at least 3 years.

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

1. Secure with or as part of each application the statements required by sub. (4) (a) as to whether the new insurance or annuity will replace existing insurance or an annuity on the same life.

2. Review the statements prior to commencing any underwriting, but in no event later than 5 days after receipt of the application, to determine if replacement is involved.

3. Keep a copy of the statements on file with the application for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

4. Where a replacement is involved:

a. Secure with the application a completed Notice.

b. Within 5 days of receipt of the application, and prior to commencing any underwriting, send a written notification of the replacement or possible replacement to the home office of each replaced insurer. Notification shall include the applicant's name, the insured's name, the policy number of the policy being replaced, the generic name and face amount of the replacing policy and the legal names of all insurers.

c. Maintain copies of the Notice and notifications for at least three years indexed so as to be readily available to the office of the commissioner of insurance.

d. Guarantee to the policyholder at least a 20-day right to return the policy after delivery for a full refund of premium, and provide a written notice attached to, or as part of, the first page of the policy informing the policyholder of this right.

(b) If agents are not involved with the solicitation of life insurance or annuities on residents of this state, every authorized insurer shall:

1. Provide a copy of the Notice contained in Appendix II with any solicitation material that proposes replacement and contains an application for life insurance or an annuity.

2. Prior to approving or issuing a policy, secure with or as part of the application a statement signed by the applicant as to whether the new insurance or annuity will replace existing insurance or an existing annuity, and the name of every company and every policy number which may be replaced.

3. Review the statement prior to commencing any underwriting, in no event later than 5 days after receipt of the application, to determine if replacement is involved.

4. Keep a copy of the statement on file with the application for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

5. Where replacement is involved:

a. Within 5 days of receipt of the application, and prior to commencing any underwriting, send a written notification of the replacement or possible replacement to the home office of each replaced insurer. Notification shall include the applicant's name, the insured's name, the policy number of the policy being replaced, the generic name and face amount of the replacing policy and the legal names of all insurers.

b. Send the applicant a copy of the Notice contained in Appendix II no later than the time the policy is issued.

c. Maintain copies of the Notice and notifications for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

d. Guarantee to the policyholder at least a 20-day right to return the policy after delivery for a full refund of premium, and provide a written notice attached to, or as part of, the first page of the policy informing the policyholder of this right.

(6) **CONTENTS OF THE NOTICE.** The Notices contained in the Appendixes to this section shall be reproduced in their entirety on one side of 8½" by 11" plain paper. The definitions in Appendix III shall be printed on the reverse side of the Notice. References to Appendix I, II or III should not be printed on the Notice or Definitions form. The insurer may print its legal name in the space provided.

(7) **VIOLATION.** Any violation of this section shall be deemed to be a misrepresentation for the purpose of inducing a prospect to purchase insurance and any person guilty of such violation shall be subject to s. 601.64, Stats. Failure to comply with the requirements of this section shall not alter the requirements of any insurer with respect to claims.

(8) **SEPARABILITY.** If any provisions of this rule shall be held invalid, the remainder of the rule shall not be affected thereby.

(9) **EFFECTIVE DATE.** This rule shall apply to all solicitations which commence on or after March 1, 1982.

Appendix I

IMPORTANT NOTICE
REQUIRED BY
WISCONSIN INSURANCE LAW

DEFINITION: REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity (ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide Evidence of insurability and

- 1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
- 2) Your present occupation or activities may not be covered or could require additional premiums.
- 3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.
- 4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.
- 5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies from the insurer or agent from whom you purchased the policy.

(If an annuity is being purchased, Items 1, 2 and 3 above would not apply to the new contract).

THE INSURANCE OR ANNUITY(IES) I INTEND TO PURCHASE FROM _____ MAY REPLACE OR ALTER EXISTING LIFE INSURANCE OR ANNUITY POLICY(IES).

The following policy (ies) may be replaced as a result of this transaction:

Insurer as it appears on the policy	Insured as it appears on the policy	Policy Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The proposed policy is:

_____	\$ _____
type of policy-generic name	face amount
_____	_____
signature of applicant	date
_____	_____
address of applicant	city state

I certify that this form was given to and completed by

_____ (applicant—please print or type)

prior to taking an application and that I am leaving a signed copy for the applicant.

_____	_____
agent's signature	date
_____	_____
address	
_____	_____
city	state

Appendix II

IMPORTANT NOTICE REQUIRED BY WISCONSIN INSURANCE LAW

DEFINITION: REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity (ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide Evidence of insurability and

- 1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
- 2) Your present occupation or activities may not be covered or could require additional premiums.
- 3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.
- 4) Current law DOES NOT REQUIRE your present insurer (s) to REFUND any premiums.
- 5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies from the insurer or agent from whom you purchased the policy.

(If an annuity is being purchased, Items 1, 2 and 3 above would not apply to the new contract).

CAUTION

If after studying the information made available to you, you decide to replace your existing life insurance or annuity with our contract, you are urged not to take action to terminate or alter your existing coverage until after you have been issued the new policy, examined it and found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or be able to purchase it only at substantially higher rates.

INSURER'S MAILING DATE: _____

Appendix III**DEFINITIONS**

Premiums: Premiums are the payments you make in exchange for an insurance or annuity contract. They are unlike deposits in a savings or investment program, because if you drop the policy, you might get back less than you paid in.

Cash Surrender Value: This is the amount of money you can get in cash if you surrender your life insurance policy or annuity. If there is a policy loan, the cash surrender value is the difference between the cash value printed in the policy and the loan value. Not all policies have cash surrender values.

Lapse: A life insurance policy may lapse when you don't pay the premiums within the grace period. If you had a cash surrender value, the insurer might change your policy to as much extended term insurance or paid-up insurance as the cash surrender value will buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the premiums.

Surrender: You surrender a life insurance policy when you either let it lapse or tell the company you want to drop it. Whenever a policy has a cash surrender value, you can get it in cash if you return the policy to the company with a written request. Most insurers will also let you exchange the cash value of the policy for paid-up or extended term insurance.

Convert to Paid-Up Insurance: This means you use your cash surrender value to change your insurance to a paid-up policy with the same insurer. The death benefit generally will be lower than under the old policy, but you won't have to pay any more premiums.

Place on Extended Term: This means you use your cash surrender value to change your insurance to term insurance with the same insurer. In this case, the net death benefit will be the same as before. However, you will only be covered for a specified period of time stated in the policy.

Borrow Policy Loan Values: If your life insurance policy has a cash surrender value, you can almost always borrow all or part of it from the insurer. Interest will be charged according to the terms of the policy, and if the loan with unpaid interest ever exceeds the cash surrender value, your policy will be surrendered. If you die, the amount of the loan and any unpaid interest due will be subtracted from the death benefits.

Evidence of insurability. This means proof that you are an acceptable risk. You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible for coverage.

Incontestable Clause: This says that after one or two years (depending on the policy or insurer) the life insurer will not resist a claim because you made a false or incomplete statement when you applied for the policy. For the early years, though, if there are wrong answers on the application and the insurer finds out about them, it can deny a claim as if the policy had never existed.

Suicide Clause: This says that if you commit suicide after being insured for less than one or two years (depending on the policy and insurer), your beneficiaries will receive only a refund of the premiums that were paid.

History: (See also history of Ins 2.065) Cr. Register, March, 1972, No. 195, eff. 6-1-72; emerg. am. (1) and (2) eff. 6-22-76; am. (1) and (2); Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; r. and recr. Register, January, 1982, No. 313, eff. 3-1-82.

Ins 2.08 Special policies and provisions; prohibitions, regulations, and disclosure requirements. (1) **PURPOSE.** The interest of the public and the maintenance of a fair and honest life insurance market must be safeguarded by identifying and prohibiting certain types of policy forms and policy provisions and by requiring certain insurance premiums to be separately stated. This rule implements and interprets applicable statutes including ss. 628.34, 631.20, 632.44 (1) and 632.62, Stats.

(2) **SCOPE.** This rule shall apply to the kinds of insurance authorized by s. Ins 6.75 (1) (a), and shall also apply to fraternal benefit societies.

(3) **DEFINITIONS.** For the purpose of this rule certain life insurance policy forms and provisions referred to herein shall have the following meaning:

(a) *Coupon policy* is any policy form which includes a series of coupons prominently and attractively featured in combination with an insurance contract. Such coupons are one-year pure endowments whether or not so identified and whether or not physically attached to the insurance contract. The coupons are devised to give the appearance of the interest coupons that are frequently attached to investment bonds. Although the face amount of the coupon benefit is essentially a refund of premium previously paid by a policyholder, it is frequently represented that it is the earnings or return on the investment of the policyholder in life insurance.

(b) *Charter policy* is a term or name assigned by an insurance company to a policy form. Such a policy is usually issued by a newly organized company and it is sold on the basis that its availability will be limited to a specific predetermined number of units of a fixed dollar amount. Such policies generally provide that the policyholder shall participate in the earnings resulting from either or both participating policies and non-participating policies. It is characteristic of such a policy that in its presentation to the public it is represented that the policyholder will receive a special advantage in any future distribution of earnings, profits, dividends or abatement of premium. It is also represented that such advantage will not be made available to the persons holding other types of policies issued by the company. Other names such as *Founders, President, and Executive Special* are frequently used for policies of the type herein described, and for the purpose of this rule when they are so used they shall be considered as *charter policies*.

(c) A *Profit-sharing policy* is any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to the persons holding other types of policies issued by the same company, in any future distribution of general corporate profits. Such policy forms are so drafted that it appears to a prospective policyholder that he is purchasing a preferential

share of the future profit and earnings of the insurance corporation rather than purchasing a life insurance policy which may be subject to refund of excess premium payments. The provisions of the policy may incorrectly represent the amount and source of surplus that will be available for apportionment and return to policyholders in the form of dividends. Policy forms using such terms as *profits*, *surplus*, or *surplus-sharing* in the manner herein described shall, for the purpose of this rule, be considered as *profit-sharing policies*.

(4) PROHIBITIONS, REGULATIONS, AND DISCLOSURE REQUIREMENTS. In accordance with the purpose expressed in sub. (1) of this rule and in consideration of the apparent intent of the legislature, the use in this state of certain types of policy forms and policy provisions shall be subject to the following prohibitions and regulations:

(a) *Coupon policy* forms misrepresent, distort, and disguise the true nature of the insurance purchased. Therefore, no *coupon policy* shall be

(b)
approved for use and no *coupon policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

Any policy, except a policy which is only used as a funding medium to provide gifts to a corporation without profit, as provided in s. 615.04, Stats., containing a series of one-year pure endowments or a series of guaranteed periodic benefits maturing during the premium-paying period of the policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is less than the total annual policy premium for such year has special characteristics making such policy peculiarly susceptible to misrepresentation and misunderstanding. Such policies are founded on the utmost good faith of the company, and the public interest requires that the premium charged for such benefits shall be fully and fairly disclosed to the policyholder without deception or misrepresentation. Therefore, on or after April 1, 1965, no such policy herein described shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless:

1. The policy is nonparticipating.
2. The payment of a pure endowment or guaranteed periodic benefit is not contingent on the payment of premiums falling due on or after the time such pure endowment has matured,
3. The gross premium for the pure endowment or guaranteed periodic benefits is shown prominently and separately in the policy distinct from the regular insurance premium,
4. The gross premium for the pure endowment or guaranteed periodic benefits is based on reasonable assumptions as to interest, mortality, and expense,
5. The number of one-year endowment or guaranteed periodic benefits provided by the policy equals the number of annual premiums for such benefits,
6. All advertisements, sales materials, agent's presentations, and other representations of the policy to the public represent the pure endowment or guaranteed periodic benefits of the policy to be nothing other than insurance benefits for which a premium is being paid,
7. All representations of the total premium for the policy contract also show the gross premium for the pure endowment or guaranteed periodic benefits to an extent such that the prospect or purchaser is fully informed as to the separate costs involved.

(c) *Charter policy* forms are defined by s. 207.04 (1) (f), Stats., to be an unfair method of competition. They purport to provide a means to an end result that is not authorized by statute and an end result that is without reasonable expectation of achievement. Such policy forms misrepresent the responsibility and obligation of the company for equitable distribution of dividends or abatement of premiums. Therefore, no *charter policy* shall be approved for use and no *charter policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(d) *Profit-sharing policy* forms are contrary to statute and the public interest by representing as an inducement to insurance that the person who purchases such a policy is procuring a preferential interest in the

future profits and earnings of the insurance corporation. Any distribution to a policyholder of the company of earnings, profits, or surplus is a refund of the excess premiums paid by that policyholder. Such distribution must be fair and equitable to all policyholders, it must not discriminate unfairly between individuals of the same class and equal expectation of life, and it must be in the best interest of the company and its policyholders. Therefore, no *profit-sharing policy* shall be approved for use and no *profit-sharing policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962. Further, on or after June 15, 1962, no participating policy shall be approved and no participating policy heretofore approved shall be issued or delivered in this state unless the policy provides without deception or misrepresentation that the source of any dividends or abatement of premium is limited to the divisible surplus derived from participating business.

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

Note: Section Ins 2.08 is the end product of a careful study and evaluation of the transcript of the hearing on January 16 and January 17, 1962, on the proposed rule. Due consideration was given to the exhibits and the prepared statements presented at the hearing and to the several briefs filed subsequent to the hearing. This is the first time since the passage of Public Law 15 that such a large amount of legal and actuarial talent was focused on these specific matters of the life insurance business. The number and size of the briefs and exhibits reflect the substantial time involved with their preparation, and the information they contained cast considerable light on the issues under consideration.

It is of interest to note that the first coupon-type life insurance policy was accepted for use in Wisconsin about 1940. Chapter 207, Wisconsin Statutes, relating to Unfair Insurance Business Methods, was enacted in 1947. In 1959 a newly organized company commenced the use of a charter-type coupon policy with profit or surplus sharing provisions. Because of the infrequent submission of such a type of life insurance policy, the insurance department personnel did not fully appreciate the impact of the provisions of ch. 207 (1947, c. 520) on the provisions of life insurance policies filed pursuant to s. 206.17, Stats. The information made available as a result of the hearing serves to bring the issues and the requirements of statutes more clearly in focus.

An administrative agency has a responsibility to correct any errors in administration of the statutes which are brought to its attention. The premise suggested at the hearing by the opponents of the proposed rule that a previous administrative ruling (acceptance of the policy) should be controlling and should not be reversed is not supported by the Wisconsin supreme court. In *Universal Underwriters vs. Rogan*, 6 Wis. (2d) 623, the court in effect said that, in case of ambiguity in a statute, practical interpretation over a long period by the agency charged with administration of an act or statute may be deemed controlling, but where there is no ambiguity in the law, a previous administrative ruling thereon cannot be given any weight as an administrative interpretation. The basic responsibility for the drafting and construction of lawful, policy forms rests with an insurance company and its actuaries and lawyers. In reviewing policy forms, the insurance department, while seeking to protect the public interest to the best of its ability, does not inherit any basic responsibility for the lawfulness of any part or all of an insurance contract. Therefore, it appears proper to make a determination of the matters at hand based on the merits of the issues and without an obligation to be controlled by a previous ruling.

Life insurance contracts, more than any other kind of insurance, are made on the basis of the utmost good faith of the insurance company. It is fundamental that the provisions of such contracts be devised with clarity and precision. The commissioner has an obligation to see that the public interest be served and the statute complied with by refusing to accept policies that are or tend to be misleading or deceptive. Section 201.53 (1), Stats., states that: "No insurance company shall make any agreement of insurance other than as plainly expressed in the policy."

The principal issues involved are whether or not life insurance coupon policies, charter policies, and profit-sharing policies are consistent with and are authorized by statute. Some life insurance companies issue policy forms embodying one or more of these features in a single policy. It is necessary that each of these types of policies be discussed separately even though there is some overlapping of the issues involved and some of the same considerations are present in two or more of these policies.

In respect to the so-called coupon policies, wherein a series of coupons are sold in conjunction with conventional life insurance, there is no dispute but that the coupons are a series of one-year pure endowments. This being true, they should be properly identified as such. To print the coupon in the color and format of interest coupons commonly attached to invest-

ment bonds disguises the true nature of the product being purchased by the public. A series of one-year endowments affords a special type of benefit which the average life insurance buyer would seldom purchase if he were in possession of the full information concerning the premiums paid for the pure endowment benefits provided.

The gross premium cost to the policyholder for the pure endowment benefits can be readily determined by the company by loading the benefits to be afforded with the applicable expense items such as premium taxes, acquisition cost, and company administration expenses, with consideration for items such as interest, mortality, policy lapses, etc. It has been argued that it is only necessary to disclose the net premium cost, which is the premium needed to provide the benefits, without recognition and inclusion of the company administration expenses and overhead. These other expenses do exist and if not shown with the pure endowment premium they then are an additional load on the life insurance being purchased in conjunction with the pure endowment benefit. To argue that it is only necessary to disclose a portion of the premium cost is to argue that it is legal and proper to deceive the public into believing that they are purchasing the endowment benefit at a premium cost that is attractive in relation to the benefits. It is a fact that the gross premium cost will frequently be substantially in excess of benefits returned to the policyholder. At best, the total of the face value of the pure endowment benefits would approximate or be only slightly greater than the total gross premium paid by the policyholder. It is not in the public interest, nor is it consistent with ss. 201.53 (1), 206.51 (1), and 207.04 (1) (a), Stats., to permit such a deception and misrepresentation of the gross premium cost of a series of one-year pure endowments or of any series of guaranteed periodic benefits maturing during the premium-paying period of the policy.

Charter policy is a name given to a life insurance policy, usually by a newly organized insurance company. Its basic purpose is to provide the company agents with a policy form that is especially attractive to the purchaser in order that the new company will have a competitive advantage. The nature of the charter-type policy is that it is profit-sharing or that the policyholder will participate in the long-term earnings of the company. The usual representation is that the policies will be issued to the extent of a predetermined fixed number of units and that the policyholder will be one of a relatively small and limited number of the original policyholders of the company who will ultimately share in the business success of the company. While this may be a useful device to aid a new company in getting started in business, the technique, if it is to be permitted, must be consistent with the requirements of statute. Section 207.04 (1) (f) states that 'Issuing . . . any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance' is an unfair method of competition and is an unfair and deceptive act or practice in the business of insurance. Such trade practices are prohibited by s. 207.03. The technique of offering returns or profits to a small group of the first policyholders of a company is clearly contrary to statute. It is a characteristic of charter policies that they represent that the policyholder will participate with special advantage in the long-term earnings of the company. This is a misrepresentation when viewed in the light of the requirement of s. 206.33 (1) that 'No life insurance company shall make or permit any distinction or discrimination between insureds of the same class and equal expectation of life in the amount or payment of premiums or in any return of premium, dividends or other advantages.' After consideration of the issues involved it cannot be concluded that charter-type life insurance contracts are consistent with the requirement of statute.

Profit-sharing is a name used to describe any life insurance contract which provides that the policyholder will participate with special advantage in the general surplus accumulations of a life insurance company. If the company issuing such policies issues participating policies exclusively, then the right of each policyholder to participate in the surplus of the company is the same as the right of every other policyholder of the company. In such cases the statutes (206.13 (1), 206.33, 206.36, and 207.04 (1) (g)) require equitable and nondiscriminatory annual apportionment and return of the surplus accumulations.

However, the matters involved are much more complex when a life insurance company issues both participating and nonparticipating policies. Underlying the matters to be considered is the fact that any dividend on a participating policy is essentially a return of excess premium paid by the policyholder. Section 206.13 (1) provides that the participating policy, by its terms, must give the policyholder the full right to participate annually in the surplus accumulations from the participating business of the company. The issue in question is whether the statutes authorize a life insurance company to issue contracts which provide that a class of participating policyholders will participate with special advantage in the long-term corporate earnings of the company on both participating and nonparticipating business. Section 207.04 (1) (g) 1 defines as a prohibited unfair discrimination the 'making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, . . .' Section 207.04 (1) (h) defines as rebating, prohibited by section 207.03, the 'paying or allowing or giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, . . .' From this it can be concluded that the statutes do not permit the issuance of a contract which gives the policyholder a promise of rebate of premium or a special advantage in dividend. Section 207.04 (1) (i) provides that, in respect to discrimination and rebates, the provisions of section 207.04 (1) (g) and (h) do not prevent the abatement of premium out of surplus

accumulated from nonparticipating business provided that such abatement of premium shall be fair and equitable to policyholders and for the best interest of the company and its policyholders. This statute is the only authorization for payment of dividends from the surplus accumulated from nonparticipating business. The impact of this statute is that any distribution of surplus accumulated from nonparticipating business must be fair and equitable to both participating and nonparticipating policyholders and for the best interest of the company and the participating and nonparticipating policyholders. Thus, a participating policy which purports to provide by its own terms or by the net result of the application of its terms that the policyholder will participate in the surplus accumulated on nonparticipating business is not a true representation of fact since the participating policy can only participate to an extent that is equitable with the participation of the nonparticipating policy, and to be equitable and not misrepresent the rights of the policyholder the nonparticipating policy should have the same provisions for participation in the earnings on the nonparticipating business. If such a provision were to be inserted in all nonparticipating policies, such policies then, by their own terms, become participating policies and the distribution of dividends would be governed by the statutes cited above and the purported special advantage would not exist. It can be concluded that participating policy forms issued by life insurance companies should accurately state the conditions imposed by statute for distribution of surplus accumulations.

It is also worthy of mention that the Wisconsin Securities Law, in s. 189.02 (1), defines a security as including "any interest, share or participation in any profits, earnings, profit-sharing agreement, . . . There appears to be substantial evidence that if the profit-sharing or surplus-sharing type of policy were to be considered as complying with the insurance statutes, it would then be considered as within the definition of a security and subject to regulation as such.

The provisions of s. Ins 2.08 are intended to apply only to policies issued on or after its effective date, and it does not apply to contracts issued prior to the effective date. The adoption of the rule should not disturb or cast doubt about the validity of previously issued contracts of the type described in the rule. Such contracts were issued in good faith by the insurance companies, and there is no retroactive impact of the rule.

The amendment to sub. (4) (b), effective December 1, 1964, does not impair the validity of any contracts in force prior to the effective date and does not prevent a company from performing on any such contracts.

All present tense statutory references herein are to 1973 Stats.

History: Cr. Register, May, 1962, No. 77, eff. 6-15-62; am. (4) (b), Register, August 1964, No. 104, eff. 12-1-64; am. (4) (b) (intro. par.), Register, March, 1965, No. 111, eff. 4-1-65. emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (b) (intro.), Register, January, 1984, No. 337, eff. 2-1-84.

Ins 2.09 Separate and distinct representations of life insurance. (1) PURPOSE. The interests of policyholders and purchasers of life insurance which is sold in connection with any security must be safeguarded by providing them with clear and unambiguous written proposals and statements in which all material relating to life insurance is set forth separately from any other material. This rule implements and interprets s. 628.34, Stats., by establishing minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold in connection with a mutual fund or other security.

(2) **SCOPE.** This rule shall apply to the solicitation of, negotiation for, procurement of, or joint billing of any insurance specified in s. Ins 6.75 (1) (a), within this state or involving a resident of this state where it is known to the insurer or the insurance agent that the sale of any mutual fund or other security has been, may become, or is a part of any such transaction.

(3) **DEFINITIONS.** For the purposes of this rule:

(a) "Proposal" includes any estimate, illustration, or statement which involves a representation of any premium charge, dividends, terms, or benefits of any policy of life insurance within sub. (2).

(b) 'Life insurance' includes life insurance, annuities, and endowments.

(4) **RESPONSIBILITY OF INSURER AND AGENT.** No insurer and no insurance agent shall make, in connection with any transaction within sub. (2), a proposal or billing other than in accordance with this rule. Every insurer must inform its agents involved with the solicitation of life insurance on residents of this state of the requirements of this rule.

Every insurer must inform its agents involved with the solicitation of life insurance on residents of this state of the requirements of this rule. []

(5) **WRITTEN PROPOSAL.** In any solicitation or sale within sub. (2), the prospect or policyholder must be furnished with a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made.

(6) **CONTENTS OF PROPOSAL.** Any proposal referred to in this rule must:

(a) Be dated and signed by the insurance agent or by the insurer if no agent is involved;

(b) State the name of the company in which the life insurance is to be written;

(c) Be accurate and complete;

(d) Contain no misrepresentations or false, deceptive or misleading statements;

(e) Show the premium charge for life insurance separately from any other charge;

(f) If values which may accrue prior to the death of the insured are involved in the presentation, show the value of the life insurance separately from any other values;

(g) Show, if it is involved in the presentation, the amount of the death benefit for the life insurance separately from any other benefit which may accrue upon the death of the insured;

(h) Set forth all matters pertaining to life insurance separately from any matter not pertaining to life insurance;

(i) Contain only such representations as will accurately reflect the actual conditions applicable to the proposed insured.

(7) **STATEMENTS TO BE SEPARATE.** Any bill, statement, or representation sent or delivered to any prospect or policyholder must show the premium charge for the life insurance and any other information mentioned concerning life insurance separately from any other charges or values shown in the same billing.

(8) **VIOLATION.** Any violation of this rule shall be deemed to be a misrepresentation of the nature of the life insurance involved.

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

History: Cr. Register, October, 1963, No. 94, eff. 11-1-63; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79.

Ins 2.11 Franchise life insurance. **History:** Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) (a), Register, March, 1979, No. 279, eff. 4-1-79; r. Register, June, 1982, No. 318, eff. 7-1-82.

Ins 2.12 Exceptions to unfair discrimination. The following practices, without being all-inclusive, shall not be considered unfairly discriminatory as considered by s. 628.34, Stats.:

(1) Issuing life insurance policies or life annuity contracts on a salary savings, salary allotment, bank draft, pre-authorized check, or payroll deduction plan or other similar plan at a reduced rate or with special underwriting considerations reasonably related to the savings made by use of such plan.

(2) Issuing life insurance policies or annuity contracts at premiums determined by rating plans which provide for modification of premiums based on the amount of insurance; but any such rating plans shall not result in reduction in premiums in excess of the savings reasonably related to the savings made by use of the plan. All cost factors must be given proper recognition in order to preserve equity between various classes of policyholders.

(3) Issuing so-called 'family plan' life insurance policies which include insured, spouse, and their children with the premium calculated on the basis of the family unit. The rating plan must give recognition to all cost factors in order to preserve equity between various classes of policyholders.

(4) Issuing policies under the authority of s. Ins 6.75 (1) (a), with the premium calculated on the basis of the average age of those insured or calculated in some other manner which is appropriate for the coverage offered, provided that the rate must be reasonably related to the coverage provided and to the savings made by use of the rating procedure.

(5) Issuing life insurance policies or life annuity contracts at special rates or with special underwriting considerations, reasonably related to the savings made, in connection with:

(a) Employe benefit trusts or plans conforming to the requirements of s. 815.18 (31) (a), Stats.

(b) Plans used to fund retirement benefits under the Federal Self-Employed Individuals Tax Retirement Act of 1962.

(c) Plans used to fund retirement benefits for employes of certain organizations exempt from Federal income tax and public schools (so-called tax sheltered annuity plans).

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (intro.), (4) and (5) (d), eff. 6-22-76; am. (intro.), (4) and (5) (d), Register, September, 1976, No. 249, eff. 10-1-76; am. (4) and (5) (a), Register, March, 1979, No. 279, eff. 4-1-79; r. (5) (d), Register, June, 1982, No. 318, eff. 7-1-82; reprinted to correct error in (5), Register, August, 1982, No. 320.

Ins 2.13 Separate accounts and variable contracts. (1) PURPOSE. This rule creates standards for establishing separate accounts and for issuing contracts on a variable basis, both as provided by ss. 611.25 and 632.45 (1), Stats.

(2) **DEFINITION.** (a) The term "contract on a variable basis" or "variable contract," when used in this rule, shall mean any policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in s. 632.45 (1), Stats.

(b) "Agent," when used in this rule, shall mean any person who sells or offers to sell any contract on a variable basis.

(3) **QUALIFICATION OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS.** (a) No company shall deliver or issue for delivery variable contracts within this state unless:

1. It is licensed or organized to do a life insurance or annuity business in this state; and

2. The commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of a company requesting authority to deliver such contracts within this state, the commissioner shall consider among other things:

a. The history and financial condition of the company;

b. The character, responsibility and fitness of the officers and directors of the company, and

c. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

(b) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the provisions of par. (a) 2. of this rule if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period at least 3 years may be deemed to have satisfied the commissioner with respect to par. (a) 2. of this rule.

(c) Before any company shall deliver or issue for delivery variable contracts within this state it shall submit to the commissioner:

1. A general description of the kinds of variable contracts it intends to issue;

2. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts and

3. If requested by the commissioner, biographical data with respect to officers and directors of the company.

(4) **SEPARATE ACCOUNTS.** (a) A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to s. 611.25, Stats., subject to the following provisions:

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1. Except as hereinafter provided, amounts allocated to any separate account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to a. benefits guaranteed as to dollar amount and duration, and b. funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

2. With respect to 75% of the market value of the total assets in a separate account, no company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10% of the market value of the assets of said separate account; provided, however, that the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state.

3. No company shall, whether for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount in excess of 10% of the total issued and outstanding voting securities of such issuer provided that the foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

4. The limitations provided in sub. (4) (a) 2. and 3. of this rule shall not apply to the investment with respect to a separate amount in the securities of an investment company registered under the Investment Company Act of 1940, as amended provided that the investments of such investment company comply in substance with sub. (4) (a) 2. and 3. of this rule.

(b) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that the portion of the assets of such separate account equal to the company's reserve liability with regard to the benefits guaranteed and funds guaranteed referred to in sub. (4) (a) 1. a. and b. of this rule, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

(c) If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

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(d) Notwithstanding any other provision of law, a company may:

1. With respect to any separate account registered with the securities and exchange commission as a unit investment trust exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940, as amended, and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

2. With respect to any separate account registered with the securities and exchange commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board, or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets.

A company, committee, board, or other body may make such other provisions in respect to any such separate account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

(e) No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made

1. By a transfer of cash, or

2. By a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(f) The company shall maintain in each such separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the commissioner.

(g) Section 611.60, Stats., shall apply to the members of any separate account's committee, board, or other similar body. No officer or director of such company nor any member of the committee, board, or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

(5) FILING OF CONTRACT FORMS. (a) No variable contract may be issued or delivered in this state until the commissioner has approved the form or until the form and rates have been filed with the commissioner for 30 days.

(b) The filing letter shall be in duplicate and shall contain the following information:

1. An identifying form number and title for each form submitted.
2. A general description of the form (s).
3. A listing of the types of policies to which rider or endorsement forms will be attached.
4. The form number and date of approval by the commissioner of any form to be superseded.

(c) One copy of all forms or rates submitted or approval shall be submitted with a copy of the application attached if the application is to be a part of the contract. If the application was previously approved, the form number and date of approval will suffice.

(d) All forms should be completed with hypothetical data to show their use and should include a correct table of values. Variable information in forms should be explained.

(e) An actuarial statement of methods used to calculate values in the contract should be included.

(6) **CONTRACTS PROVIDING FOR VARIABLE BENEFITS.** (a) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement to the effect that the benefits thereunder are on a variable basis, with a statement where in the contract the details of the variable provisions may be found.

(b) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of annuity payments.

(c) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

1. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

2. A provision that, at any time within 3 years from the date of default, in making periodic stipulated payments to the insurer during the life of

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the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;

3. A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(d) Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the expense, mortality, and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. "Expense," as used in this paragraph, may exclude some or all taxes, as stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. The annual net investment increment assumption shall not exceed 5%, except with the approval of the commissioner;

2. To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age.

(e) The reserve liability for variable annuities shall be established pursuant to the requirements of s. 623.06, Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) REQUIRED REPORTS. (a) Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contractholder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date not more than 4 months previous to the date of mailing:

1. The number of accumulation units credited to such contracts and the dollar value of a unit, or

2. The value of the contractholder's account.

(b) The company shall submit annually to the commissioner a statement of the business of its separate account (s) in such form as required by the annual statement form designated as Life and Accident and Health—Separate Account Business (22-46). (See Wis. Adm. Code section Ins 7.01 (5) (e)).

(8) **FOREIGN COMPANIES.** If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this rule.

(9) **AGENT QUALIFICATIONS.** Any person selling or offering for sale a variable contract must have a valid license as described in s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a); and have passed any one of the following alternative security examinations administered by the National Association of Securities Dealers:

1. General Securities Registered Representative Examination
2. Investment Company Products/Variable Contracts Limited Representative Qualification Examination
3. SECO/NASD Non-Member General Securities Examination
4. General Securities Principal Qualification
5. Investment Company Products/Variable Contracts Limited Principal Qualification Examination

History: Cr. Register, October, 1968, No. 154, eff. 11-1-68; emerg. am. (1), (2) (a), (4) (a) and (g), eff. 6-22-76; am. (1), (2) (a), (4) (a) and (g), Register, September, 1976, No. 249, eff. 10-1-76; am. (6) (e), Register, March, 1979, No. 279, eff. 4-1-79; r. (2) (d) 5., (9) (g), to (m) and (p), am. (2) (b) to (d) (intro.), (6) (a), (9) (a) to (f), cr. (9) (g) to (i), renum. (9) (n) and (o) to be (9) (j) and (k), Register, May, 1979, No. 281, eff. 6-1-79; r. and recr. (2) and (9), Register, October, 1981, No. 310, eff. 11-1-81.

Ins 2.14 Life insurance solicitation. (1) **PURPOSE.** The purpose of this rule is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for his or her needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This rule does not prohibit the use of additional material which is not in violation of this rule or any other Wisconsin statute or rule. This rule interprets and implements, including but not limited to the following Wisconsin Statutes: ss. 601.01 (3) (b), (c), (g) and (j) and 628.34.

(2) **SCOPE.** (a) Except as hereafter exempted, this rule shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This rule shall apply to any issuer of life insurance contracts including fraternal benefit societies and the State Life Insurance Fund.

(b) Unless otherwise specifically included, this rule shall not apply to:

1. Annuities.
2. Credit life insurance.
3. Group life insurance.
4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

5. Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

(3) DEFINITIONS. For the purposes of this rule, the following definitions shall apply:

(a) *Cash dividend*. A cash dividend is the current illustrated dividend which can be applied toward payment of the gross premium.

(b) *Equivalent level death benefit*. The equivalent level death benefit of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years, respectively.

2. Divide each accumulation of step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step 1 over the respective periods stipulated in step 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(c) *Generic name*. Generic Name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(d) *Life insurance indexes*. 1. Surrender Cost Index. The Surrender Cost Index is calculated by applying the following steps:

a. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

b. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in step a.

c. Divide the result of step b (step a for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that if paid at the beginning of each year, would accrue to the value in step b (step a for guaranteed-cost policies) over the respective periods stipulated in step a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

d. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider (if the annual premium includes supplemental benefits without separate identifiable charge, a reasonable adjustment may be made) at 5% interest compounded annually to the end of the period stipulated in step a and dividing the result by the respective factors stated in step c. (This amount is the annual premium payable for a level premium plan).

e. Subtract the result of step c from step d.

f. Divide the result of step e by the number of thousands of the Equivalent Level Death Benefit to arrive at the Surrender Cost Index.

2. Net Payment Cost Index. The Net Payment Cost Index is calculated in the same manner as the comparable Surrender Cost Index except that the cash surrender value and any terminal dividend are set at zero.

3. Equivalent Level Annual Dividend. The Equivalent Level Annual Dividend is calculated by applying the following steps:

a. Accumulate the annual cash dividends at 5% interest compounded annually to the end of the tenth and twentieth policy years.

b. Divide each accumulation of step a by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in step a over the respective periods stipulated in step a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

c. Divide the results of step b by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

4. Average Annual Rate of Return Index. This index is calculated on cash value policies using the Linton yield method.

a. The Linton yield method solves for a level, effective, annually compounded interest rate, or yield. This yield is determined by equating the cash available at the end of a specified number of years from 2 different protection/savings programs, each with identical yearly death benefits, and then solving for the annual yield that must be achieved on the separate savings fund of the second program in order to produce the cash equivalency with the first program. The 2 programs compared are:

i. A life insurance policy on, normally but not necessarily, some permanent plan. The cash used at the end of the specified year is the policy's guaranteed cash surrender value plus the terminal dividend payable upon surrender and the dividend payable at the end of the specified year.

ii. A combination of a savings fund and yearly renewable term (YRT) insurance. The amount deposited in the savings fund each year is assumed to be equal to the annual premium payable under the alternate program for the permanent life insurance policy (less any dividend payable at the end of the preceding year) less an assumed premium payable for YRT insurance. The amount of YRT purchased each year is that which would be adequate to bring the combined death benefit from the savings plan and the YRT to the same as that payable under the permanent life insurance policy. The cash used for comparison with the permanent policy is the amount accumulated in the savings fund at the end of the specified year.

b. Average Annual Rate of Return index figures given out in Wisconsin by insurers or intermediaries shall be calculated separately for males and females and shall be based upon the following assumptions:

i. As to YRT premium rates:

YRT premiums = $(1,000 q_x) (K) + \$0.90 + \$25/S$ where K equals 1.00 for ages 0 through 14 and 0.95 for ages 15 and above, S equals policy size in thousands and $1000 q_x$ equals the mortality rate for age x shown in sub. (8);

ii. As to elements entering into the calculation: Gross premiums shall include the total premiums charged for all life insurance benefits; dividends shall be total illustrated dividends excluding any separately identifiable dividends payable for benefits other than life insurance.

Note: A discussion of the Linton yield method may be found on pp. 28-30 in the *Analysis of Life Insurance Cost Comparison Index Methods*, prepared by the Society of Actuaries Committee on Cost Comparison Methods and Related Issues (Special), September, 1974. Further discussion on the "low" YRT rates to be used in computing the Linton yield, which are the rates specified in this rule, may be found in Appendix B, pp. 187-192 of that same publication.

(e) *Policy summary*. 1. For the purposes of this rule, Policy Summary means a written statement in substantially the same format for all companies and describing the elements of the policy including but not limited to:

a. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

b. The name and address of the insurance intermediary, or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.

c. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

d. The Generic Name of the basic policy and each rider.

e. The following amounts, where applicable, for the first 5 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including but not necessarily limited to, the years for which the Surrender Cost Index is displayed and at least one age from 60 through 65 or maturity whichever is earlier:

i. The annual premium for the basic policy.

ii. The annual premium for each optional rider.

iii. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

iv. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

v. Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

vi. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

f. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest is variable, the Policy Summary shall include the maximum annual percentage rate.

g. Surrender Cost Indexes for 10 and 20 years. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are

limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

h. A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed.

i. A statement in close proximity to the Surrender Cost Index (and other cost indexes) as follows: A further explanation of the intended use of this (these) index(es) is provided in the Life Insurance Buyer's Guide.

j. The date on which the Policy Summary is prepared.

2. The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subd. 1.e. above shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

(4) DISCLOSURE REQUIREMENTS. (a) The insurer shall provide a Policy Summary upon delivery of the policy.

(b) The insurer may provide information concerning life insurance cost indexes other than the surrender cost index so long as the information and its method of presentation is in conformance with this rule.

(c) For policies already issued and paying premiums on the effective date of this rule, policyholders shall have the right to obtain a Policy Summary at cost. The company may charge a reasonable fee for preparing this summary, not to exceed \$5, and may utilize reasonable assumptions in providing the cost disclosure information, so long as they are clearly disclosed.

(5) GENERAL RULES. (a) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this rule. Such file shall contain one copy of each authorized form for a period of 3 years following the date of its last authorized use.

(b) An intermediary shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance intermediary and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name.

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(d) Any reference to policy dividends must include a statement that dividends are not guaranteed.

(e) Any sales presentation which repeatedly refers to an insurance premium or element of the insurance premium as a deposit, an investment, a savings or in any other phrase of similar import, and does not disclose the Average Annual Rate of Return Index figures for 10 and 20 years is an unfair marketing practice, within the meaning of s. 628.34, Stats.

(f) The purchase or replacement of any life insurance contract or annuity shall not be recommended by any insurer or intermediary without reasonable grounds to believe that the recommendation is not unsuitable for the applicant on the basis of information furnished by such person after reasonable inquiry as may be necessary under the circumstances concerning the prospective buyers insurance and annuity needs and means.

(g) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of 2 or more life insurance policies.

(h) A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are shown separately in close proximity thereto.

(i) A statement regarding the use of the Surrender Cost Index shall include an explanation to the effect that the index is useful only for the comparison of the relative costs of 2 or more similar policies.

(j) A Life Insurance Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.

(k) For the purposes of this rule, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

(6) **EFFECTIVE DATE.** This rule shall apply to all solicitations of life insurance which commence on or after January 1, 1979, except that the requirements of sub. (4) (a) shall apply to solicitations which commence on or after February 1, 1980.

(7) **UNUSUAL CIRCUMSTANCES.** Insurers with unique difficulties in implementing sections of this rule may petition the commissioner for allowance to meet the requirements of the rule through alternative approaches.

(8) **YEARLY RENEWABLE TERM INSURANCE MORTALITY RATES.** The following mortality rates are to be used in determining YRT premiums for calculating Average Annual Rate of Return Index figures.

MORTALITY RATES PER 1,000

Attained Age (x)	Male Lives	Female Lives	Attained Age (x)	Male Lives	Female Lives
0	5.80	4.80	48	5.71	3.20
1	1.33	1.22	49	6.34	3.52
2	0.84	0.72	50	6.94	3.84
3	0.65	0.55	51	7.56	4.15
4	0.53	0.48	52	8.32	4.48
5	0.48	0.42	53	9.20	4.84
6	0.42	0.37	54	10.09	5.23
7	0.39	0.33	55	11.00	5.67
8	0.35	0.29	56	12.06	6.16
9	0.32	0.22	57	13.26	6.70
10	0.31	0.25	58	14.60	7.27
11	0.31	0.26	59	16.06	7.87
12	0.33	0.27	60	17.69	8.52
13	0.42	0.29	61	19.55	9.21
14	0.52	0.31	62	21.61	10.00
15	0.73	0.36	63	23.75	10.83
16	0.87	0.36	64	25.83	11.81
17	1.02	0.37	65	27.99	13.07
18	1.18	0.38	66	30.34	14.72
19	1.29	0.40	67	33.04	16.80
20	1.37	0.41	68	35.92	19.28
21	1.46	0.44	69	39.27	22.28
22	1.52	0.48	70	42.90	25.69
23	1.47	0.53	71	46.45	29.43
24	1.32	0.60	72	49.96	33.43
25	1.25	0.66	73	53.72	37.30
26	1.22	0.70	74	58.16	40.72
27	1.19	0.70	75	63.36	43.59
28	1.17	0.70	76	69.04	46.36
29	1.13	0.71	77	75.09	49.38
30	1.15	0.75	78	81.98	53.45
31	1.22	0.83	79	89.68	59.01
32	1.28	0.93	80	97.68	66.03
33	1.32	1.04	81	105.42	73.80
34	1.34	1.14	82	113.40	79.38
35	1.40	1.21	83	122.90	86.03
36	1.49	1.23	84	135.00	94.50
37	1.60	1.25	85	149.17	107.40
38	1.75	1.29	86	165.94	122.80
39	1.91	1.37	87	182.12	138.41
40	2.12	1.47	88	196.71	153.43
41	2.36	1.59	89	213.26	170.61
42	2.66	1.74	90	229.66	188.32
43	3.02	1.91	91	246.98	207.47
44	3.45	2.10	92	262.03	225.34
45	3.96	2.32	93	276.79	243.58
46	4.51	2.58	94	302.02	271.82
47	5.09	2.88	95	338.33	311.26

Note: The mortality rates for ages 0 through 14 are from the 1965-1970 Select Basic Tables published on pages 202 and 203 of the Transactions of the Society of Actuaries Publication Year 1974, Number 3, 1973 Reports of Mortality and Morbidity Experience. The mortality rates for ages 15 and above are from the Ultimate Basic Tables, Males lives (1957-1960 Expe-

rience), Female Lives (1957-1960 Experience) published on page 48 of the Transactions of the Society of Actuaries, Publication Year 1963, Number 2, 1962 Reports of Mortality and Morbidity Experience.

(9) **PENALTY.** Violations of this rule shall subject the violator to s. 601.64, Stats.

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

Note: In *Aelna Ins. Co. v. Mitchell*, 101 Wis. 2d 90, the Wisconsin supreme court upheld a Dane county circuit court decision which declared Ins 2.14 (3) (a) and (f) and Appendix 1, 2 and 3 invalid. By extension, this decision also invalidates Ins 2.14 (4) (a) and (c). The invalidated portions of Ins 2.14 have been repealed and the rule has been renumbered to reflect this repeal.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1978, No. 275, eff. 1-1-79; am. (3) (a) and (6), r. and recr. appendices, Register, January, 1980, No. 289, eff. 2-1-80; r. (3) (a) and (f), (4) (a) and (c), Appendices 1, 2 & 3, renum. (3) (b) to (e) and (g) to be (3) (a) to (e), (4) (b), (d) and (e) to be (4) (a) to (c), Register, May, 1984, No. 341, eff. 6-1-84.

Ins 2.15 Annuity benefit solicitation. (1) **FINDINGS.** Information on file in the office of the commissioner of insurance and submitted as Exhibit 4 at the hearing February 28, 1980 shows that some of the brochures, presentations, illustrations and other sales material which have been used by insurers and their representatives to sell annuity contracts to Wisconsin residents are confusing, misleading and incomplete, and that annuity purchasers are not receiving the information needed to make sound purchase decisions. The commissioner of insurance finds that such presentations and sales material are misleading, deceptive and restrain competition unreasonably as considered by s. 628.34 (12), Stats., and that their continued use would constitute an unfair trade practice under s. 628.34 (12), Stats. and would result in misrepresentation as defined and prohibited in s. 628.34 (1), Stats.

(2) **PURPOSE.** (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or annuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute.

(b) This section interprets and implements s. 628.34 (12), Stats.

(3) **SCOPE.** (a) Except as specified in par. (b), this section shall apply to any solicitation, negotiation or procurement of annuity or deposit fund arrangements occurring within this state. This section shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies.

(b) This section shall not apply to:

1. Variable annuities;

2. Contracts registered with the federal securities and exchange commission;

3. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or both;

4. Immediate annuity contracts (arrangements under which payments begin within 13 months of the issue date);

5. Policies or contracts issued in connection with employe benefit plans as defined by section 3 (3) of the federal employe retirement income security act of 1974 (ERISA) as amended from time to time, except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under section 403(b) of the Internal Revenue Code;

6. Individual retirement accounts and individual retirement annuities as described in section 408 of the Internal Revenue Code;

7. A single advance payment of specified premiums equal to the discounted value of such premiums;

8. A policyholder's deposit account established solely to facilitate payment of regular premiums;

9. Settlement options under life insurance or annuity contracts.

(4) **DEFINITIONS.** (a) "Preliminary Statement of Benefit Information" means a written statement to be provided to the buyer prior to sale which describes the elements of the annuity contract or deposit fund in the manner set out in sub. (5);

(b) "Wisconsin Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in Appendix I to this section;

(c) "Statement of Benefit Information" means a written statement to be provided to the buyer at the time of contract delivery describing the elements of the annuity contract or deposit fund in the manner set out in sub. (6);

Next page is numbered 42-5

(d) "Effective Yields at Maturity" means those effective annual interest rates at which the accumulation of 100% of all gross considerations used to determine the values shown in the illustrations to maturity date would be equal to the guaranteed and illustrated cash surrender values, respectively, at maturity date.

1. If no specific maturity date is contractually defined, "maturity date" shall be assumed to be attainment of age 65, except as provided in subd. 2.

2. If no specific maturity date is contractually defined, and if either the date of attainment of age 65 cannot be determined, or age 65 will be attained before 10 years have elapsed since the payment date of the first gross consideration, then "maturity date" shall be assumed to be 10 years from the payment date of the first gross consideration.

(5) **PRELIMINARY STATEMENT OF BENEFIT INFORMATION.** The Preliminary Statement of Benefit Information shall include: (a) A prominently placed title, **PRELIMINARY STATEMENT OF BENEFIT INFORMATION**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) A statement as to whether the arrangement provides any guaranteed death benefits during the deferral period;

(e) A prominent statement that the contract does not provide cash surrender values, if such is the case;

(f) For arrangements under which guaranteed cash surrender values at any duration are less than the total scheduled considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years;

(g) Any minimum or maximum premium limitations;

(h) A prominent description of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to, any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees;

(i) In the event any sales promotion literature or oral representation illustrates values or annuity payments which are based on dividends, excess interest credits, or current annuity rates, then the Preliminary Statement of Benefit Information shall contain a statement that such dividends, excess interest credits, and current annuity purchase rates are not guaranteed and that any corresponding values and annuity amounts are illustrations only and are not guaranteed;

(j) A statement that the insurer shall provide the prospective customer a Statement of Benefit Information upon request.

(6) STATEMENT OF BENEFIT INFORMATION. The Statement of Benefit Information shall include:

(a) A prominently placed title, STATEMENT OF BENEFIT INFORMATION, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) Any guaranteed death benefits during the deferral period, and the form of annuity payment selected for pars. (f), (g) and (i);

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement thereof, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the arrangement and no indebtedness to the insurer on the contract;

(g) Illustrative annuity payments on a current basis, if shown, must be on the same basis as for par. (f) except for guarantees, and may not be greater in amount than those based on:

1. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements, or the current excess interest rate credited by the insurer, and

2. Current annuity purchase rates;

(h) For arrangements under which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years and showing the number of years such a relationship exists, together with a reference to the schedule of guaranteed cash surrender values required by par. (i) 3.;

(i) The following amounts, where applicable, for the first 5 years and representative years thereafter sufficient to illustrate clearly the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments:

1. The gross consideration for the arrangement;

2. Any minimum or maximum premium limitation;

3. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year;

4. If other than guaranteed cash values are shown, the total illustrative cash value or paid-up annuity at the end of the year may not be greater in amount than that based on:

a. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements or the current excess interest rate credited by the insurer, and

b. Current annuity purchase rates.

(j) For a Statement of Benefit Information which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed;

(k) The date on which the Statement of Benefit Information is prepared.

(7) PREPARATION OF PRELIMINARY STATEMENT OF BENEFIT INFORMATION AND STATEMENT OF BENEFIT INFORMATION. The following must be considered in preparing the Preliminary Statement of Benefit Information and the Statement of Benefit Information:

(a) The Preliminary Statement of Benefit Information and the Statement of Benefit Information must be separate documents;

(b) All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure;

(c) Any amounts which remain level for 2 years or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year;

(d) Amounts in sub (6) (d), (f), (g) and (i) shall, in the case of flexible premium annuity arrangements, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be a specified level amount, such as \$100 or \$1,000 per year;

(e) If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later;

(f) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or a current excess interest rate.

(g) Zero amounts shall be displayed as zero and shall not be displayed as blank spaces;

(h) Values for a rider or provision must be shown separately from those for a basic contract.

(8) DISCLOSURE REQUIREMENTS. (a) The insurer and its intermediaries shall provide, to all prospective purchasers of any contract or arrangement subject to this section, a copy of the current edition of the Wisconsin Buyer's Guide to Annuities and a properly filled out Preliminary Statement of Benefit Information or Statement of Benefit Information prior to accepting the applicant's initial consideration for the annuity contract, or in the case of a rider or provision prior to acceptance of the applicant's initial consideration for the associated insurance policy or annuity contract. Insurers which do not market contracts through an intermediary may provide the Preliminary Statement of Benefit Information, the Statement of Benefit Information and the Wisconsin

Buyer's Guide to Annuities at the point of contract delivery so long as they:

1. Guarantee to the contractholder the right to return the contract for a full refund of premium any time during a 30 day period commencing on the date such contractholder receives the Statement of Benefit Information and the Wisconsin Buyer's Guide to Annuities;

2. Alert the prospective contractholder, in advertisements or direct mail solicitations, of his or her right to obtain a copy of the Wisconsin Buyer's Guide to Annuities and a Preliminary Statement of Benefit Information prior to the sale.

(b) The insurer and its intermediaries shall provide a Statement of Benefit Information upon delivery of the contract, if it has not been delivered beforehand;

(c) The insurer and its intermediaries shall provide a Wisconsin Buyer's Guide to Annuities and a Statement of Benefit Information to individual prospective purchasers upon reasonable request;

(d) Any statement provided subsequent to sale to a contractholder which purports to show the then current value of an arrangement subject to this section shall show the then current guaranteed cash surrender value or, if no guaranteed cash surrender value is provided the then current guaranteed paid-up annuity.

(9) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. Such file shall contain one copy of each authorized form for a period of at least 3 years following the date of its last authorized use;

(b) An intermediary shall inform the prospective purchaser, prior to commencing a sales presentation, that the intermediary is acting as an insurance intermediary and shall inform the prospective purchaser of the full name of the insurer which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name;

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;

(d) Any reference to dividends or to excess interest credits must include a statement that such dividends or credits are not guaranteed;

(e) Any sales presentation for an arrangement subject to the provisions of this section which purports to show a yield, or return or any items of similar import must disclose in an at least equally prominent manner the Effective Yields at Maturity;

(f) The purchase or replacement of any arrangement subject to the provisions of this section shall not be recommended by any insurer or intermediary without reasonable grounds to believe that the recommendation is not unsuitable for the applicant on the basis of information furnished by such person after reasonable inquiry as may be necessary

under the circumstances concerning the prospective buyer's annuity needs and means;

(g) A presentation of benefits shall not display guaranteed and non-guaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence;

(h) Sales promotion literature and contract forms shall not state or imply that annuity arrangements are the same as savings accounts or deposits in banking or savings institutions. The use of policies or certificates which resemble savings bank passbooks is prohibited. If savings accounts or deposits in banking and savings institutions are utilized in connection with such annuity arrangements, this shall not prohibit the use of an accurate description of the annuity arrangement.

(10) **PENALTY.** Violations of this section shall subject the violator to s. 601.64, Stats.

(11) **SEPARABILITY.** If any provisions of this section shall be held invalid, the remainder shall not be affected thereby.

(12) **EFFECTIVE DATE.** This rule shall apply to all solicitations which commence on or after January 1, 1981.

History: Cr. Register, October, 1980, No. 298, eff. 1-1-81; am. (1) and (2) (b) and appendix I, Register, June, 1982, No. 318, eff. 7-1-82.

APPENDIX I

WISCONSIN BUYER'S GUIDE TO ANNUITIES

WHAT IS AN ANNUITY?

An annuity is a written contract between you and an insurance company. The contract provides a guaranteed future income to you after you make one or more premium payments to the insurance company. An annuity is *not* a life insurance policy. It is not a savings account either, and should not be used as a short-term investment. **IF YOU TAKE YOUR MONEY OUT AFTER A SHORT TIME YOU MAY GET BACK LESS THAN YOU PUT IN.**

The main reason for buying an annuity should be to help provide a future income.

Before buying an annuity you should:

- Decide how much income you will need in the future in addition to pensions, social security, savings accounts and other investments.
- Determine how much of your current income or savings you can afford to put aside for this purpose.

TYPES OF ANNUITIES

There are several types of annuities with different features which you should examine before buying. Each is designed to meet different needs.

— *The time benefits are received.* Most annuities are *deferred* annuities. You pay premiums to the company over a period of time and receive benefits at a later date. With *immediate annuities* benefits start shortly after the premium is paid, usually within one year.

— *The amount of benefits.* Income benefits can be *fixed* or *variable*. A fixed annuity provides a guaranteed amount of income, such as \$100 per month. The income provided by a variable annuity can fluctuate depending on general economic conditions and the insurance company's investments. Most annuities sold to individuals are fixed benefit annuities.

— *The type of income benefit received.* Annuities differ in how benefits are paid out. Some common types are:

— *Straight life.* These annuities pay benefits only while the annuitant is alive. There are no benefits for beneficiaries after the annuitant's death.

— *Life with period certain.* These annuities pay benefits for life and also guarantee that payments will be made for a specified period whether or not the annuitant is living.

— *Joint and survivor.* These annuities pay benefits as long as either of two named annuitants is still living.

Generally, the longer the expected payout period, the smaller the income benefit you will receive for the same amount of premium.

— *The size and frequency of premium payments.* Some contracts specify how much and how often you must pay premiums. These are called *scheduled premium annuities*. Others allow you to pay as much as you wish whenever you want to, within specified limits. These are called *flexible premium annuities*. There are also *single premium annuities* which require only one premium payment.

— *The cash surrender benefits.* Except for immediate annuities, most annuities build up cash values which you will get back if you surrender before benefits begin. This amount will vary from contract to contract. If you surrender in the early years, you may get back less than you have paid to the company.

— *The death benefits.* Death benefits in a deferred annuity are usually equal to either the premiums paid to the company or the cash value, whichever is greater.

WHICH ANNUITY SHOULD I BUY?

It is up to you to decide which type of annuity fits your needs. You should ask yourself —

- Do I want fixed or variable benefits?
- Do I want an income just for myself or do I want to leave something to a beneficiary?
- Do I want to pay one single premium or a scheduled or flexible series of premiums?
- Am I sure that I can afford the premiums and that I won't have to cancel the contract in the early years?
- Do I want to combine my annuity with a life insurance contract?

FINDING A GOOD BUY

Buying an annuity is a major financial decision which should be considered carefully. Here are some tips on what to look for:

- You must be given a Preliminary Statement of Benefit Information when you are thinking of buying an annuity. You will receive a complete Statement of Benefit Information when the annuity is delivered, and you can get one now if you ask for it. By obtaining Statements of Benefit Information for similar annuities from several companies and comparing them, you can select the best buy.
- Use the Statement of Benefit Information to compare the size of income benefits received under similar annuities, as well as the size of premiums. You should also be aware of the size of the cash surrender values, how long you will be putting money in, and the way the benefits are paid.
- If a sales presentation emphasizes the investment properties of annuities, be sure you know the "effective yields at maturity". These are the interest rates at which the total amount of your premiums will accumulate to the illustrated and guaranteed cash values for the year benefits begin. Sometimes higher interest rates are quoted, but these are applied to only part of your premiums.

Ins 2

- The “effective yields at maturity” are useful for the comparison of similar annuities and for comparison with any “yield” or “return” which you may have been shown. Do NOT use these yields, however, to compare the annuity with alternative investments.
- Check the size of the cash surrender values in the early years of the contract compared to the premiums paid in. If you surrender an annuity contract during the first few years, you often will get back less than you have paid in.
- Be sure to distinguish between guaranteed and non-guaranteed values in the contract. “Illustrated” values are based on current interest and dividend levels which may or may not apply in the future. Compare annuities using both illustrated and guaranteed values.
- Be quite sure that you can afford the premium payments. Find out what happens if you stop payments before benefits begin.
- If you are thinking of buying an individual retirement account (IRA), be sure that you are eligible for the IRA and that you understand what will happen if you lose your eligibility or are unable to continue payments for some other reason.
- When tax savings are illustrated, find out what assumptions are being made. If the assumptions do not apply to your case, the illustrations will not be meaningful.
- Find a professional who understands annuities as part of a total financial picture. You may want to get advice from several people before making a final decision.

If you have a specific complaint or cannot get the answers you need from an agent or a company, please contact the

Office of the Commissioner of Insurance
123 West Washington Avenue
Madison, Wisconsin 53702
(608) 266-0103

Ins 2.16 Life insurance advertisement; unfair trade practice. (1) FINDINGS. (a) Information gathered by the office of the commissioner of insurance shows that many solicitations, representations and advertisements for life insurance display yields on cash values which are misleading because they do not disclose the way in which this yield is used, what amounts are guaranteed, or other factors which affect the rate of return.

(b) The commissioner of insurance finds that such solicitations, representations and advertisements are misleading, deceptive, provide an unfair inducement and restrain competition unreasonably and therefore constitute an unfair trade practice under s. 628.34 (12), Stats., and that the information required in this rule is consistent with ss. 601.01 and 628.34, Stats., and will improve the ability of prospective buyers of life insurance to select appropriate coverage under s. 628.38, Stats.

(2) PURPOSE. (a) The purpose of this section is to require insurers to include in advertisements for life insurance which show a rate of return on cash values or premiums, information on the factors which affect the Register, May, 1984, No. 341

calculation of the yield. This section also places restrictions on the use of nonguaranteed amounts in life insurance advertisements.

(b) This section interprets and implements ss. 628.34 (12) and 628.38, Stats.

(3) DEFINITIONS. In this section:

(a) "Guaranteed interest rate" on a policy means the lowest rate of interest which may be paid on cash values during the lifetime of the contract.

(b) "Illustrated rate" means a rate shown in a solicitation, representation or advertisement, which may be guaranteed for a limited period of time, but is not guaranteed for the lifetime of the contract.

(4) SCOPE. (a) Except as provided in par. (b), this section applies to any solicitation, representation or advertisement in this state of any life insurance specified in s. Ins 6.75 (1) (a) or (b), made directly or indirectly by or on behalf of any insurer, fraternal benefit society, agent, or the state life insurance fund.

(b) This section shall not apply to:

1. Annuities
2. Credit life insurance
3. Group life insurance
4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employee retirement income security act of 1974 (ERISA).
5. Life insurance policies registered as securities.

(5) DISCLOSURE. (a) All life insurance solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also include:

1. A general statement describing the existence of first year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied;
2. The guaranteed rate of interest paid on the cash value;
3. The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, if interest on the first \$1,000 of cash value is limited to the guaranteed rate this shall be disclosed;
4. An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case;
5. An indication of any other significant factors which affect the manner in which cash values are computed.

(b) All information required to be disclosed shall be set out in such a manner as not to minimize or render any portion obscure.

(6) **NONGUARANTEED AMOUNTS.** Nonguaranteed features of a policy, if illustrated in a life insurance solicitation, representation or advertisement, may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, and other variable components currently used by the insurer. For purposes of this paragraph, an interest rate, dividend scale, or other variable component which has been publicly declared by the insurer with an effective date not more than 3 months subsequent to the date of declaration shall be considered current.

(7) **SEVERABILITY.** If any provisions of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the parts of this section are declared to be severable.

Note: Section Ins 2.16 (5) (b) 1. and 2. and (6) (b) have been repealed to comply with the decision in Dane county circuit court, Case No. 82-CV5425, *Acacia National Life et al. vs. Ann J. Haney, Commissioner of Insurance, and Office of the Commissioner of Insurance.*

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. (5) (b) 1. and 2. and (6) (b), Register, May, 1984, No. 341, eff. 6-1-84.

Ins 2.20 Unisex nonforfeiture values in certain life insurance policies. (1) **PURPOSE.** The purpose of this section is to allow insurers who have elected an operative date under s. 632.43 (6m) (h), Stats., to provide for cash surrender and paid-up nonforfeiture benefits which do not vary with the sex of the life insured. Some life insurance policies are subject to the decision of the United States Supreme Court in *Arizona Governing Committee v. Norris*, 103 Supreme Court Reporter 3492, which makes it illegal for an employer to make contributions after August 1, 1983, to a defined contribution pension plan if the benefits derived from those contributions differ by sex. Separate provisions are set forth in this section for unisex policies that may be subject to that decision and for unisex policies in general.

(2) **SCOPE.** Except as provided for in sub. (4) (b) this section applies only to those policies issued in this state for which the insurer or employer has determined that the implications of *Norris* would prohibit the use of cash surrender and paid-up nonforfeiture benefits which vary with the sex of the insured.

(3) **DEFINITIONS.** (a) "lx" means the number of lives surviving to age x.

(b) "1000 qx" means the yearly death rate per thousand at age x.

(c) "Table A" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for male lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, for these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

(d) "Table G" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for female lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, from these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

(e) "Tables B through F" means the blended 1980 CSO and 1980 CET Mortality Tables for policies issued on an age nearest birthday basis with

varying proportions of male lives to total lives. The ratio of male lives to total lives is 80% for Table B, 60% for Table C, 50% for Table D, 40% for Table E and 20% for Table F. These tables are published in the proceedings of the National Association of Insurance Commissioners for the 1983 December meeting, pages 396 to 400. For policies issued on an age last birthday basis, the tables shall be modified by interpolation between values of lx.

(4) **CASH VALUE AND PAID-UP NONFORFEITURE BENEFITS.** (a) For any policy of life insurance which falls within subsection (2) of this section and is delivered or issued for delivery in this state before January 1, 1989, and after the operative date of s. 632.43 (6m) (h), Stats., applicable to the policy, the cash surrender and paid-up nonforfeiture benefits provided under the policy may be calculated using one of the sets of tables designated as Table A through Table G. Tables A and G may not be used for policies issued on or after January 1, 1985 except where the proportion of persons insured is anticipated to be 90% or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986, shall use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered extensions of the *Norris* decision.

(b) An insurer may elect one of the Tables B through F in lieu of the 1980 CSO and CET tables for all life insurance policies under which all contractual requirements and guarantees are independent of the sex of the life insured, without regard to any opinion as to the applicability of *Norris*; provided that the Table so elected may not be changed prior to January 1, 1989 unless the insurer can demonstrate to the satisfaction of the Commissioner that a different Blend is more appropriate.

(5) **RESERVES.** The minimum reserve standards for life insurance policies are set forth in s. 623.06, Stats., and are not affected by this section.

(6) **SEPARABILITY.** If any provision of this section shall be held invalid, the remainder shall not be affected thereby.

History: Emerg. cr. eff. 5-19-84; cr. Register, August, 1984, No. 344, eff. 9-1-84.