

Chapter Ins 6

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Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which

to form a judgment as to whether its methods and practices in the conduct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continuously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

Ins 6.02 Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application; for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided into kinds of insurance according to the provisions of s. Ins 6.75 each subsection setting forth a separate kind, and into classes of insurance upon the basis of and including the said kinds as follows:

(a) Fire insurance includes the kinds in s. Ins 6.75 (2) (a).

(b) Life insurance includes the kinds in s. Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and s. Ins 6.70.

(c) Casualty insurance includes the kinds in s. Ins 6.75 (2) (c) through (n).

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in s. Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in s. Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in s. Ins 6.75 (1) (e) or (2) (c).

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76; am. Register, March, 1979, No. 279, eff. 4-1-79.

Ins 6.03 Domestication of nondomestic insurer. (1) **PURPOSE.** Under s. 611.223 (1) (a), Stats., a nondomestic insurer may apply to the commissioner to become a domestic insurer. In accordance with s. 611.223 (1) (b), Stats., this section specifies the contents of the application needed from a nondomestic insurer to obtain a certificate of incorporation and certificate of authority to be a domestic insurer.

(2) **SCOPE.** This section applies to each nondomestic insurer which submits to the commissioner under s. 611.223 (1) (a), Stats., an application for a certificate of incorporation and a certificate of authority for domestic insurers.

(3) **REQUIRED CONTENTS OF THE APPLICATION.** The application for a certificate of incorporation and a certificate of authority shall be filed in accordance with s. 611.223 (1) (a), Stats., and shall include the following information:

(a) Information on the corporation and officers and directors, including all of the following:

1. The names, and for the preceding 10 years all addresses and all occupations of all existing and proposed directors and officers;
2. Certified copies of the articles and bylaws of the corporation and of any proposed amendments thereto in conjunction with the change of domicile;
3. All agreements relating to the corporation to which any existing or proposed director or officer is a party;
4. The present and proposed compensation of existing and proposed directors and officers; and
5. The holding company information required in s. Ins 12.01 (5) if the insurer must report this information under s. 617.11 (1), Stats.

(b) The applicant's plan for conducting the insurance business, including any proposed changes to the applicant's current manner of conducting the insurance business, containing all of the following information:

1. A description of the geographical area in which the applicant conducts business;
2. The types of insurance the applicant writes;
3. The applicant's marketing methods;
4. A summary of the applicant's policies on reinsurance business ceded, including information regarding retentions, maximum risks, types of contracts such as pro rata, excess of loss, and any other information which may be material to this part of the applicant's operation;
5. A summary of the applicant's policies on assumed reinsurance including information regarding retentions, maximum risks, types of business, types of contracts to be issued, and other factors which may be material to this part of the applicant's operations;
6. A brief summary of the applicant's investment policy;
7. The applicant's annual statements for the three most recent years and a projection of the anticipated operating results of the corporation at the end of the next five years of operation, based on reasonable assumptions of loss experience, premium and other income, operating expenses and acquisition costs; and
8. To the extent requested by the commissioner, the applicant's method of establishing premium rates.

(c) A certificate from the authority which regulates the insurance industry in the applicant's state of domicile, stating that the authority has given all requisite approvals and that the applicant's corporation is in good standing with the authority and in compliance with the laws of the state of domicile; and

(d) Any other relevant information required by the commissioner from an applicant.

(4) **APPLICATION MATERIAL; FEES.** (a) An insurer may obtain materials for application for a certificate of incorporation and certificate of authority by requesting them from the commissioner of insurance, P.O. Box 7873, Madison, Wisconsin 53707-7873.

(b) In accordance with s. 601.31 (1) (a), Stats., an insurer shall submit a \$100 fee to the commissioner at the same time that the insurer submits the application for the certificates of incorporation and authority.

(5) **ISSUANCE OF CERTIFICATE.** (a) The commissioner shall issue within 180 days of receiving a completed application submitted in accordance with s. 611.223 (1) (a), Stats., a certificate of incorporation and a certificate of authority to the insurer submitting the application if the commissioner determines that the insurer satisfies the requirements of s. 611.223 (1) (a) 1 to 3, Stats. A failure by the commissioner to issue the certificate of incorporation and a certificate of authority within 180 days does not constitute acceptance of the application.

(b) In accordance with s. 601.31 (1) (b), Stats., an insurer shall submit a \$100 fee to the commissioner upon issuance of the certificate of incorporation and certificate of authority.

History: Cr. Register, May, 1989, No. 401, eff. 6-1-89.

Ins 6.05 Filing of insurance forms. (1) **PURPOSE.** This section interprets and implements ss. 601.42, 631.20, 631.22 and 631.61, Stats.

(2) **SCOPE.** The requirements of this section shall apply to forms subject to s. 631.01, Stats., for the lines of insurance listed in s. Ins 6.75, except sub. (2) (b) and (k).

(3) **DEFINITIONS.** (a) "Affiliated insurer" means an insurer which is a member or subscriber to a rate service organization licensed under s. 625.32, Stats., and which has authorized the rate service organization to file forms on its behalf.

(b) "Certificate of compliance" means a document in substantially identical format to Appendix A which is signed by an officer of the insurer.

(c) "Certificate of readability" means a written statement signed by an officer of the insurer stating that the form is subject to s. Ins 6.07 and that the form meets the minimum standards set forth in that section.

(d) "Insurance policy form transmittal" means a document substantially identical in format to the form included as Appendix B, on which an insurer shall list each form submitted for approval.

(e) "OCI" means the office of the commissioner of insurance.

(f) "Submission" means any request received by the office of the commissioner of insurance for approval of a single form or combination of forms.

(4) **FILING PROCEDURE.** (a) Each submission of forms shall include the following:

1. A properly completed insurance policy form transmittal;

2. A properly completed certificate of compliance in substantially identical format as in Appendix A;

3. A properly completed certificate of readability, if the forms are consumer insurance policies subject to s. Ins 6.07;

4. A filing letter in duplicate which contains the following information:

a. In the case of a form which alters a previously approved form, a description of the change;

b. The form number and approval date of any form superseded by the new form;

5. One copy of each form in final printed format or typed facsimile exactly as it will be offered for issuance or delivery in the state of Wisconsin except for hypothetical data and other appropriate variable material;

6. A second copy of each form, if the insurer requires an OCI stamped copy for its records;

7. A copy of the previously approved form clearly marked "for reference only" if the current form is to supercede the previously approved form; and

8. A self-addressed return envelope of sufficient size to return one copy of the materials in subds. 4. and 6. to the insurer.

(b) A submission filed by a rate service organization will be considered as filed on behalf of all affiliated insurers.

(5) **INSURER RECORDS.** Each insurer shall maintain a file of all forms approved for use in Wisconsin until all exposure on the risks insured against has terminated. The file is subject to examination and the commissioner may request that any portion of the file be available for review within ten days of a written request.

(6) **DISAPPROVAL.** The commissioner shall disapprove without further review any filing which does not include all of the items in sub. (4).

(7) **PENALTY.** Insurers violating the provision of this rule by using unapproved forms shall be subject to the penalties in s. 601.64, Stats. Each form issued to an individual policyholder shall constitute a separate violation.

History: Cr. Register, July, 1958, No. 31, eff. 8-1-58; am. (3), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1977, No. 263, eff. 12-1-77; r. and recr. (4), Register, January, 1980, No. 289, eff. 2-1-80; am. (4) (a), (b) (intro.) and 7., Register, February, 1982, No. 314, eff. 3-1-82; cr. (4) (c) and (d), Register, July, 1982, No. 319, eff. 8-1-82; r. and recr. December, 1987, No. 384, eff. 1-1-88; r. (5), renum. (6) to (8) to be (5) to (7), Register, July, 1989, No. 403, eff. 8-1-89.

Ins 6.05 Appendix A

CERTIFICATE OF COMPLIANCE

I, _____ (name),
 an officer of _____ (company name),
 hereby certify that I have authority to bind and obligate the company by
 filing this (these) form(s). I further certify that, to the best of my infor-
 mation, knowledge and belief:

1. The accompanying form(s) as identified by the attached listing com-
 pany(ies) with all applicable provisions of the Wisconsin Statutes and with
 all applicable administrative rules of the Commissioner of Insurance;

2. The form(s) does (do) not contain any inconsistent, ambiguous, or
 misleading clauses;

3. The form(s) does (do) not contain specification or conditions that
 unreasonably or deceptively limit the risk purported to be assumed in
 the general coverage of the policy form(s);

4. The only variations from a form currently on file with the commis-
 sioner of insurance and the only unconventional policy provisions are
 clearly marked or otherwise indicated on pages _____ of the
 attached form(s) or in an attachment; and

5. The attached form(s) is (are) in final printed format or typed fac-
 simile and is (are) as will be offered for issuance or delivery in Wisconsin
 after approval by the Commissioner of Insurance, except for hypotheti-
 cal data and other appropriate variable material.

 (signature)

 (title)

 (date)

Individual responsible for this filing:

Name: _____ Title: _____

Address: _____

Phone Number: _____ Date: _____

Ins 6.06 Minimum documentation in support of rate filings. (1) **PURPOSE.** The purpose of this section is to establish the minimum supplementary rate information required to be submitted with rate filings to the commissioner. Statutes interpreted or implemented by this section are ss. 601.42 (1), 625.01, 625.02 (3), and 625.11, Stats.

(2) **SCOPE.** Except as provided in sub. (4), any insurer or rate service organization which is subject to s. 625.13 (1), Stats., and is filing rates for any kind or line of direct insurance in this state shall include, in that filing the supplementary rate information required by sub. (5) or (6).

(3) **DEFINITIONS.** (a) A "frequency trend factor" means any factor which adjusts the past number of paid or incurred claims to reflect more accurately the number of claims that can be expected to develop during the period the proposed rates will be used.

(b) A "loss adjustment factor" means any factor used to modify or adjust the actual losses paid or incurred during the period under examination or review.

(c) A "loss development factor" means any factor used either to adjust the reported amount of incurred losses to include incurred but not reported losses or to correct errors in the estimation of loss reserves for reported claims that have not been paid, or both.

(d) A "premium adjustment factor" means any factor used to modify or adjust the actual premiums earned during the period under examination or review.

(e) A "rate level factor" means any factor that adjusts prior earned premiums to the premiums that would have been earned if the present rates had been in effect throughout the period under examination or review.

(f) A "severity trend factor" means any factor which adjusts the past average claim amount to reflect more accurately the average claim amount that can be expected to develop during the period the proposed rates will be used.

(4) **EXEMPTIONS.** (a) Life and disability insurance as defined in s. Ins 6.75 (1), disability insurance as defined in s. Ins 6.75 (2) (c), title insurance as defined in s. Ins 6.75 (2) (h), mortgage guaranty insurance as defined in s. Ins 6.75 (2) (i), municipal bond insurance as defined in s. Ins 3.08 (3) (e), and worker's compensation insurance as defined in s. Ins 6.75 (2) (k) are exempt from the provisions of this section.

(b) All companies licensed under ch. 612, Stats., are exempt from the provisions of this section.

(c) The commissioner may, upon written application, exempt an insurer from full or partial compliance with this rule.

(5) **SUPPLEMENTAL RATE INFORMATION.** A rate filing and accompanying supplemental rate information shall be appropriately organized for the kind, class or line of business for which the filing is being made. Except as provided in sub. (6), all rate filings shall include the following supplementary rate information:

(a) 1. At least 3 separate and consecutive years of both Wisconsin and aggregate of all state's experience showing:

- a. Premiums earned;
- b. Losses paid;
- c. Separate reserves for reported but unpaid losses; and
- d. Reserves for losses incurred but not reported.

2. If any of the information required by subd. 1 is omitted or less than 3 years' experience is provided, an explanation shall be submitted.

(b) An explanation of the rate-making procedures including a description of any statistical data and actuarial methods utilized; or a statement of facts and other detailed information which explain judgments used; or a statement as to how the rates of the filing company compare with those of the competition, providing detail where the rates are substantially higher or lower; or any combination.

(c) Explanation of the permissible or target loss ratio, including an explanation of how any investment income has been taken into account.

(d) When used, any premium adjustment factors and loss adjustment factors by year and an explanation of methods and judgments underlying each factor. Loss adjustment factors include but are not limited to loss development factors, frequency trend factors, and severity trend factors. Premium adjustment factors include but are not limited to rate level factors.

(6) OTHER SUPPLEMENTAL RATE INFORMATION. The commissioner may accept supplemental information other than that required by sub. (5) if the insurer or rate service organization can demonstrate to the commissioner that this information fully supports the rate filing and complies with s. 625.11, Stats.

(7) USE OF RATE SERVICE ORGANIZATION RATES. A member of or subscriber to a rate service organization licensed under s. 625.32, Stats., shall file supplementary rate information if its rates deviate from those filed on its behalf by the rate service organization. Such a filing shall be as required by subs. (5) and (6).

(8) ADDITIONAL INFORMATION. The commissioner may require additional rate filing information if the commissioner determines that the original filing does not explain the proposed rate. Such additional information shall be provided within 30 days of the request.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. (5) (a) 1. intro. and (9), Register, November, 1988, No. 395, eff. 12-1-88; r. (9) and Appendix, Register, January, 1995, No. 469, eff. 2-1-95.

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Ins 6.07 Insurance policy language simplification. (1) **PURPOSE.** The purpose of this rule is to establish minimum standards for legibility, coherence and understandability in consumer insurance policies delivered or issued for delivery in the state of Wisconsin on or after the effective dates stipulated in sub. (8). Sections of statutes interpreted or implemented by this rule are ss. 631.20 (2) (a) and 631.22.

(2) **SCOPE.** This rule shall apply to "consumer insurance policies" as defined in sub. (3) and not exempted under sub. (5).

(3) **DEFINITIONS.** (a) In this section "consumer insurance policy" means a life, disability, property or casualty insurance policy, or a certificate or a substitute for a certificate for group life, disability, property or casualty insurance coverage, which is issued to a person for personal, family or household purpose and a copy of which is customarily, in the insurance industry, delivered or is required by law, rule or agreement to be delivered to the person obtaining insurance coverage.

(b) The term "text" as used in this section shall include all printed matter except the following:

1. The name and address of the insurer; the name, number or title of the consumer insurance policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and

2. Any such form language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any form language required by any collectively bargained agreement; any medical terminology; any words which are defined in the form; and any form language required by state law or regulation; provided, however, the insurer identifies the language or terminology excepted by this subdivision and certifies, in writing to the commissioner, that the language or terminology is entitled to be excepted by this subdivision.

(4) **MINIMUM STANDARDS.** (a) In addition to any other requirements of law, no consumer insurance policy, unless excepted under sub. (5), shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this section, unless:

1. The text achieves a minimum score of 50 for those policies labeled as Medicare supplement policies as defined by s. Ins 3.39, and a minimum score of 40 for all other policies included under this rule, on the Flesch reading ease test as described in par. (b), or an equivalent score on any other comparable test as provided in par. (c) of this subsection unless a lower score is authorized under sub. (7);

2. It is printed, except for specification pages, schedules and tables, in not less than 10 point type, one point leaded;

3. It is appropriately divided and captioned, presented in a meaningful sequence, and the style, arrangement and overall appearance of the policy enhance its understandability;

4. It contains a table of contents or an index of the principal sections of the policy if the policy contains more than 3,000 words or if the policy has more than 3 pages;

5. It contains a single section listing exclusions, or the exclusions are given at least equal prominence;

6. It defines words and expressions which are not commonly understood, or whose commonly understood meaning is not intended;

7. Cross-referencing between sections of the policy is maintained at a minimum.

(b) For the purpose of this section, a Flesch reading ease test score shall be measured by the following method:

1. For consumer insurance policies containing 10,000 words or less of text, the entire form shall be analyzed. For such forms containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.

2. The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.

3. The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.

4. The sum of the figures computed under subds. 2. and 3. subtracted from 206.835 equals the Flesch reading ease score for the consumer insurance policy.

5. For purposes of subds. 2., 3., and 4., the following procedures shall be used:

a. A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;

b. A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and

c. A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows 2 or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(c) Any other reading test may be approved by the commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

(5) EXEMPTIONS. This section does not apply to:

(a) Any policy which is a security subject to federal jurisdiction;

(b) Any group policy; however, this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this state;

(c) Any group annuity contract which serves as a funding vehicle for pension, profit-sharing or deferred compensation plans;

(d) Renewal policies whose terms are not altered in any way. Changes in premium, monetary limits or language required by federal and state laws and regulations adopted after the effective date of this rule are not alterations under this section.

(e) Any form used in exchange, pursuant to a contractual provision, for an individual life policy delivered or issued for delivery on a form approved prior to the date that the form must be approved under this section.

(6) **CERTIFICATION.** (a) Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score or stating that the score is lower than the minimum required but should be approved in accordance with sub. (7). To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.

(7) **POWERS OF THE COMMISSIONER.** The commissioner may authorize a lower score than the Flesch reading ease score required in sub. (4) (a) 1, whenever, at the sole discretion of the commissioner, it is found that a lower score: will provide a more accurate reflection of the understandability of a consumer insurance policy; is warranted by the nature of a particular form or type or class of such forms; or is caused by certain language which is drafted to conform to the requirements of any state law, rule or commissioner's interpretation.

(8) **EFFECTIVE DATE.** (a) This section shall apply to the following consumer insurance policies no later than 6 months after December 1, 1980:

1. Private passenger automobile.
2. Homeowners,
3. Dwelling fire,
4. Individual disability excluding disability income,
5. Medicare supplement,
6. Individual life and annuity.

(b) This section shall apply to the following consumer insurance policies no later than 12 months after December 1, 1980.

1. Renewal policies with altered terms,
2. Group disability certificates,
3. Disability income,
4. All consumer insurance policies not included under pars. (a) and (c) of this subsection.

(c) This section shall apply to all Town Mutual insurers and also other insurers whose written premiums for the most recent calendar year did not exceed \$500,000 statewide, no later than 18 months after December 1, 1980, regardless of the requirements under pars. (a) and (b).

(d) Any consumer insurance policy which has been approved prior to the effective date of this rule and meets the standards set by this rule need not be refiled for approval but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner of a list of the forms and accompanied by a certificate for each form in the manner provided in sub. (6).

(e) The dates in pars. (a), (b), (c) and (d) may be extended at the commissioner's sole discretion, but not beyond May 8th, 1982.

History: Cr. Register, November, 1980, No. 299, eff. 12-1-80.

Ins 6.08 Claimant representatives. (1) **PURPOSE.** This section provides limited regulatory guidelines concerning the activities of claimant representatives. This section also protects insurance consumers from practices that the commissioner finds to be unfair trade practices. The commissioner finds as unfair trade practices those practices in which a claimant representative requires property to be repaired by a specified repair facility or contractor for repairs, receives compensation for the referral of business to a repair facility or contractor for repairs, operates as a repair facility or contractor for repairs, participates in the insurance claim payments to a repair facility or contractor for repairs, fails to disclose to the consumer the method of compensation and fails to provide the consumer with copies of contracts entered into between the claimant representative and consumer. This section requires a claimant representative to disclose his or her method and manner of compensation to the consumer and prohibits a claimant representative from engaging in practices that create potential conflicts of interest. This section implements and interprets s. 628.34 (11) and (12), Stats. This section is in addition to, and does not affect, s. 757.30, Stats.

(2) **SCOPE.** This section applies to all claimant representatives transacting business in this state.

(3) **DEFINITIONS.** As used in this section:

(a) "Contractor for repairs" means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for a building, dwelling or structure.

(b) "Claimant representative" means any person, except an attorney licensed to practice law in the state, who receives compensation from a claimant in exchange for representing or advising the claimant in negotiations for the settlement of a claim against an insurer arising out of the coverage provided by an insurance policy. A claimant representative does not include a person whose sole service to the claimant is to provide to the claimant an estimate or appraisal for repairs.

(c) "Repair facility" means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for tangible personal property other than a building, dwelling or structure.

(4) **DISCLOSURE REQUIREMENTS.** (a) No claimant representative may accept compensation for performing services for or otherwise assisting a claimant with an insurance claim unless, prior to performing any services and prior to the claimant's assuming any obligation to pay for adjusting services, the claimant representative clearly and conspicuously discloses and explains to the claimant in writing the method and manner of receiving and accounting for compensation for services performed.

(b) A claimant representative shall submit to the claimant a copy of any written contract entered into between the claimant representative and claimant within 5 working days after the contract is signed by the claimant. A claimant representative shall commit to writing any oral agreement entered into between the claimant representative and claim-

ant and shall submit a copy of the writing to the claimant within 10 working days after the agreement is made.

(5) **PROHIBITED PRACTICES.** (a) No claimant representative may require that repairs of property be performed by a specific repair facility or contractor for repairs.

(b) No claimant representative may receive any compensation from a repair facility or contractor for repairs for referring business to the repair facility or contractor for repairs.

(c) No claimant representative may operate as a repair facility or contractor for repairs or participate in any manner in the insurance claim payments to a repair facility or contractor for repairs.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88.

Ins 6.09 Prohibited acts by captive agents of lending institutions and others. (1) **PURPOSE.** This rule implements and interprets applicable statutes, including but not limited to ch. 628, Stats., prohibiting concerted acts of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance as unfair methods of competition and as unfair or deceptive acts or practices in the business of insurance.

(2) **DEFINITIONS.** (a) *Agent.* A natural person, other than a captive agent, holding a valid and current certificate of registration as an insurance agent and one or more valid and current licenses to represent one or more admitted insurers in the solicitation and sale of policies of insurance in this state.

(b) *Borrower.* Any person, firm, association, or corporation which obtains, other than in the regular course of its trade or business, a loan of money or credit from a lending institution on the security of real or personal property in return for a promise to repay the consideration at a time subsequent.

(c) *Captive agent.* An agent who is a director, officer, or employe of the lending institution which, in connection with a loan transaction, holds or acquires a security interest in real or personal property of a borrower.

(d) *Lending institution.* Any person, firm, association, or corporation, whether or not licensed or chartered by any agency of government, which in the regular course of business lends money or credit to a borrower on the security of real or personal property in return for the borrower's promise to repay the consideration at a time subsequent.

(e) *Policy of insurance.* Any policy, certificate or memorandum of insurance affording in whole or in part any one or more of the kinds of insurance described, respectively, in any paragraph of s. Ins 6.75 (2).

(3) **DECLARATION OF POLICY.** (a) Every borrower in this state should be afforded a reasonable opportunity to purchase any policy of insurance, the form, content, and provisions of which have previously been approved by the office of the commissioner of insurance for use in this state, for the purpose of providing insurance coverage on real or personal property required by a lending institution to be placed in force by the borrower at the borrower's expense to protect its security interest in such real or personal property.

(b) Every borrower in this state should be afforded a reasonable opportunity to purchase a policy of insurance, from any insurer and through any agent currently licensed by the office of the commissioner of insurance to issue or sell in this state, which is designed to protect and which affords protection for security interests in real or personal property and which is required by a lending institution to be placed in force by the borrower at the borrower's expense for such purpose.

(c) At the minimum, every borrower in this state should be afforded the opportunity at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy affording adequate limits of insurance with respect to such property provided that such replacement policy has been approved for use in this state, and the insurer currently licensed by the office of the commissioner of insurance.

(4) PROHIBITED ACTS. Each of the following acts is declared to constitute the commission, by concerted action, of an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance and is prohibited:

(a) *Refusal to accept policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent's lending institution in real or personal property of the borrower if such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

(b) *Restriction on replacement of existing policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent's lending institution in real or personal property of the borrower if such lending institution then imposes or enforces any requirement or condition, whether or not assented thereto by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of

insurance which affords adequate limits of insurance with respect to such property.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution then imposes or enforces any requirement or condition, whether or not assented to by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

(5) **FREE CHOICE OF INSURANCE; TOWN MUTUAL INSURERS.** (a) A person may not disapprove, under s. 628.34 (5), Stats., a policy of insurance issued by a town mutual insurer licensed in this state based wholly or partially on the ground that:

1. The insurer does not have an acceptable rating with a rating service or publication;
2. The policy of insurance is assessable; or
3. The financial condition of the insurer is unacceptable, unless the condition constitutes a violation of s. Ins 13.06 or 13.09.

(b) A person may disapprove a policy issued by a town mutual insurer based wholly or partially on the ground that it does not have a mortgage clause in the form permitted under s. Ins 13.04 (7) (b).

(6) **NONAPPLICATION.** The provisions of this rule shall not apply to renewal of any policy of insurance where the obligation of the borrower to procure insurance for the security interest of the lending institution accrued prior to the effective date of this rule.

History: Cr. Register, December, 1968, No. 156, eff. 1-1-69; am. (1), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1) and (2) (e), eff. 6-22-76; am. (1) and (2) (e), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) (e), Register, March, 1979, No. 279, eff. 4-1-79; renum. (5) to be (6), cr. (5), Register, May, 1986, No. 365, eff. 6-1-86.

Ins 6.10 Property and casualty premium restrictions. (1) **PURPOSE.** This section requires insurers who may return a premium that is less than the pro rata unearned premium to disclose this to the insured. This section also establishes prohibitions concerning specified practices relating to premiums. This section implements and interprets ss. 227.10 (1), 601.01 (2), 625.13 (1), 628.34 (1), (3), (11), and (12), 631.20 and 631.36 (2), Stats.

(2) **SCOPE.** This section applies to all lines or classes of insurance classified as property and casualty insurance in s. Ins 6.75 (2), except lines or classes of insurance providing disability insurance under s. Ins 6.75 (2) (c) and (k).

(3) **DEFINITIONS.** In this section:

(a) "Pro rata unearned premium" means the pro rata portion of the written premium covering the unexpired portion of the policy term for which the written premium has been charged by the insurer to the policyholder.

(b) "Written premium" means the entire amount of premium charged a policyholder for the term of the policy.

(4) **PREMIUM IN EXCESS OF PRO RATA EARNED PREMIUM: FILING, RESTRICTIONS, DISCLOSURES.** (a) An insurer shall file with the commissioner in accordance with s. 625.13, Stats., and s. Ins 6.06 any schedule of return premium applicable in the event of policy cancellation wherein the return of premium is less than the pro rata unearned premium for that policy form. The rate filing shall include the basis of the premium calculation in the event of a policy cancellation.

(b) Subject to par. (c), in any policy under which an insurer may return a premium that is less than the pro rata unearned premium, the insurer shall provide the policyholder with a separate written notice that the policyholder may pay a substantial penalty if the policyholder cancels the policy prior to its expiration date. No insurer may return a premium that is less than the pro rata unearned premium until at least 10 days after the insurer mails or delivers this written notice to the policyholder.

(c) Notwithstanding pars. (a) and (b), no insurer may return to the policyholder a premium that is less than the pro rata unearned premium if the insurer initiates cancellation or for a cancellation due to the non-payment of premium.

(5) **MISCELLANEOUS PREMIUM PROHIBITION.** No insurer may initiate cancellation of one policy solely to apply the pro rata unearned premium of that policy to the balance due on another policy.

History: Cr. Register, August, 1989, No. 404, eff. 10-1-89; am. (2), Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.11 Insurance claim settlement practices. (1) **PURPOSE.** This rule is to promote the fair and equitable treatment of policyholders, claimants and insurers by defining certain claim adjustment practices which are considered to be unfair methods and practices in the business of insurance. The rule implements and interprets applicable statutes including but not limited to ss. 601.04 (3), 601.01 (2), and 645.41 (3), Stats.

(2) **SCOPE.** This rule applies to the kinds of insurance identified in s. Ins 6.75, transacted by insurers as defined in s. 600.03 (27), Stats., and non-profit service plans subject to ch. 613, Stats.

(3) **UNFAIR CLAIM SETTLEMENT PRACTICES.** (a) Any of the following acts, if committed by any person without just cause and performed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance:

1. Failure to promptly acknowledge pertinent communications with respect to claims arising under insurance policies.

2. Failure to initiate and conclude a claims investigation with all reasonable dispatch.

Register, April, 1992, No. 436

3. Failure to promptly provide necessary claims forms, instructions and reasonable assistance to insureds and claimants under its insurance policies.

4. Failure to attempt in good faith to effectuate fair and equitable settlement of claims submitted in which liability has become reasonably clear.

5. Failure upon request of a claimant, to promptly provide a reasonable explanation of the basis in the policy contract or applicable law for denial of a claim or for the offer of a compromise settlement.

6. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

7. Failure to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.

8. Failure to settle a claim under one portion of the policy coverage in order to influence a settlement under another portion of the policy coverage.

9. Except as may be otherwise provided in the policy contract, the failure to offer settlement under applicable first party coverage on the basis that responsibility for payment should be assumed by other persons or insurers.

10. Compelling insureds and claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

11. Refusing payment of claims solely on the basis of the insured's request to do so without making an independent evaluation of the insured's liability based upon all available information.

12. Failure, where appropriate, to make use of arbitration procedures authorized or permitted under any insurance policy.

13. Adopting or making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(b) Any of the following acts committed by any person shall constitute unfair methods and practices in the business of insurance:

1. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

2. Failure to make provision for adequate claims handling personnel, systems and procedures to effectively service claims in this state incurred under insurance coverage issued or delivered in this state.

3. Failure to adopt reasonable standards for investigation of claims arising under its insurance policies.

(4) **PROMPT DEFINED.** Except where a different period is specified by statute or rule and except for good cause shown, the terms "prompt" and "promptly" as used in this rule shall mean responsive action within 10 consecutive days from receipt of a communication concerning a claim.

(5) **PENALTY.** The commission of any of the acts listed in sub. (3) (a) or (b) 2., or 3. shall subject the person to revocation of license to transact insurance in this state. Violations of this rule or any order issued thereunder shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71; am. (1), Register, September, 1973, No. 213, eff. 10-1-73; am. (2), Register, February, 1974, No. 218, eff. 3-1-74; emerg. am. (2), eff. 6-22-76; am. (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; correction in (1) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.12 Qualification of actuaries. (1) **PURPOSE.** (a) The purpose of this rule is to protect the interests of insurers, insureds, insurance beneficiaries, insurance claimants, insurance company stockholders, and trustees, employers, covered employes, retired employes and terminated employes of employe welfare funds by establishing requirements for use of the terms actuary or actuarial. This rule interprets and implements ss. 641.09, 641.13, 641.14, 601.41, 601.42, 601.43 and ch. 628, Stats.

(b) It is not the purpose of this rule to require any insurer or rate service organization to employ an actuary except as may be otherwise required by statute or other administrative rule, nor does this rule require that filings under ch. 625, Stats., be prepared or submitted by a qualified actuary. Further, this rule is not intended to prohibit the strictly internal use by insurers of job titles containing the term actuary.

(2) **SCOPE.** This rule shall apply to all reports or representations subject to supervision by the commissioner of insurance.

(3) **SIGNATURE AS AN ACTUARY.** No document filed with this office which requires the signature of an actuary will be accepted unless the person signing as an actuary is a member of the American academy of actuaries or has otherwise demonstrated actuarial competence to the commissioner.

(4) **ACTUARIAL REPRESENTATION.** No person in any representation made to the public or to this office in respect to any matter subject to this rule shall use the word actuary or actuarial to indicate a degree of professional competence unless that person is a member of the American academy of actuaries or has otherwise demonstrated actuarial competence to the commissioner.

(5) **LEVEL OF COMPETENCY.** No member of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the commissioner shall use the word actuary or actuarial in any presentation subject to this rule unless he or she is qualified to give the actuarial advice required or requested.

(6) **PENALTY.** Violations of this rule or any order issued thereunder shall subject the person to s. 601.64, Stats., or other applicable statute.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (3) to (5) made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.13 Open records; privileged or confidential records. (1) Records of the office of the commissioner of insurance are subject to subch. II of ch. 19, Stats., and are open to inspection as required under subch. II of ch. 19, Stats.

Register, July, 1993, No. 451

(2) The office of the commissioner may withhold and retain as confidential any record which may be withheld and retained as confidential under subch. II of ch. 19, Stats., including, but not limited to, a record which may be withheld or which is privileged under any law or the rules of evidence, as attorney-work product under the rules of civil procedure, as attorney-client privileged material under s. 905.03, Stats., as a medical record under ss. 146.81 to 146.84, Stats., or as privileged under s. 601.465, Stats.

(3) The office, under s. 601.465, Stats., may refuse to disclose and prevent any person from disclosing, in response to a request for production, deposition, subpoena, or otherwise, information obtained from the National Association of Insurance Commissioners or another state's insurance department under pledge of confidentiality or for the purpose of conducting an investigation or examination or obtained, produced or created in the course of an inquiry under s. 601.42, Stats., or examination under s. 601.43, Stats. This privilege applies to information obtained, produced or created before or after the effective date of s. 601.465, Stats., and regardless of whether an inquiry, investigation or examination has been concluded, except it does not apply to a document which is an adopted examination report.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73; am. (3) (b), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (2) (a), (4) and (5), made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1992, No. 436, eff. 5-1-92; r. and recr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 6.17 Regulation of surplus lines insurance. (1) **PURPOSE.** This rule implements and interprets ss. 601.42, 601.72, 601.73, 618.41 and 618.43, Stats., for the purpose of facilitating the regulation of surplus lines insurance business in this state.

(2) **PROHIBITED PLACEMENT.** No licensed surplus lines agent may place contracts of insurance with any unauthorized insurer:

- (a) For the classes of insurance specified by s. Ins 6.75 (2) (h), (i) and (k), and
- (b) For any kind of insurance not specifically authorized by any of the other paragraphs of s. Ins 6.75.

(3) **RESPONSIBILITIES OF SURPLUS LINES AGENT.** Every licensed surplus lines agent who procures surplus lines insurance shall:

(a) Forward promptly to the policyholder a completed copy of a Surplus Lines Insurance Proposal in a form substantially as in Appendix 1 to this rule.

(b) When applicable, forward promptly to the policyholder a notice that the unauthorized insurer with which the insurance is to be placed is not on the list of unauthorized nondomestic insurers which the commissioner believes to be reliable and solid, along with notice of any other deficiencies of the insurer of which the agent has knowledge.

(c) Keep in his or her office in this state a full and true record of each surplus lines insurance contract procured by him or her, evidenced by a copy of the daily report or other documents to show at least the following information:

1. Amount of the insurance and perils insured against;
2. Brief general description of property insured and where located;

3. Gross premium charged;
4. Return premium paid, if any;
5. Rate of premium charged upon the several items of property;
6. Effective date of the contract, and the terms thereof;
7. Name and post-office address of the insured;
8. Name and home office address of the insurer;
9. Amount collected from the insured; and
10. A copy of the notice required by par. (b).

(d) The record required by par. (d) shall be open at all times to examination by the commissioner without notice, and shall be so kept available and open to the commissioner for 3 years (5 years for notice required by par. (b)) next following the expiration or cancellation of the contract.

(4) **ADVERTISING BY SURPLUS LINES AGENT.** A surplus lines agent may advertise the availability of services in procuring, on behalf of persons seeking insurance, contracts with insurers not holding a certificate of authority in Wisconsin, but such advertisements shall not refer to any particular unauthorized insurer or insurers.

(5) **REPORT AND PAYMENT OF TAX-SURPLUS LINES INSURANCE.** All premium tax collected by the surplus lines agent shall be reported and for-

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warded to the commissioner on or before March 1, for all insurance procured, renewed or continued during the preceding calendar year with unauthorized insurers. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(6) **PENALTY.** Any violation of this rule shall subject the agent to immediate revocation of the agent's surplus lines license and to other forfeitures and penalties provided by s. 601.64, Stats.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74; am. (1), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (2) (a) and (b), eff. 6-22-76; am. (2) (a) and (b), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) (a) and (b), Register, March, 1979, No. 279, eff. 4-1-79; r. (3) (c), renum. (3) (d) and (e) to be (3) (c) and (d), am. (4), (6) and appendix 1, Register, August, 1982, No. 320, eff. 9-1-82; corrections in (3) (c) (intro.) made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.17 Appendix 1

SURPLUS LINES INSURANCE PROPOSAL

Name and address of applicant DateDear : Proposal No.

You have asked that I procure the following insurance coverage on your behalf:

*Type of Insurance**Limits of Coverage*

I can procure the coverage desired from the following insurer(s) at the premium listed:

*Insurer(s)—Name and Address % of Total Risk**Premium Quoted*

This insurance is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin, and will be issued and delivered as a surplus lines coverage pursuant to s. 618.41, Stats. The insurance is regulated by the Commissioner of Insurance only as provided in ss. 618.41 and 618.43, Stats. Section 618.43 (1), Stats., requires payment by the policyholder of a 3% tax on gross premium (except for Ocean Marine Insurance on which the tax is one-half of 1%). The tax in this instance amounts to \$ _____. If the above transaction is not satisfactory, please advise immediately.

Sincerely yours,

 Name and address of licensed surplus lines agent

Ins 6.17 Appendix 2
REPORT OF SURPLUS LINES INSURANCE

Year Ending December 31, 19_____

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 19_____

Agent	Business address, including zip code				Date	
Proposal No. and Date* (1)	Name of Insured (2)	Name of Insurance Company (3)	Contract Number (4)	Term and Effective Date (5)	Premium Charged (6)	Premium Tax Collected 3%** (7)

*Proposals are to be numbered consecutively.
 **½ of 1% for Ocean Marine Insurance

Premium Collected During Year	\$ _____
Tax Due @ 3%**—Total	
Column (7)	\$ _____
Amount Enclosed	\$ _____

Ins 6.18 Reporting and payment of tax by unauthorized insurers transacting business in violation of law. (1) **PURPOSE.** This rule implements and interprets ss. 601.42, 610.11 and 618.43, Stats., for the purpose of facilitating the reporting and collection of tax due the state of Wisconsin from unauthorized insurers transacting business in violation of Wisconsin law.

(2) **REPORTING AND PAYMENT OF TAX BY UNAUTHORIZED INSURERS TRANSAKING BUSINESS IN VIOLATION OF LAW.** All premium tax shall be reported and forwarded to the commissioner on or before March 1, for all insurance which applies to exposures located wholly or partially within this state written, renewed or continued during the preceding calendar year by an unauthorized insurer. The report shall be made on a form substantially the same as Appendix 1 to this rule.

(3) **PENALTY.** Any violation of this rule shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

Ins 6.19 Reporting and taxation of directly placed unauthorized insurance. (1) **PURPOSE.** This rule implements and interprets ss. 601.42, 618.42 and 618.43, Stats., for the purpose of facilitating the reporting and collection of tax due the state of Wisconsin from persons who directly procure or renew insurance in an unauthorized insurer.

(2) **REPORTING DIRECTLY PLACED UNAUTHORIZED INSURANCE.** The procurement or renewal of insurance from any unauthorized insurer shall be reported within 60 days to the commissioner on a form substantially the same as Appendix 1 to this rule.

(3) **REPORTING AND PAYMENT OF TAX FOR DIRECTLY PLACED UNAUTHORIZED INSURANCE.** All premium tax shall be reported and forwarded to the commissioner on or before March 1, for all insurance which applies to exposures located wholly or partially within this state procured, renewed or continued during the preceding calendar year in an unauthorized insurer. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(4) **PENALTY.** Any violation of this rule shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

Ins 6.19 Appendix 1

**NOTICE OF DIRECTLY PLACED UNAUTHORIZED
INSURANCE**

To: Commissioner of Insurance
State of Wisconsin
P.O. Box 7873
Madison, WI 53707-7873

1. Name of Person or Organization Insured
2. Address of Insured
3. Contract Number
4. Effective Date
5. Expiration Date
6. Name and Address of Insurance Company
7. Description or Type of Coverage
8. Premium Charged

The undersigned certifies that this report is true and correct according to the best of his or her information, knowledge, and belief.

_____, 19 _____

Note: This report, pursuant to s. 618.42 (2), Stats., must be filed with the Commissioner of Insurance within 60 days after effectuation of any new or renewal insurance contract independently procured from an unauthorized insurer. A separate report is required for each new or renewal insurance contract. A 3% Tax on the premiums charged for such contracts during the calendar year ending December 31 must be paid to the Commissioner on or before March 1 next succeeding.

Ins 6.19 Appendix 2
PREMIUM TAX REPORT

Year Ending December 31, 19_____

Directly Placed Unauthorized Insurance—Sections 618.42 and 618.43, Wisconsin Statutes

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 19_____

Person or Organization Insured			Address, including zip code			Date	
Contract Number (1)	Effective Date (2)	Expiration Date (3)	Name and Address of Insur- ance Company (4)	Description or Type of Coverage (5)	Premium Charged (6)	3% Tax on Pre- mium* (7)	

*½ of 1% for Ocean Marine Insurance

Premium Charged—Total Column (6).....	\$ _____
Tax Due @ 3%*—Total Column (7).....	\$ _____
Amount Enclosed.....	\$ _____

The undersigned certifies that this report is true and correct according to the best of his or her information, knowledge, and belief.

 _____, 19_____

COMMISSIONER OF INSURANCE

Ins 6

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Ins 6.20 Investments of insurance companies. (1) **PURPOSE.** The purpose of this rule is to implement and interpret ch. 620, Stats., for the purpose of establishing procedures and requirements for investments of insurance companies.

(2) **SCOPE.** This rule shall apply to all insurers subject to ch. 620, Stats.

(3) **DEFINITIONS.** As used in this rule:

(a) "Call option" means an option contract under which the holder of the option contract has the right, in accordance with the terms of the contract, to purchase, or to make a cash settlement in lieu thereof, the amount of the underlying financial instrument covered by the option contract.

(b) "Financial futures contract" means an exchange-traded agreement to make or take delivery, or to make cash settlement in lieu thereof, of a specified amount of financial instruments on or before a specified date or period of time, under terms and conditions regulated by the commodity futures trading commission.

(c) "Financial instrument" means a security, currency, or index of a group of securities or currencies.

(d) "Financial options contract" means options on a financial futures contract and any other option contract for a financial instrument which is traded on an exchange, board of trade, or an over-the-counter market regulated under the laws of the United States.

(e) "Fixed charges" includes interest on all debt, and amortization of debt discount.

(f) "Net earnings available for fixed charges" means income after allowance for operating and maintenance expenses, depreciation and depletion, and taxes other than federal and state income taxes, but without allowance for extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing company. If the issuing company has acquired, prior to the date of investment, substantially all the assets of another company by purchase, merger, consolidation or otherwise, the net earnings available for fixed charges of the other company for the portion of the test period that preceded acquisition may be included in accordance with a consolidated earnings statement covering the period.

(g) "Net earnings available for fixed charges and dividends" shall be determined in the same manner as "net earnings available for fixed charges" but after allowance for federal and state income taxes.

(h) "Preferred dividend requirements" include dividends at the maximum prescribed rate on all stock ranking as to dividends on parity with or prior to that being acquired, whether or not the dividends are cumulative.

(i) "Put option" means an option contract under which the holder of the contract has the right, in accordance with the terms of the contract, to sell, or to make a cash settlement in lieu thereof, the amount of the underlying financial instrument covered by the put option contract.

(j) "Real estate" or "real property" includes leaseholds.

(4) **GENERAL LIMITATIONS ON RESTRICTED INSURERS.** No insurer restricted under s. 620.03, Stats., may invest thereafter in any of the following classes of assets except by permission of the commissioner:

(a) Any securities of an issuer who has defaulted on any payment on any debt security within the previous 5 years;

(b) Any asset under s. 620.22 (9), Stats., or

(c) Any financial futures contract or financial options contract.

(5) **SPECIAL LIMITATIONS ON RESTRICTED INSURERS.** No insurer restricted under s. 620.03, Stats., shall invest:

(a) *Evidences of indebtedness.* In evidences of indebtedness under s. 620.22 (1), Stats., unless they are lawfully authorized and:

1. They are rated AAA, AA or A by Fitch Investors Service, Inc. or by Standard & Poor's Corporation, or Aaa, Aa or A by Moody's Investors Service, Inc.; or

2. They are evidences of indebtedness of a municipally owned public utility of this state created pursuant to section 3 of article XI of the constitution, and the net book value of the property pledged as security for the bonds has been established or approved by the public service commission and the total issue of the bonds does not exceed 50% of the net book value of such property; or

3. They are payable from revenues of a public utility or railroad owned by or held for the benefit of any governmental unit in the United States or Canada, if they are adequately secured by mortgage or lien on property or by specific pledge or revenues, and lawful authorizing resolutions or ordinance of the governing body of the unit require that during the life of the evidence of indebtedness the rates, fees, tolls or charges together with any other revenues pledged shall at all times produce revenues sufficient to pay all expenses of operation and maintenance, interest as promised and the principal sum when due; or

4. They are evidences of indebtedness of public utilities in the United States or Canada and are either adequately secured by mortgage, pledge or other collateral, or have had net earnings available for fixed charges that for the previous 3 fiscal years have averaged per year not less than 1 1/2 times the average annual fixed charges; or

5. They are evidences of indebtedness of a United States or Canadian private corporation, and they are either adequately secured by mortgage, pledge or other collateral, or are issued by a corporation which has had net earnings available for fixed charges that have averaged for the previous 5 years and equalled for each of the previous 2 years an annual amount which exceeded average annual fixed charges by at least 50%, or 25% in the case of corporations engaged primarily in wholesale or retail merchandising, installment, commercial and consumer financing, factoring or small loan business.

(b) *Equipment securities.* In equipment securities or in certificates of an equipment trust under sub. (8) (b) unless the obligor's net earnings have averaged at least 2 times its average annual fixed charges for the previous 3 years.

(c) *Real estate loans.* In real estate loans:

1. On the security of encumbered property, but property shall not be deemed encumbered because of unpaid but not delinquent assessments and taxes, mineral, oil or timber rights, easements for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or profits are reserved to the owner;

2. In excess of 2/3 of the fair market value, including buildings covered by the mortgage. If the value of buildings constitute part of the security, the buildings must be insured adequately to protect the insurer's security interest. The 2/3 limitation shall not apply to any loan fully insured by a federal insurance corporation; nor

3. On the security of a leasehold interest in real property unless it is unencumbered except by rentals owed to the owner of the fee, has at least 25 years yet to run, and then for no more than 50% of the fair market value of the leasehold less the present value of all rentals due upon it to the owner of the fee.

(d) *Preferred shares.* In preferred shares unless the issuing company has had, disregarding fixed charges on indebtedness and dividend requirements on preferred stock for the retirement of which provision has been made at the date of the investment, net earnings:

1. Available for fixed charges and dividends that during the previous 5 fiscal years have averaged not less than twice the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

2. Available for fixed charges and dividends that for each of the previous 3 fiscal years have been not less than 1 1/2 times the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

3. Available to meet preferred dividend requirements of the previous 5 years, after allowance for fixed charges and federal and state income taxes, that have averaged not less than 3 times the preferred dividend requirements.

(e) *Common stock.* In common stock except:

1. In accordance with a plan of acquisition proposed by the insurer and approved by the commissioner; and

2. In common stocks which are authorized securities for NASDAQ, the automated quotation system of the National Association of Securities Dealers.

(f) *Real property.* In any investment under s. 620.22 (4) or (5), Stats., except with prior written approval of the commissioner.

(g) *Limitations on amount of investment.* More than 3% of assets in any single issue of a security to which this rule is applicable unless it obtains the prior approval of the commissioner except that such limitations shall not be applicable to securities of the government of the United States or its instrumentalities or securities guaranteed by the full faith and credit of the United States (and except that such limitation shall be 10% ?

the securities of any state, governmental unit therein, or instrumentality thereof).

(6) TOWN MUTUAL INSURANCE COMPANIES. (a) Town mutual insurance companies authorized to operate under the provisions of ch. 612, Stats., shall be considered restricted insurers and shall be subject to the restrictions of s. 620.03 (1), Stats., except as provided in s. 620.03 (2), Stats., or in par. (b).

(b) A town mutual insurance company may invest up to 50% of its assets in shares in mutual funds provided the assets of such mutual funds are invested only in accordance with subs. (4) and (5) (a) through (f) and provided that such mutual fund shall:

1. Invest no more than 5% of its aggregate assets and securities in any one issuer, excepting securities of the United States government,
2. Own no more than 10% of the securities of any one issuer,
3. Submit quarterly statements to the commissioner in such detail as he or she requests,
4. Be audited annually by a certified public accountant acceptable to the commissioner.

(c) A town mutual insurance company may invest up to 75% of its assets in any common trust fund of which a Wisconsin state bank or trust company serves as trustees but only so long as such bank, in the administration of said common trust fund complies with the following conditions:

1. The fund shall be administered in compliance with applicable Wisconsin banking statutes and any rules and regulations promulgated by the commissioner of banking.

2. The bank shall furnish to the commissioner of insurance a copy of the plan establishing the common trust fund and shall promptly furnish the commissioner with copies of all amendments to such plan,

3. Notwithstanding the scope of any investment powers granted to the bank as trustees of such fund, the bank as trustee shall invest the assets of the fund only in:

a. Commercial paper rated "prime 1" by Moody's Investors Service, Inc., or "A-1" by Standard & Poor's Corporation or "F-1" by Fitch Investor Service, Inc.;

b. Prime banker's acceptances;

c. Certificates of deposits issued by banks;

d. Obligations of the United States government or any of its instrumentalities;

e. Bank repurchase agreements, if fully collateralized by obligations of the United States government or any of its instrumentalities.

4. The maturity date of each of the investments listed in subdivision 3 of this paragraph shall not exceed 91 days,

5. All income received by the fund shall be distributed monthly by the banks as trustee and there shall be no accumulation or re-investment of such income by the bank,

6. The bank shall furnish monthly reports to each insurer-investor stating the value of such investor's participation in such common trust fund and the amount of income distributed to each insurer for such month,

7. The bank shall furnish annually to the commissioner an audited year-end financial statement of the common trust fund,

8. The common trust fund shall be subject to examination by the commissioner of banking.

(7) BONDS PERMISSIBLE. Bonds permissible under s. 620.22 (1), Stats., include:

(a) Direct obligations of the United States or Canada, or of other governmental units therein;

(b) Obligations payable from and adequately secured by specifically pledged revenues of such governmental units or their instrumentalities, including corporations owned by or operated for such units; and

(c) Evidences of indebtedness of any solvent corporation of the United States or Canada.

(8) ADDITIONAL AUTHORIZED INVESTMENTS. An insurer may, in addition to investments authorized by s. 620.22 (1) to (7), Stats., invest its assets in the following classes of investments, up to the limits stated, and in the case of insurers that are subject to special restrictions under s. 620.03, Stats., in accordance with any other rules made applicable to them:

(a) Mortgage bonds of farm loan banks authorized under the federal farm loan act, and debentures issued by the banks for cooperatives established pursuant to the farm credit act of 1933, as amended;

(b) Equipment securities or certificates of any equipment trust evidencing rights to receive partial payments agreed to be made upon any contract of leasing or conditional sale;

(c) The purchase and ownership of machinery or equipment, which is or will become subject to contracts for sale or use under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property which shall be not less than 5 years but the aggregate of such investments shall not exceed 3% of the insurer's assets;

(d) Loans upon the collateral security of any securities that the insurer could lawfully purchase, but not exceeding 90% of the market value of the securities up to an amount which, together with like securities owned, does not exceed the limits on the purchase of such securities;

(e) Evidences of indebtedness not otherwise authorized of the kind which if held by a bank would be eligible for discount, rediscount, purchase or sale by federal reserve banks or other government agencies having similar powers and functions but the aggregate of such investments shall not exceed 1% of the insurer's assets;

(f) Shares of savings and loan associations to the extent that they are insured or guaranteed by the United States government or any agency thereof;

(g) The cash surrender values of life insurance policies of companies authorized to do business in Wisconsin;

(h) For a company authorized to transact a credit insurance business, the claims and demands that it has guaranteed;

(i) For a company authorized to transact a title insurance business, materials and plant necessary for the convenient transaction of business—not exceeding 50% of minimum capital or 5% of assets, whichever is greater;

(j) Direct obligations of foreign governments but the aggregate of such investments shall not exceed 1% of the insurer's assets;

(k) Loans, securities or investments in countries other than the United States and Canada which are of substantially the same kinds, classes and investment grades as those eligible for investment under ch. 620, Stats., and supplementary rules, but the aggregate of such investments shall not exceed 2% of the insurer's assets;

(l) Direct obligations of the international bank for reconstruction and development, the inter-American development bank, the African development bank and the Asian development bank but the aggregate of such investments shall not exceed 2% of the insurer's assets;

(m) For an insurer doing business in a foreign country, the assets needed to meet its obligations in the foreign country in the kinds of securities within the foreign country that would be permissible investments if made in this state; and

(n) Shares of investment companies or investment trusts registered under the Federal Investment Company Act of 1940, 15 U.S.C. s. 80a-1 et seq., as amended — regarded as part of the common stock portfolio of the insurer; and

(o) Financial futures contracts and financial options contracts, provided that:

1. Such contracts shall be entered into to protect the investment portfolio of an insurer against the risk of changing asset values or interest rates, to enhance its liquidity, to aid in cash flow management, as a substitute for cash market transactions, and for any other purpose consistent with the investment objectives for the assets of insurers stated in s. 620.01, Stats.;

2. The aggregate market value of all financial futures contracts outstanding may not exceed 10% of the insurer's admitted assets;

3. An insurer may purchase put options or sell call options only with regard to financial futures contracts or financial instruments owned by, or which may be obtained through exercise of warrants or conversion rights held by the insurer;

4. An insurer may purchase call options or sell put options on financial futures contracts or financial instruments only if the amount of the instrument which may be acquired upon exercise of the option, when ag-

gregated with current holdings, would be an authorized investment under s. 620.22 (1) to (7), Stats., or this subsection, and would not exceed the limitations specified in s. 620.23, Stats., or this section;

5. The board of directors or its authorized committee shall first approve the insurer's plan relating to such investments, which plan must contain specific policy objectives and strategies, establish aggregate maximum limits in such investments and internal control procedures, and identify the duties, expertise and limits of authority of personnel authorized by the board of directors to engage in such transactions on behalf of the insurer; and

6. A copy of the insurer's plan shall be filed with the commissioner 30 days prior to its effective date. The commissioner may disapprove the plan within the 30-day period.

(9) **CHANGES IN QUALIFICATION OF INVESTMENTS.** Any investment originally made under s. 620.22 (9), Stats., may thereafter be considered as falling within any other class of investment for which it subsequently qualifies.

(10) **VALUATION.** (a) *General.* Security valuations contained in "Valuations of Securities", issued by the Committee on Valuation of Securities of the National Association of Insurance Commissioners, will be followed in implementing this chapter.

(b) *Insurance policies.* Insurance policies purchased under sub. (8) (g) will be valued at their cash surrender value.

(c) *Claims and demands guaranteed by insurer.* When an insurer authorized to sell credit insurance purchases, under sub. (8) (h), claims and demands it has guaranteed, it shall value them at face value or at cost, whichever is less, and shall set up a separate and adequate "loss reserve for guaranteed claims purchased" in an amount satisfactory to the commissioner.

History: Cr. emerg. eff. 5-2-72; cr. Register, July, 1972, No. 199, eff. 8-1-72; am. (5) (a) 1, Register, October, 1974, No. 226, eff. 11-1-74; r. and recr. (5) (g), cr. (6) (c), Register, December, 1974, No. 228, eff. 1-1-75; emerg. am. (6) (a), eff. 6-22-76, am. (6) (a), Register, September, 1976, No. 249, eff. 10-1-76; am. (8) (intro.), (b), (c), (e), (j), (k) and (l), Register, August, 1981, No. 308, eff. 9-1-81; reprinted to correct printing error in (8) (f), Register, March, 1983, No. 327; correction in (9) made under s. 13.93 (2m) (b) 7, Stats., Register, December, 1984, No. 348; renum. (3) (a) to (e) to be (3) (e) to (h) and (j), cr. (3) (a) to (d), (i), (4) (c) and (8) (c), am. (4) (a) and (b) and (8) (n), Register, April, 1987, No. 376, eff. 5-1-87; am. (8) (l), Register, October, 1990, No. 418, eff. 11-1-90; corrections in (4) (b) and (6) (b) 3. made under s. 13.93 (2m) (b) 5 and 7, Stats., Register, April, 1992, No. 436.

Ins 6.25 Joint underwriting and joint reinsurance associations. (1) **PURPOSE.** This section, pursuant to s. 625.04, Stats., is intended to encourage an active, economical and efficient insurance market; to provide for the regulation of marketing practices; and to exempt certain insurers and organizations from the provisions of s. 625.33, Stats., with respect to joint underwriting or joint reinsurance.

(2) **SCOPE.** Subsection (3) applies to joint underwriting and joint reinsurance involving the insurance of risks associated with:

- (a) Nuclear energy.
- (b) Commercial aircraft.
- (c) Aircraft products liability.

Register, April, 1992, No. 436