

STATEMENT OF SCOPE

Office of the Commissioner of Insurance

Rule No.: Agency 145 – Ins 6.17 (5) and Appendix 2, and 13.08

Relating to: Updating the surplus lines reporting form and the valuation of liabilities for town mutual insurers.

Rule Type: Permanent

1. Finding/nature of emergency:

NA

2. Detailed description of the objective of the proposed rule:

The Commissioner of Insurance proposes to repeal Wis. Admin. Code § Ins 6.17 Appendix 2 and modify § Ins 6.17 (5) to include reference to an Office of the Insurance Commissioner form for reporting and paying surplus lines taxes. This proposed change will allow updates to required information and include the electronic filing versus filing an agent generated form substantially similar to Appendix 2. This will also provide uniformity and make filing the surplus lines reporting and tax payments easier for the surplus lines insurance agents. Additionally, the proposed rule will align Wis. Admin. Code § 13.08, with Wis. Stat. § 612.31 (6), that was revised in 2015 Wis. Act 90, that eliminated the ability for town mutual insurers to assume business from other town mutual insurers.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Commissioner is seeking to simplify and update procedures for the reporting and payment of surplus lines insurance and taxes as well as align regulations for town mutual insurers with current statutes.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The statutory authority for this rule is specifically in Wis. Stat. § 618.43 (3), that requires the commissioner to prescribe by rule the “accounting and reporting forms and procedures for insurers, agents or brokers and policy holders for the purpose of determining the amount of the taxes owed and the manner and time of payment.” Wisconsin statute § 601.42, the Commissioner “may prescribe reasonable minimum standards and techniques of accounting and data handling to ensure that timely and reliable information will exist and will be available.” Under Wis. Stat. § 227.10 (2), no agency may promulgate a rule which conflicts with state law and since the enactment of 2015 Wis. Act 90, Wis. Admin. Code § 13.08, conflicts with Wis. Stat. § 612.31 (6). Additionally, the Commissioner has general rule-making authority under Wis. Stat. §§ 601.41 and 227.11 (2) (a).

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

100 hours

6. List with description of all entities that may be affected by the proposed rule:

Town mutual insurers and licensed insurance agents and brokers doing the business of procuring surplus lines insurance.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

There is no federal law or regulation that is intended to address these issues.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The anticipated economic impact of implementing this rule is negligible as the proposed rule would provide updates to the reporting form and facilitate electronic filing for surplus lines insurance agents. The proposed change for town mutual insurers will have no economic impact as the law was enacted in 2015 and this rule aligns regulation of town mutual insurers with current statutory requirements.

Contact Person: Julie E. Walsh, Senior Attorney, (office) 608-264-8101, (mobile) 608-417-0281.

Mark Afable, Commissioner of Insurance

Date

October 1, 2020
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