

1975 Senate Bill 632

Date published: June 17, 1976

CHAPTER 372, Laws of 1975

AN ACT to repeal 201.04, 201.05, 201.06, 201.16, 201.22, 201.27, 201.31, 203.15, 203.28, 204.01, 204.08 to 204.10, 204.35, 206.03, 206.385 (2) and (3), 206.59 and 612.31 (8); to renumber 200.17, 201.59 and 601.20; to amend 40.14 (1), 71.01 (3) (a), 76.32 (2), 201.065, 201.19 (1), 201.24 (1), 203.24 (1) and (5), 204.31 (1), 204.32 (1), 204.321 (1) (intro.) and (4) (a), 204.322 (1) (intro.), 206.17 (1), 206.41 (5) (c), 206.60 (6), 206.64 (1) (a), 209.04 (3) (d), 422.202 (1) (b) (intro.), 601.93 (title), as renumbered, and 601.95 (title), as renumbered; to repeal and recreate 138.12 (2) (d); and to create 601.20 (1) (title) and (2), subchapter VI (title) of chapter 601, 601.93 (6) and chapter 627 of the statutes, relating to insurance underwriting restrictions and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.14 (1) of the statutes is amended to read:

40.14 (1) ~~As used in In~~ this subchapter, "health insurance" means contractual arrangements with one or more 3rd parties for the full or partial payment, which may include indemnity or service benefits or both, of the financial expense incurred as a result of the injury or illness of an insured state employe or insured annuitant or of an insured dependent of such person. Such expense may include hospitalization, surgery and medical care, as well as ancillary items or services. Contracts for payment of the foregoing, plus other related benefits which may be negotiated by the board, shall be made with ~~corporations licensed to transact disability insurance under s. 201.04 (4) insurers authorized to do a disability business in this state,~~ or with corporations organized under and whose contracts are issued in accordance with s. 148.03 or 182.032.

SECTION 2. 71.01 (3) (a) of the statutes is amended to read:

71.01 (3) (a) Income of mutual insurance companies exempt from federal income taxation pursuant to section 501 (c) (15) of the internal revenue code, town mutual insurance companies organized under or subject to ch. 612, foreign insurance companies, and domestic life insurance companies engaged exclusively in life insurance business, domestic insurance companies ~~transacting business as defined in s. 201.04 (19) insuring against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate,~~ railroad corporations and sleeping car companies, of car line companies from operation of car line equipment as defined in s. 76.39, and corporations organized under ch. 185 which are bona fide cooperatives operated without pecuniary profit to any shareholder or member, or operated on a cooperative plan pursuant to which they determine and distribute their proceeds in substantial compliance with s. 185.45, and of all religious, scientific, educational, benevolent or other corporations or associations of individuals not organized or conducted for pecuniary profit. This paragraph does not apply to the income of mutual savings banks, mutual loan corporations, savings and loan associations or credit unions except credit unions the membership of which is limited to groups having a common bond of occupation, or association, or to groups within a well-defined neighborhood, community or rural district. Beginning with calendar year 1972 and thereafter, this paragraph ~~shall does~~ not apply to the income of societies, organizations or corporations (including any division or agency of any such society, organization or corporation) operating plans of sickness care under ch. 148, hospital service under s. 182.032, dental care under s. 447.13, prepaid prescription plans under s. 450.13, or prepaid optometric service plans under s. 449.15. Tax on the income of such societies, organizations or corporations shall first be payable on or before March 15, 1973, and thereafter under s. 71.10 (1).

NOTE: In this revision, the position has been taken that present tax law should not be disturbed. The repeal of s. 201.04 requires the amendment of s. 71.01 (3) (a) as above.

SECTION 3. 76.32 (2) of the statutes is amended to read:

76.32 (2) Every domestic stock ~~insurance company transacting business as defined in s. 201.04 (19) insurer which insures against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate~~ shall pay to the state on or before March 1 in each year 2% upon the gross premiums received during the preceding year on all policies or contracts which have been written on the lives of residents or on property in this state.

SECTION 4. 138.12 (2) (d) of the statutes is repealed and recreated to read:

138.12 (2) (d) Life insurance.

SECTION 5. 200.17 of the statutes is renumbered 601.93, and 601.93 (title), as renumbered, is amended to read:

601.93 (title) Payment of dues.

SECTION 6. 201.04 of the statutes is repealed.

SECTION 7. 201.05 and 201.06 of the statutes are repealed.

NOTE: Section 201.04 is replaced by s. 627.05.

Section 201.05 is replaced in part by s. 627.06; in part it is unnecessary. Subsection (1) (c) is merely permissive and is not needed; it requires no authorization either by statute or rule. Subsection (5) is already unnecessary in view of s. 610.21 (3) (a).

Section 201.06 is replaced by s. 627.06, by the renumbering of ss. 200.17 and 201.59, and by the addition of sub. (6) to s. 601.93 as thus renumbered.

SECTION 8. 201.065 of the statutes is amended to read:

201.065 Assignability. No provision of the statutes shall prohibit an insured under any policy of life or disability insurance of the kind described in ~~s. 201.04 (3) or (4)~~ or any other person who is the owner of any rights under such policy from making an assignment of all or any part of his rights and privileges under the policy, including any right to designate a beneficiary thereunder and any right to have an individual policy issued in accordance with s. 206.61 (8), ~~(9)~~ and to (10) or 206.64 (5). Subject to the terms of the policy or any contract relating thereto, an assignment by an insured or by any other owner of rights under the policy, made either before, upon or after February 4, 1970, is valid for the purpose of vesting in the assignee, in accordance with any provisions included therein as to the time at which it is to be effective, all rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue in accordance with s. 206.61 (8), ~~(9)~~ and to (10) or 206.64 (5) prior to receipt of notice of the assignment. This section acknowledges and declares the existing right of assignment of interests under such insurance policies.

SECTION 9. 201.16 of the statutes is repealed.

NOTE: Section 201.16 is a collection of specific underwriting limitations, which may have made sense when enacted. The oldest of them dates back at least to 1850, and the subject has never been carefully considered since. Under ss. 623.11 and 623.12, the commissioner has adequate power to consider the distribution of risks in setting compulsory and security surplus; he also has power to promulgate appropriate rules to deal with the problem. Under those circumstances, s. 201.16 is unnecessary and is not replaced.

SECTION 10. 201.19 (1) of the statutes is amended to read:

201.19 (1) No policy may contain any provision limiting the time for beginning an action on the policy to a time less than that authorized by the statutes, except that the time within which an action must be brought on the insurance policy provided in s. 203.01, also applies to any rider or endorsement attached thereto insuring property against risks of loss enumerated in s. 201.04 (1) loss or damage to property by fire, lightning, hail, tempest, explosion, and against any other loss or damage from any cause to property or in the use of, or income from property, or to any separate windstorm or hail insurance policy issued pursuant to s. 201.04 (1); or incorporate any matter not fully set forth therein, or in a copy of any application attached to and made

a part of the policy at the time of its delivery; or prescribe in what court any action may be brought thereon or that no action shall be brought.

SECTION 11. 201.22 of the statutes is repealed.

NOTE: The first part of s. 201.22 is not necessary in view of the general provisions of ch. 625. The middle part of s. 201.22 contemplates a mixed assessment and nonassessment operation, which should not be permissible. See ss. 611.77 and 612.52 for relevant provisions. The last part of s. 201.22 is unnecessary.

SECTION 12. 201.24 (1) of the statutes is amended to read:

201.24 (1) No domestic insurer organized or operating under any general law other than ch. 611 shall, directly or indirectly, deal in goods or commodities, excepting such as it may have insured and are claimed to be damaged by the risk insured against, and excepting ~~such as may be permitted by s. 201.05 (5)~~ that an insurer authorized to issue title insurance may prepare and sell abstracts of title and related documents and certificates.

SECTION 13. 201.27 of the statutes is repealed.

SECTION 14. 201.31 of the statutes is repealed.

NOTE: Section 201.27 is replaced by s. 627.23 (1) and (2).

Section 201.31 is mainly unnecessary by reason of chs. 611 to 618; so far as it should be continued, it is replaced by s. 627.23 (1).

SECTION 15. 201.59 of the statutes is renumbered 601.95, and 601.95 (title), as renumbered, is amended to read:

601.95 (title) Entitlement to dues.

SECTION 16. 203.15 of the statutes is repealed.

NOTE: Section 203.15 is replaced by s. 627.23 (4) and (5).

SECTION 17. 203.24 (1) and (5) of the statutes are amended to read:

203.24 (1) No person, except an agent holding a certificate of authority under s. 209.04, ~~shall~~ may make any adjustment of a fire loss under ~~an a fire insurance, marine insurance, plate glass insurance, sprinkler leakage insurance, livestock insurance or automobile insurance policy covering hazards described in s. 201.04 (1), (2), (11), (12), (14) and (15),~~ unless he holds a certificate under this section.

(5) Upon the completion of each adjustment, a report thereof shall be made and signed by each adjuster participating therein and by the insured or someone authorized thereto by him, and shall be filed with the state fire marshal and a duplicate thereof shall be filed with the chief of the fire department, if any, provided that reports of adjustment under ~~subsection (15) of section 201.04 an automobile insurance policy~~ need not be filed unless the adjustment involves a fire loss, and then only as to such fire loss.

SECTION 18. 203.28 of the statutes is repealed.

SECTION 19. 204.01 of the statutes is repealed.

SECTION 20. 204.08 to 204.10 of the statutes are repealed.

NOTE: Section 203.28 is replaced by s. 627.06 (1).

Section 204.01 is unnecessary and is repealed.

Section 204.08 is unnecessary and is repealed.

Section 204.09 is replaced by s. 627.15.

Section 204.10 is unnecessary and is repealed. See comment on s. 201.16.

SECTION 21. 204.31 (1) of the statutes is amended to read:

204.31 (1) DEFINITION. "Policy of accident and sickness insurance" as used in this section includes any policy or contract covering ~~the kind or kinds of insurance described in section 201.04 (4) against bodily injury or death by accident, and upon the health of persons.~~

SECTION 22. 204.32 (1) of the statutes is amended to read:

204.32 (1) Franchise accident and sickness insurance is ~~declared to be that form of accident and sickness insurance described in s. 201.04 (4) against bodily injury or death by accident, and upon the health of persons~~ covering 3 or more employes or members of any governmental corporation, unit, agency or department thereof, or of any corporation, copartnership or individual employer, or of any association, including a labor union, having a constitution or bylaws, and formed in good faith for purposes other than that of obtaining insurance, or individuals supplying raw materials to a single processing plant, where such employes, members, employees of members or suppliers, with or without their dependents, are covered under individual policies of insurance, under an arrangement whereby the premiums on such policies are to be paid to the insurer periodically by the employer, with or without pay roll deductions, or by the association, as the case may be, or by some designated person acting on behalf of such employer or association or of such employes, members or suppliers. The term "employes" as used herein includes the officers, managers and employes of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

SECTION 23. 204.321 (1) (intro.) and (4) (a) of the statutes are amended to read:

204.321 (1) (intro.) DEFINITION. Group accident and sickness insurance is ~~hereby declared to be that form of accident and sickness insurance described in s. 201.04 (4) against bodily injury or death by accident, and upon the health of persons~~ covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of such groups of persons, and issued under a policy issued to:

(4) (a) A master policy for credit accident and sickness insurance, ~~as defined in s. 201.04 (4a),~~ may be issued to a creditor, subject to the requirements of subs. (1) (d) and (f), (2) (a) and (b), and (3) (e), to cover a class or classes of debtors who become indebted to said creditor. References to an employer or association shall apply to a creditor; and references to an employe or member shall apply to a debtor.

SECTION 24. 204.322 (1) (intro.) of the statutes is amended to read:

204.322 (1) DEFINITION. (intro.) Blanket accident and sickness insurance is ~~hereby declared to be that form of accident and sickness insurance described in s. 201.04 (4) against bodily injury or death by accident, and upon the health of persons~~ covering groups of persons under a policy or contract issued:

SECTION 25. 204.35 of the statutes is repealed.

SECTION 26. 206.03 of the statutes is repealed.

NOTE: Section 204.35 is unnecessary and is repealed. See comment on s. 201.16.

Section 206.03 is replaced by s. 627.06.

SECTION 27. 206.17 (1) of the statutes is amended to read:

206.17 (1) No policy of life or disability insurance ~~as defined in section 201.04 (3) and (4)~~ shall be issued or delivered in this state until the commissioner has approved the same or until there has been filed with him at least 30 days the form of

such policy and a copy of any table of rates or statement of benefits furnished to agents or to the public in this state.

SECTION 28. 206.385 (2) and (3) of the statutes are repealed.

NOTE: Section 206.385 (2) is replaced by s. 627.18. Subsection (3) is unnecessary. The commissioner has adequate power under s. 601.41 (3).

SECTION 29. 206.41 (5) (c) of the statutes is amended to read:

206.41 (5) (c) *Limited credit insurance license.* The commissioner may issue licenses permitting the sale of only ~~credit life insurance~~ on the lives of borrowers or purchasers of goods in connection with specific loans or credit transactions as defined in ~~ss. 201.04 (3c) and s. 206.63, and credit accident and sickness insurance as defined in s. 201.04 (4a)~~ against loss of time of debtors resulting from accident or sickness.

SECTION 30. 206.59 of the statutes is repealed.

NOTE: Section 206.59 is unnecessary and is repealed.

SECTION 31. 206.60 (6) of the statutes is amended to read:

206.60 (6) Life insurance covering the lives of members of a group of persons who become borrowers from one credit union under agreement to repay the sum borrowed in instalments over a period of not more than 20 years, to the extent of their indebtedness to said credit union but not to exceed \$10,000 on any one life, written under a policy which may be issued upon the application of and made payable to the credit union as beneficiary, the premium on such policy to be payable by the credit union, the borrower, or jointly by the credit union and borrower, except that such limitation as to amount shall not apply to any group policy existing on July 15, 1949 nor to any amount thereafter written pursuant to such policy. Section 206.61 (6) to (11) shall not be required as to policies issued under this subsection. ~~The insurance specified in s. 201.04 (4)~~ Insurance against bodily injury or death by accident, and upon the health of persons may be written in any such policy with or without separate premium charge ~~notwithstanding s. 201.05 (1).~~

SECTION 32. 206.64 (1) (a) of the statutes is amended to read:

206.64 (1) (a) "Franchise life insurance" is ~~that form of life insurance described in s. 201.04 (3)~~ covering 3 or more members of any franchise unit where such members are covered under individual policies of insurance, under an arrangement whereby the premiums on such policies are to be paid to the insurer periodically by the franchise unit, with or without payroll deductions, or by some designated person acting on behalf of such franchise unit or of such members. Such policies may be extended to insure the lives of the spouse and dependent children of the insured member. The amount of insurance on the life of the spouse shall not exceed 50% of the amount of insurance on the life of the insured member or \$5,000, whichever is less, and the amount of insurance on the life of each dependent child shall not exceed \$1,000.

SECTION 33. 209.04 (3) (d) of the statutes is amended to read:

209.04 (3) (d) *Kinds of licenses.* The commissioner shall promulgate rules establishing the kinds of licenses which may be issued which shall be limited in scope to any of the kind kinds of insurance defined by any subsection of s. 201.04 the commissioner under s. 627.05 or any combination or division thereof.

SECTION 34. 422.202 (1) (b) (intro.) of the statutes is amended to read:

422.202 (1) (b) (intro.) Charges or premiums for credit life insurance, as defined in ss. 201.04 (3c), 1973 stats., and 206.63, or credit accident and sickness insurance, as defined in s. 201.04 (4a), 1973 stats., if:

SECTION 35. 601.20 of the statutes is renumbered 601.20 (1).

SECTION 36. 601.20 (1) (title) and (2) of the statutes are created to read:

601.20 (1) (title) AUTHORIZATION TO FORM COUNCILS AND COMMITTEES.

(2) CLASSIFICATIONS ADVISORY COUNCIL. The commissioner shall appoint a classifications advisory council with a sufficient number of members from different parts of the insurance industry to make possible the formation of subcommittees with specialized knowledge of different kinds of insurance. He may also appoint consumers with expertise in insurance to be members of the council.

NOTE: Members of this council should come from but should not represent different branches of the industry. The commissioner should appoint knowledgeable consumers to the council. They can help protect the commissioner from allegations of subservience to the industry. There should be no difficulty in finding competent consumer representatives to serve; it goes without saying that the industry can supply the necessary talent. The structure and procedures of the council should be left in the control of the commissioner, not specifically provided by statute.

The council created by this subsection could have identical or overlapping membership with a council created under any other subsection.

SECTION 37. Subchapter VI (title) of chapter 601 of the statutes is created to read:

CHAPTER 601
SUBCHAPTER VI
FIRE DEPARTMENT DUES

(to precede s. 601.93)

SECTION 38. 601.93 (6) of the statutes is created to read:

601.93 (6) In this section and in s. 601.95, "fire insurance" includes insurance against loss of or damage to:

(a) Notes, acceptances or any other valuable papers or documents, resulting from any cause, except while in the mail or in the custody or possession of and being transported by any carrier for hire; and

(b) Personal property of individuals when written under an all-risk type of policy commonly known as the "personal property floater", whenever these risks are written in conjunction with insurance against burglary or theft.

NOTE: Section 601.93 (6) is necessitated by the repeal of s. 201.06. For that reason, the sections on fire department dues are relocated in this bill.

SECTION 39. 612.31 (8) of the statutes is repealed.

SECTION 40. Chapter 627 of the statutes is created to read:

CHAPTER 627
UNDERWRITING RESTRICTIONS

627.05 Classifications of insurance. The commissioner, after consultation with the classifications advisory council created under s. 601.20 (2), may by rule define and delimit lines and classes of insurance for any purposes within his regulatory power, including:

- (1) To delimit the underwriting powers of insurers doing business in this state;
- (2) To provide a basis for determining the financial needs of insurers under s. 611.19 or comparable provisions of other chapters;
- (3) To provide instructions for reports and replies under s. 601.42;
- (4) To restrict combinations of lines or classes of insurance; and
- (5) To determine which rules under ch. 632 are applicable.

NOTE: This replaces s. 201.04. There is no necessity to list the lines of insurance that may be written by authorized insurers. Lines are defined for particular purposes: to classify insurance for reporting; to establish rules for permissible combinations of coverages, with or without separate premiums; to define the outer limits of the underwriting authority of insurers; to establish any special underwriting limitations on particular lines, such as maximum risk limits or whether policies may be written on an assessable basis; to establish special rules for contracts; etc. For none of these purposes are the so-called definitions of s. 201.04 adequate.

As with most definitional problems in the real world, it is not possible to develop in short compass definitions of lines of insurance that will solve difficult problems. An entire school of linguistic philosophy of considerable contemporary significance has developed in relation to the problem; as reflected in the legal literature it has produced entire books concerned with the definition of such basic concepts as "law", "causation", and the like. As reflected in this revision, recognition of the difficulty of the problem has resulted, for example, in the rejection of any effort to define "insurance". See s. 600.03 (25), where the approach is by a list of inclusions and exclusions, to be added to as experience brings problems to the fore and requires them to be dealt with. The core meaning is seldom in doubt. It is only at the periphery that there is any problem, and then it is the problem of deciding whether to include or exclude a particular phenomenon that has some but not all of the characteristics of the core concept. To illustrate in a different context — is "international law" properly called "law"? The ultimate sanction is war; there are no tribunals with real powers of enforcement against sovereign states. Decisions at the periphery of difficult concepts should normally be made on pragmatic grounds, by the casuistic process of exclusion and inclusion familiar to all Anglo-American lawyers. The process can be implemented by cases, statutes or by administrative rule-making.

Just as no one can doubt what "insurance" is in its central core, so no one can doubt what "fire insurance" or "life insurance" or "legal expense insurance" is at the center. It is at the periphery that the problems arise, and there the simplistic definitions of s. 201.04 are useless. To take one example, "fire insurance" as defined in s. 201.04 (1) is broad enough to include not only the extended coverage normally associated with fire insurance, but also marine insurance, burglary insurance, plate glass insurance, sprinkler leakage insurance, elevator insurance (in part), livestock insurance (in part), automobile insurance (in part), and other casualty insurance. Any definition no better than that should be abandoned. While we might improve the definitions, it is clear also that any definitions of lines of insurance we might produce would inevitably be defective. Moreover, the definitions should be different (i.e., the lines should be drawn differently at the periphery where the problems are hard) depending on the purpose for which the definition is desired. This leads to the conclusion that general understanding should be relied on for most purposes, with the commissioner having rule-making power to draw the lines precisely (i.e., to include and exclude) when problems arise. In those rare cases where the problems deserve legislative attention they can be brought to the legislature, after they have been appropriately refined and focused.

One additional comment is pertinent with respect to s. 201.04. It is drawn up as a list of kinds of insurance in which insurers may engage. That is an unsound approach; it is better to start from the opposite pole: insurers may engage in any activity that can be called insurance, subject to the control over

their underwriting powers and financial resources that is adequately provided by the licensing provisions of chs. 611 to 618 and the financial provisions of ch. 623.

Subsection (5) does not give the commissioner power to determine the application of provisions of ch. 632 except by drawing lines at the boundaries between lines of insurance. That is an unavoidable necessity because precise definition cannot be developed for the code.

627.06 Combinations of policies. Subject to any other provisions in this chapter, the commissioner, after consultation with the classifications advisory council created under s. 601.20 (2), may by rule establish standards for the combination of different kinds of coverages in policies and may specify whether premiums must be separately stated for each.

NOTE: This replaces part of ss. 201.05, 201.06, 203.28, 204.01, 204.08 and 206.03.

The commissioner's general approach should be to encourage the development of packaged insurance coverages, with premiums to be combined whenever it does not distort the statistical information on which the insurance business should be based. He should take such action in close parallel with other states, and after consultation with the industry and, where consumer interests are or can be endangered, with appropriate representatives of consumers. He should initially, of course, promulgate rules that continue existing statutory limitations, and move to liberalize his rules after exploration and appropriate hearings.

627.15 Indemnity agreements for surety corporation. Any insurer writing surety or fidelity insurance may contract for indemnity or security for any suretyship or fidelity obligation incurred by it; and any fiduciary from whom such an obligation is required or permitted by law may deposit any money and other property which he has the power to make available for the indemnity or security with a responsible financial institution as depository in a manner that prevents the withdrawal or alienation thereof without the written consent of the surety or an order of a court or judge thereof having jurisdiction of the fiduciary, made on such notice to the surety as the court or judge may direct. The commissioner shall take the existence of a systematic practice of making such arrangements into account in assessing the financial condition of the insurer and its underwriting capacity and limits.

NOTE: This continues s. 204.09 with some editing. No class of responsible financial agent should be discriminated against and the depository is therefore described in general terms. The commissioner can promulgate rules as necessary to confine the list. The last sentence is new.

627.18 Variable contracts. No insurer may deliver within this state any contract providing life or annuity benefits in variable amounts until the insurer has satisfied the commissioner that its condition and methods of operation in connection with such contracts do not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting authority to deliver such contracts within the state, the commissioner shall consider, among other things:

- (1) the history and financial condition of the insurer;
- (2) The character, responsibility and general fitness of the insurer's officers and directors; and
- (3) In the case of a nondomestic insurer, whether the regulation provided by the state of its domicile or the jurisdiction in which its head office is located provides protection to policyholders and the public substantially equal to that provided by this code and the rules issued thereunder.

NOTE: This continues s. 206.385 (2), with only editorial changes, except for expansion of Canadian to all authorized alien life insurers. The enlargement is more symbolic than significant. There is no reason in principle for the limitations, however.

627.23 Reinsurance. (1) **POWER TO ACCEPT REINSURANCE.** Except as limited by s. 612.33 in the case of town mutuals, an authorized insurer may assume as a reinsurer any risks it may write directly. Subject to chs. 611 to 618 or to any limitation imposed on a nondomestic insurer by law of its domicile, the commissioner may also authorize an insurer to accept as a reinsurer designated classes of risks it is not authorized to write directly.

(2) **POWER TO CEDE REINSURANCE.** Subject to s. 611.78, any authorized insurer may cede to any insurer authorized to assume it under chs. 611 to 618 and sub. (1) any liability it has undertaken on risks lawfully written under its certificate of authority. It may also cede reinsurance to any authorized agency of the federal government or of this state. Subject to rules promulgated by the commissioner for calculation of its reserves and its surplus, and subject to sub. (3), an authorized insurer may also cede reinsurance to an unauthorized insurer.

(3) **REINSURANCE IN UNSOUND REINSURER.** No person may knowingly cede reinsurance or permit it to be ceded to any reinsurer not in sound financial condition. If the reinsurer is authorized to do business in this state or any other jurisdiction specified by the commissioner by rule, or is included on a list prepared by the commissioner or approved by him for that purpose, there is a rebuttable presumption that it is in sound financial condition.

(4) **ASSUMPTION OF UNAUTHORIZED BUSINESS.** Any authorized reinsurer knowingly assuming from an unauthorized insurer risks that may lawfully be written only by an authorized insurer shall immediately report the facts respecting the transaction to the commissioner. The assuming reinsurer is liable for the tax and penalties specified in s. 618.43 (1), but may take credit therefor in its settlement of accounts with the ceding insurer, unless its agreement with the unauthorized ceding insurer took such taxes into account.

(5) **RETIREMENT FROM BUSINESS.** Any authorized reinsurer proposing to withdraw from a class of its business in this state, except by nonrenewal of existing contracts at their expiration, shall give the commissioner 60 days' written notice of its intention and shall not withdraw until after lapse of that time. This subsection does not apply to transactions involving an insignificant market share of the class of business in this state.

NOTE: Subsection (1) continues part of s. 201.27 (1) and part of s. 201.31.

Subsection (2) continues the remainder of s.201.27. The last sentence is new but makes no new law.

Subsection (3) is new.

Subsections (4) and (5) are generalized to all insurance and changed in other significant ways from s. 203.15 (1) and (2).

SECTION 41. Cross reference changes. In the sections listed below in column A, the cross references shown in column B are changed to the cross references shown in column C:

Statute	A Sections	B Old Cross References	C New Cross References
14.561		200.17	601.93
20.145	(3)(v)	200.17 (4)	601.93 (4)
20.835	(4)(b)	200.17	601.93
		201.59	601.95
76.305		200.17	601.93

CHAPTER 372

1110

76.36
601.32 (2)(b)
618.49

201.59
200.17
201.59

601.95
601.93
601.95
