

1979 Senate Bill 146

Date published: December 17, 1979

CHAPTER 102, Laws of 1979

AN ACT to repeal 58.06 (1), 600.03 (8), (19), (28) and (35), 601.01 (title) and (2), 601.31 (26), 601.73 (1) (c), 610.55, 610.57, 612.01 (1), 632.93 (2) and 632.94; to renumber 58.06 (2), 76.305, 76.32, 76.34, 600.03 (28a) and (34m), 600.12, 601.01 (3), 601.31 (intro.), (1) to (15), (15m), (16), (17), (17m) and (18) to (24), 612.01 (2) and (3), 613.01 (4) to (7), 631.36 (10) to (12) and 632.93 (3) and (4); to renumber and amend 76.30, 76.31, 76.33, 76.35 to 76.375, 600.03 (23), 601.31 (25), 613.02, (1) (b), 628.13 and 632.41 (3); to amend 13.486 (2) and (3), 15.227 (4), 15.431 (intro.), 20.710 (1) (g) and (h), 25.14 (1), 25.17 (3) (d), 40.10 (2) (b), 40.14 (1), 40.146 (2), 40.15 (6), 40.20 (1), 45.71 (10), 49.45 (2) (b) 2, 71.01 (4) (title) and (a) (intro.), 71.03 (2) (b), chapter 76 (title), 76.63 (title) and (1), as renumbered, 76.65 (intro.), (1) (title) and (a) and (2), as renumbered, 100.13 (4) (a), 145.17 (1), 177.03, 177.11 (2) (b) and (8), 180.02 (2), 194.41 (title) and (1) to (3), 218.05 (3) (c) and (6), 220.06 (1), 226.01, 227.01 (11) (p), 234.40 (title), 343.10 (1), 344.15 (1), (2) (intro.) and (b) and (3) to (5), 344.32 (1) (intro.), 344.33 (1), 344.51 (1), 440.26 (4), 551.22 (16), 551.27 (13), 600.01 (1) (a) and (b) 2, 5 and 6, 600.03 (6), (27) (a), (42) (a) and (45) (d) and (e), 601.01 (intro.) as renumbered, 601.12 (2), 601.13 (1) (intro.), (3) to (5) and (11), 601.18, 601.20 (2) and (3), 601.31 (1) (a) 1 and 2, (b) 1 and 2, (c) 1 and 2, (o) (3), (p) 3, (u), (w) (intro.) and (x) as renumbered, 601.32 (1), 601.41 (1) and (2), 601.42 (1) (a), 601.43 (1) (b) and (4), 601.44 (8), 601.45 (4), 601.46 (2), 601.47 (2), 601.49, 601.63 (2), 601.64 (2), (3) (d) and (5), 601.71, 601.72 (1) (intro.) and (c), 601.73 (1) (a) and (2) (b), 601.93 (2), 604.04 (2), 605.21 (1), 605.23 (1) and (3), 610.21 (1), 610.47, 610.51, 611.03 (2), 611.15, 611.20 (4) (b), 611.24 (2), 611.28 (2), 611.31 (4) (a) to (d), 611.33 (2) (b) (intro.), 611.51 (5) to (8), 611.52 (2), 611.54 (1) (b), 611.56 (1), 611.61 (title) and (1) (intro.), 611.62 (3), 611.73 (3), 611.74 (1), 611.76 (4) (b) and (e), 611.78 (1), 612.01 (title), and (1) (c), as renumbered, 612.02 (5) (a) and (6), 612.04 (1), 612.18, 612.21 (3) and (7), 612.22 (3), (4) and

(7), 612.23 (1) (intro.) and (b), (2) and (5), 612.25 (3), 612.32 (1), 612.33 (1), 612.52, 613.03 (title) and (1), 613.13 (1) (intro.) and (i) (intro.) and (2) (c), 613.33 (1) (intro.), 613.56 (2) and (3) (b), 613.60, 613.72 (5), 613.75 (1), 614.12 (3), 614.29 (1), 614.53, 614.60, 614.73 (4) (c), 614.74 (1), 617.21 (4), 617.22 (1), 617.23 (1), 618.41 (6) (d), 618.43 (8), 618.47 (1) (a) and (2), 618.50 (1) and (2), 619.03, 620.03 (2) and (3), 623.03, 623.11 (1) (b) (intro.), 625.21 (1) and (4), 625.23, 625.32 (3), 628.10, 628.61 (1), 631.36 (1) (a), 632.08, 632.35, 632.41 (2), 632.45 (1), 632.46 (3) (title) and (a), 632.62 (1) (a), 632.77 (1), 632.93 (1), 632.98, 636.04 (3) and (4), 641.09 (1), 641.10 (1) and (2), 641.11 (1) and (3), 641.12 (1), 641.13, 641.14, 641.15, 641.18, 641.19 (2) (a), (5) and (6), 645.01 (4) (e), 645.07 (title) and (1) (intro.), 645.09 (1) (intro.) and (a) and (2), 645.21 (2), 645.23 (1) and (3), 645.24 (3) and (4), 645.31 (intro.) and (1), 645.33 (2), 645.42 (1), 645.44, 645.45 (2), 645.46 (1), (5), (6), (9), (12) and (23), 645.48 (1), 645.49 (1), 645.54 (1) (b), 645.55 (1), 645.56 (2) (a), 645.57 (4) and (5) (a), 645.61 (2) (intro.) and (a) and (3), 645.62 (1) (a) 8, 645.63 (1), 645.64 (2) and (3), 645.65 (1), 645.66, 645.71 (1), 645.73 (1), 645.83 (1), 645.84 (3), 645.85, 645.87 (2), 645.89 (3), 646.01 (1), 646.04, 646.11 (2) (c) 2, 646.12 (3), 646.14 (2), 646.21 (2), 646.31 and 801.11 (5) (d); to repeal and recreate 614.43, 614.94, 631.36 (5), 631.83 (1) (c), 632.32 and 632.34; and to create subchapter I (title), subchapter II (title) and subchapter III (title) of chapter 76, 600.03 (1r), 600.12 (2), 601.13 (3) (a) to (h), 601.415, 601.43 (1) (d), 610.01 (4), 610.24, 610.61, 611.01 (3), subchapter VI of chapter 611, 612.01 (3) and (4), 613.01 (4), (7) and (10), 614.01 (6), 615.15, 623.01 623.34, chapter 630, 631.02, 631.24, 631.37, 631.43 (3), 632.26, 632.93 (4) to (7) and 646.01 (1) (b) 1, 6 and 7 of the statutes, relating to miscellaneous corrections and revisions in the insurance code and related statutes.

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

INTRODUCTORY NOTE: This bill is a combination of several separate bills that were all approved by the Insurance Laws Revision Committee at its meeting of July 25, 1977, for recommendation to the Legislative Council. They are combined for convenience and accessibility. Many are minor corrections designed to provide uniform language, insofar as possible, in the terminology used to describe insurance and insurance relationships. Since the automatic application of definitions, such as "insurance", "insurers" and the like is restricted to chapters 600 to 649 of the statutes (the insurance code), it was necessary to analyze all other sections of the statutes in which insurance terminology is used. The staff obtained a computer readout of the use of such terms throughout the statutes, examined these sections, legislation adopted during the current session and sections revealed by checking cross-references and the index to the statutes, and proposed appropriate corrections. Some such sections may have been missed but can be corrected when discovered. A few sections of the bill do make more substantial changes.

SECTION 1. 13.486 (2) and (3) of the statutes are amended to read:

13.486 (2) In carrying out this project the state building commission may refinance the present state office building so that the existing encumbrance in favor of the state property insurance fund, which is secured by a deed in trust from the state to the commissioner of insurance executed on December 31, 1931, shall be paid in full to the state property insurance fund. The entire property including the existing building and land and the proposed addition shall be operated by the state building commission through the department of administration as provided in s. 13.482 (2). Section 13.482 shall apply to the existing land and building as well as to the proposed addition.

(3) In consideration and upon the payment in full of the existing indebtedness on the state office building to the state property insurance fund as provided for by sub. (2), the commissioner of insurance shall convey the state office building property to the state.

SECTION 2. 15.227 (4) of the statutes is amended to read:

15.227 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the department of industry, labor and human relations a council on worker's compensation appointed by the labor and industry review commission to consist of a member or designated employe of the department of industry, labor and human relations or the labor and industry review commission as chairperson, 5 representatives of employers and 5 representatives of employes. The commission shall also appoint 3 representatives of casualty insurers authorized to do a worker's compensation insurance companies business in this state as nonvoting members of the council.

SECTION 3. 15.431 (intro.) of the statutes is amended to read:

15.431 Same; program responsibilities. (intro.) The department of revenue shall have the program responsibilities specified for the department under ~~title X, chs. 70 to 75, 77 to 79, 139 and 176, subchs. I and II of ch. 76 and ss. 13.49 (7), 18.05 (2), 19.50 (5), 25.06, 25.08, 25.09, 25.12, 36.25 (6), 66.054, 66.057 (3), (4) and to (5), 67.03, 69.61 to 69.65, 79.25, 121.06, 128.14 (1), 865.11 (1) and 867.01.~~ In addition:

SECTION 4. 20.710 (1) (g) and (h) of the statutes are amended to read:

20.710 (1) (g) *Agency collections.* All moneys received by the commission under ss. 13.482 and 13.488 from building project rentals and charges, including moneys received from conveyances and leases consummated under ss. 13.482, and 13.488 and from rentals received from buildings constructed under the authority of s. 20.866 (2) (y) shall be paid into the general fund and are appropriated therefrom for payments of the costs of operation and maintenance of building projects leased or subleased by the commission under ss. 13.482 and 13.488, or buildings constructed and occupied under the authority of s. 20.866 (2) (y). The amount ~~so~~ appropriated shall not exceed the amounts paid into the general fund ~~as aforesaid~~ after deducting ~~therefrom~~ an amount equal to the amount appropriated under par. (h) for the payment of rentals by the commission under ss. 13.482, and 13.488, for debt service payments under s. 20.866 (1) (u) and payments to the state property insurance fund on such projects. The amount appropriated and available under this paragraph shall be determined by the department of administration.

(h) *Lease rental payments.* All moneys transferred from par. (g) to pay rentals by the commission under ss. 13.482 and 13.488 and to make annual payments to the state property insurance fund of one-twentieth of the amounts transferred by chapter 325, laws of 1959.

SECTION 5. 25.14 (1) of the statutes is amended to read:

25.14 (1) There is created a state investment fund under the jurisdiction and management of the investment board (hereinafter referred to as "board") to be operated as an investment trust for the purpose of managing the securities of all the state's funds consisting of the funds specified in s. 25.17 (1) except the state property insurance fund, state life fund, fixed retirement investment trust, variable retirement investment trust, capital improvement fund, bond security and redemption fund, state building trust fund, the trust funds of the historical society, the state housing authority reserve fund, funds which by the constitution are required to be controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of law to be controlled and invested by any other authority, the university trust funds and the trust funds of the state universities except that the respective authorities controlling the investment of any such excluded fund may authorize the transfer of any temporary cash assets of any such excluded fund to the state investment fund in accordance with subs. (2) and (3).

SECTION 6. 25.17 (3) (d) of the statutes is amended to read:

25.17 (3) (d) Invest the funds of the state insurance property fund in investments permitted by s. 201.25 ~~of the, 1969 statutes~~ stats.

SECTION 7. 40.10 (2) (b) of the statutes is amended to read:

40.10 (2) (b) The board shall on behalf of the state enter into a contract ~~or contracts~~ with one or more ~~corporations~~ insurers authorized to transact do an insurance business in this state ~~or corporations created under ch. 613.~~ The group life and health insurance contract ~~or contracts~~ may be of the type which requires payment of premiums which are known to be sufficient to pay losses, costs, benefits and expenses incurred in its operation and which may permit dividends or premium credits to be applied as provided in s. 40.24, or of a type which requires lower initial premiums with the probability of greatly reduced or nonexistent dividends or rate credits.

SECTION 8. 40.14 (1) of the statutes is amended to read:

40.14 (1) 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 insurers authorized to do a disability business in this state, or with corporations organized under and whose contracts are issued in accordance with ch. 613.

SECTION 9. 40.146 (2) of the statutes is amended to read:

40.146 (2) The board shall provide a plan ~~or plans~~ of standard income continuation insurance through contracts negotiated with ~~one or more corporations~~ licensed insurers authorized to transact do disability insurance business in this state or through other means determined by the board.

SECTION 10. 40.15 (6) of the statutes is amended to read:

40.15 (6) The full amount of the premium shall be remitted to the ~~insurance carrier or carriers~~ insurer substantially in accordance with s. 20.921.

SECTION 11. 40.20 (1) of the statutes is amended to read:

40.20 (1) The board shall make the group life insurance provided ~~pursuant to under~~ this subchapter available to any employer as defined in s. 41.02 (4) for the purpose of providing the employes thereof with group life insurance in amounts based upon their annual earnings under a plan contributed to by ~~such the~~ employer, thereby improving morale and efficiency in the public service. The board shall have the option of providing such insurance under a separate contract. Any ~~company~~ insurer authorized to sell life insurance in ~~the~~ this state may provide such insurance.

SECTION 12. 45.71 (10) of the statutes is amended to read:

45.71 (10) "Insurer" means any ~~insurance carrier~~ licensed insurer authorized to do business in this state ~~and approved by the department.~~

SECTION 13. 49.45 (2) (b) 2 of the statutes is amended to read:

49.45 (2) (b) 2. Contract with ~~nonprofit organizations incorporated or existing under and by virtue of ss. 148.03, 447.13 and ch. 613, with other organizations~~ any organization whether or not organized for profit ~~or with insurance companies licensed and authorized to do business in this state, either to administer, in full or in part, the benefits under the medical assistance program in full or in part, including prepaid health care, or to insure the program in full or in part for and in behalf of the department and may accept the contract deemed most advantageous to the department for such administrative services. Any organization administering or insuring benefits under this section which is not licensed by the commissioner of insurance shall be subject to financial and operational~~

~~regulation and review under ch. 613; or contract with any insurer authorized under the insurance code of this state to insure the program in full or in part and on behalf of the department.~~ The department shall report each December 31 to the governor, the joint committee on finance and the standing committees on health and social services regarding the effectiveness of the management information system for monitoring and analyzing medical assistance expenditures;

NOTE: When this provision was amended by chapter 90, section 251, laws of 1973, organizations having no resemblance to insurance companies were, surely inadvertently, authorized to provide insurance. Whether the change was inadvertent or not, it was unquestionably unsound. This change in the provision preserves the valid portion of the prior change.

SECTION 14. 58.06 (1) of the statutes is repealed.

NOTE: There are believed to be no such fraternal societies as are provided for in s. 58.06 (1) and there is no justification for creating any.

SECTION 15. 58.06 (2) of the statutes is renumbered 58.06.

SECTION 16. 71.01 (4) (title) and (a) (intro.) of the statutes are amended to read:

71.01 (4) (title) INSURERS. (a) (intro.) ~~Insurance companies~~ Insurers subject to taxation under this chapter, except ~~societies, organizations or corporations~~ insurers under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, beginning with calendar year 1972 and thereafter, shall be taxed on the basis of net income. Such tax shall first be payable on or before March 15, 1973, and thereafter under s. 71.10 (1). "Net income" of an ~~insurance company insurer~~ insurer subject to taxation under this chapter means federal taxable income as determined in accordance with the provisions of the internal revenue code applicable to ~~such company~~ the insurer with respect to determination of federal income tax payable by ~~such~~ the company, adjusted as follows:

SECTION 17. 71.03 (2) (b) of the statutes is amended to read:

71.03 (2) (b) All insurance received by any corporation in payment of a death claim by any ~~insurance company, fraternal benefit society or other~~ insurer, including insurance paid to a corporation upon the policies on the lives of its officers or employes, but in computing net income, no deduction ~~shall~~ may in any case be allowed in respect of premiums paid on any life insurance policy covering the life of any officer or employe, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under ~~such~~ the policy.

SECTION 18. Chapter 76 (title) of the statutes is amended to read:

CHAPTER 76

TAXATION OF PUBLIC UTILITIES AND ~~INSURANCE COMPANIES~~ INSURERS

SECTION 19. Subchapter I (title) of chapter 76 of the statutes is created to read:

CHAPTER 76

SUBCHAPTER I

PUBLIC UTILITIES

(to precede s. 76.01)

SECTION 20. 76.30 of the statutes is renumbered 76.60 and amended to read:

76.60 (title) Fire and marine insurers; license fees. (1) Every ~~company transacting the business of insurance against insurer doing a fire or marine loss insurance business,~~ other than domestic ~~insurance companies~~ insurers and ~~companies~~ insurers excepted under s. ~~76.305~~ 76.61, shall pay to the state, in respect to marine insurance a tax of ~~one-half of one per cent~~ .5% and in respect to fire insurance a tax of 2.375% on the amount of the gross premiums received for direct insurance, less return premiums and cancellations on direct

insurance, by ~~such company~~ the insurer during each calendar year in this state. Direct insurance includes all insurance other than reinsurance. In case any ~~company~~ insurer discontinues business in this state and reinsures the whole or a part of its risks without making payment of this tax, the ~~company~~ insurer accepting such reinsurance shall pay the tax; ~~and if.~~ If several ~~companies~~ insurers make such reinsurance the tax shall be apportioned between ~~such companies~~ the insurers in proportion to the original premiums upon the business in this state, so reinsured by each such ~~company~~ insurer. Upon the payment of the tax ~~herein~~ provided in this section, and the fees required by s. 601.31, such ~~company~~ insurer may be licensed to transact its business until May 1 in the ensuing year, unless sooner revoked or forfeited according to law.

SECTION 21. 76.305 of the statutes is renumbered 76.61.

SECTION 22. 76.31 of the statutes is renumbered 76.62 and amended to read:

76.62 License fees; calculation of. All license fees and taxes levied under any provision of law upon gross premiums other than life insurance premiums against any ~~insurance company or other~~ insurer shall be uniformly calculated on the amount of gross premiums received for direct insurance less return premiums and cancellations and returns from savings and gains on direct insurance by ~~such company or other~~ the insurer during the preceding year in this state.

SECTION 23. 76.32 of the statutes is renumbered 76.63, and 76.63 (title) and (1), as renumbered, are amended to read:

76.63 (title) Casualty insurance; license fees. (1) Every ~~corporation transacting the business of insurer doing a~~ casualty or suretyship insurance surety business, other than domestic ~~insurance companies~~ insurers and ~~companies~~ insurers exempted under s. ~~76.305~~ 76.61, shall pay to the state 2% upon the gross premiums during each calendar year on all policies or contracts which have been written on the lives of residents or on property in this state.

SECTION 24. 76.33 of the statutes is renumbered 76.64 and amended to read:

76.64 Quarterly instalments. Payments ~~made under ss. 76.30 (1), 76.32 (1) and 76.34 (2) shall be due on an estimated basis for all of calendar year 1969 on or before October 15, 1969. Thereafter, payments of quarterly instalments of the total estimated payment for the then current calendar year under ss. 76.60, 76.63 (1) and 76.65 (2) shall be due on or before April 15, June 15, September 15 and December 15. Effective January 1, 1970, every~~ Every company shall make an annual return for the preceding calendar year on or before the first day of March 1 setting forth such information as the commissioner of insurance may reasonably require on forms prescribed by ~~him~~ the commissioner. On March 1, the company shall pay any additional amount due for the preceding calendar year; ~~if there has been an overpayment it.~~ Overpayment will be credited on the amount due April 15. If any company fails to make quarterly payments of at least ~~one-fourth~~ 25% of either the total tax paid for the previous calendar year or 80% of the actual tax for the current calendar year, it shall be liable in addition to the amount due for interest in the amount of ~~one per cent~~ percent of the amount due and unpaid for each month or part of a month that the amount due together with any interest remains unpaid.

SECTION 25. 76.34 of the statutes is renumbered 76.65, and 76.65 (intro.), (1) (title) and (a) and (2), as renumbered, are amended to read:

76.65 (title) Life insurers to pay annual license. (intro.) Every ~~company, corporation or association transacting the business of insurer doing a~~ life insurance business within this state, except fraternal as defined in s. 614.01, shall pay into the state treasury as an annual license fee for transacting such business the amounts following:

(1) (title) DOMESTIC INSURERS. (a) If such ~~company, corporation or association~~ insurer is organized under the laws of this state, it shall pay as an annual license fee 3.5% upon its gross income from all sources for the preceding calendar year ~~excepting there~~

from except interest required to provide and maintain reserves according to the laws of this state, income from rents of real estate upon which ~~said company, corporation or association~~ the insurer has paid the taxes assessed thereon, and ~~excepting also~~ except premiums collected on policies of insurance and contracts for annuities. No domestic ~~company, corporation or association~~ insurer shall, however, in any year pay in the aggregate for license fee as prescribed herein in this paragraph and valuation fee as set forth in s. 601.31 ~~(20)~~ (1) (v) an amount in excess of the annual license fee which would have been payable by it in such year under sub. (2) had it been operating as a foreign company insurer subject to said sub. (2). Any domestic ~~company, corporation or association~~ insurer having in excess of \$750,000,000 of insurance in force as of December 31 of the preceding calendar year, excluding therefrom any reinsurance assumed on which premium taxes are payable by the ceding company insurer, shall not pay less in the aggregate for a license fee as prescribed herein in this paragraph and valuation fee as set forth in s. 601.31 ~~(20)~~ (1) (v) than the amount of the annual license fee which would have been payable by it in such year under sub. (2) had it been operating as a foreign company insurer subject to said sub. (2). Payments ~~hereunder~~ under this paragraph shall be made annually on or before ~~the first day of March in each year~~ 1.

(2) (title) FOREIGN INSURERS. If any such ~~company, corporation or association~~ insurer is organized without the outside of this state of Wisconsin, it shall pay into the state treasury, as such annual license fee, ~~two per centum~~ 2% upon the excess of the gross premiums received in money or otherwise during the preceding calendar year on all policies or contracts of insurance on the lives of residents of this state after deducting ~~therefrom~~ all sums apportioned to premium paying policies on the lives of residents of this state from annual distribution of profits, savings, earnings or surplus which before the expiration of the calendar year next succeeding such apportionment have been either ~~(1)~~ paid in cash or ~~(2)~~ applied in part payment of premiums.

SECTION 26. 76.35 to 76.375 of the statutes are renumbered 76.66 to 76.69 and amended to read:

76.66 (title) Increase of fee of foreign insurer. Whenever the laws of any other state ~~of the United States~~ or of any foreign country, or the rules, regulations, requirements or impositions thereof, or of any department or officer thereof ~~shall require of insurance companies or fraternal benefit societies~~ insurers organized under the laws of this state and doing business in such state or foreign country or of their agents, any deposit of securities for the protection of their policyholders or otherwise, or any payment of taxes, fines, penalties, certificates of authority, license fees or otherwise, greater than the amount required by the laws of this state for the same purposes from similar ~~companies or fraternal societies~~ insurers organized under the laws of such other state or foreign country and doing business in this state, or shall impose other obligations, prohibitions or restrictions additional to or in excess of those imposed by the laws of this state upon ~~insurance companies or fraternal benefit societies~~ insurers of such other state or foreign country or their agents, then all such ~~companies or fraternal benefit societies~~ insurers of such other states or foreign country doing business within this state shall make the same deposit with the state treasurer and shall pay ~~him~~ the state treasurer the same sum for taxes, fines, penalties, certificates of authority, license fees or otherwise, and the same obligations, prohibitions or restrictions of whatever kind shall be imposed upon them and their agents as a condition to the issuance of a license to them, as is required to be made or paid or is imposed upon ~~companies or societies~~ insurers of this state or their agents by the laws of such other state or foreign country, or the rules, regulations, requirements or impositions thereof, or of any department or officer thereof.

76.67 (title) Nondomestic insurers; reciprocal taxation. When any ~~insurance corporation or other domestic insurer of this state shall be~~ is licensed to transact insurance in any other state, territory, or district of the United States, like ~~insurance corporations or insurers~~ from such other state, territory or district shall pay no other or greater taxes, fees, or

licenses than are or would lawfully be imposed upon and collected from like ~~insurance corporations or~~ insurers of this state by such other state, territory or district; ~~but the~~. The amount of such taxes or fees paid by ~~insurance corporations or~~ insurers subject to ss. ~~76.34~~ 76.65, 601.31 and 601.95, shall not be less than the amount required and applied as provided in ~~said those~~ sections, and the amount of such taxes paid by ~~insurance corporations or~~ insurers under s. ~~76.30 (1)~~ 76.60 shall not be less than ~~three-eighths of one per centum~~ .375% on the amount of the gross premiums received for direct insurance, less the deductions provided in s. ~~76.34~~ 76.62, by such ~~corporations or~~ insurers during the preceding year in this state. This section ~~shall~~ does not apply to ~~insurance corporations or other alien insurers of any foreign country.~~

76.68 License; issuance; collection of fees. (1) Every license issued under ~~ss. 76.30 to 76.37~~ this subchapter and chs. 600 to 649 shall certify that payment of the license fee or tax and the fee required by s. 601.31 ~~(2)~~ (1) (b) has been made, be signed by the commissioner of insurance, and be in ~~such a form as is~~ approved by the attorney general.

(2) No suit ~~shall~~ may be brought to restrain or enjoin the collection of any license fee or tax imposed or provided for by ~~ss. 76.30 to 76.37~~ this subchapter, and the fees required by s. 601.31. Any ~~company, corporation or association,~~ insurer aggrieved by the payment of any such license or other fee or tax, may maintain a suit against the state for the recovery thereof in the circuit court for Dane county within 6 months from the time of the payment thereof. The state may be served in ~~such the~~ suit as provided in s. 801.11 (3).

(3) No action may be commenced to compel the issuance of the certificate of authority provided for by chs. 600 to 649 until the license fee imposed by ~~ss. 76.30 to 76.37,~~ this subchapter and the fees under s. 601.31 have been fully paid.

(4) ~~It is the duty of the~~ The attorney general ~~to shall~~ institute suit in the circuit court for Dane county to recover any ~~such~~ license fees or tax not paid within the time prescribed by ~~ss. 76.30 to 76.37~~ this subchapter, and the fees required by s. 601.31. Nothing in this subsection shall be construed as amending or modifying in any respect ~~the provision of~~ ch. 285.

76.69 Deduction for personal property taxes. Any domestic ~~insurance company~~ insurer may deduct from the license fee imposed on ~~said company~~ the insurer for any year under s. ~~76.34~~ 76.65 (1) an amount equal to one-half of the general property taxes paid for the previous year on personal property in this state which is used in the operation of its business and not held primarily for investment purposes, but no such deduction ~~shall~~ may exceed 25% of ~~said~~ the license fee.

SECTION 27. Subchapter II (title) of chapter 76 of the statutes is created to read:

CHAPTER 76

SUBCHAPTER II

TELEPHONE COMPANIES; CAR LINE COMPANIES;

ELECTRIC COOPERATIVE ASSOCIATIONS

(to precede s. 76.38)

SECTION 28. Subchapter III (title) of chapter 76 of the statutes is created to read:

CHAPTER 76

SUBCHAPTER III

INSURERS

(to precede s. 76.60)

SECTION 29. 100.13 (4) (a) of the statutes is amended to read:

100.13 (4) (a) Every ~~warehouseman~~ warehouse keeper, before ~~he is being~~ licensed, shall file with the department a bond to the state, with one or more sureties, who shall justify in double the amount of ~~such the~~ bond, or with an insurer authorized to do a ~~surety company licensed by this state as~~ surety business. ~~Such~~ The bond must be acceptable to the department and shall be conditioned that the ~~warehouseman~~ warehouse keeper will faithfully perform his the obligations as of a warehouseman warehouse keeper. Any person whose property is stored in any ~~such~~ licensed warehouse may apply to the department to determine the sufficiency of ~~such the~~ bond. When the department determines that a bond is insufficient, or ~~when such~~ if the bond or insurance policy lapses or is canceled without approval of the department, the ~~warehouseman~~ warehouse keeper shall correct ~~such the~~ defect within 20 days after written notice from the department and, if ~~such the~~ defect is not corrected within ~~such that~~ period, ~~such warehouseman's~~ the warehouse keeper's license shall be considered automatically revoked without further action as of the expiration of ~~such the~~ 20-day period. Any ~~warehouseman~~ warehouse keeper may, in lieu of ~~such a~~ bond, file with the department a certified copy of a legal liability insurance policy of like amount which is acceptable to the department and payable to the state for the benefit of the owners of stored property, and which provides that the policy shall not be canceled during the license period except upon 15 days' written notice ~~in writing~~ to the department.

SECTION 30. 145.17 (1) of the statutes is amended to read:

145.17 (1) The department may employ competent supervisors, who shall be licensed automatic fire sprinkler contractors or journeymen automatic fire sprinkler system fitters, and may employ other persons. The department may accept as certification of inspection, inspection by the insurance services organization of Wisconsin, the ~~FIA~~ industrial risk insurers association, the factory mutual engineering corporation or other ~~fire insurance-rating rate service~~ organization.

SECTION 31. 177.03 of the statutes is amended to read:

177.03 (title) Unclaimed funds held by insurers doing life insurance business. (1) Unclaimed funds, ~~as defined in this section~~, held and owing by an insurer doing a life insurance corporation, business shall be presumed abandoned if the ~~last-known~~ last-known address, according to the records of the ~~corporation insurer~~, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of ~~such person~~ is known to the ~~corporation insurer~~ or if it is not definite and certain from the records of the ~~corporation insurer~~ what person is entitled to the funds, it is presumed that the ~~last-known~~ last-known address of the person entitled to the funds is the same as the ~~last-known~~ last-known address of the insured or annuitant according to the records of the ~~corporation insurer~~.

(2) "Unclaimed funds", as used in In this section, ~~are~~ "unclaimed funds" means all moneys held and owing by any insurer doing a life insurance corporation business unclaimed and unpaid for more than 10 years after the moneys became due and payable as established from the records of the ~~corporation insurer~~ under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds ~~thereof~~ are deemed to be due and payable if ~~such the~~ policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled ~~thereto~~ to the proceeds has within the preceding 10 years assigned, readjusted or paid premiums on the policy, ~~or~~ subjected the policy to loan, or corresponded in writing with the ~~life insurance corporation insurer~~ concerning the policy. Moneys otherwise payable according to the records of the ~~corporation insurer~~ are deemed due and payable although the policy or contract has not been surrendered as required.

SECTION 32. 177.11 (2) (b) and (8) of the statutes are amended to read:

177.11 (2) (b) In case of unclaimed funds of insurers doing a life insurance corporations business, the full name and last-known address of the insured or annuitant ~~and his last-known address~~ according to the life insurance corporation's insurer's records;

(8) Every banking organization, financial organization, insurer doing a life insurance company business and utility in the state, which in any year does not report to the office the possession of any property presumed abandoned under this subchapter, shall file with the office on or before the date specified for filing such reports a verified statement to the effect that there is no such property in its ~~or his~~ possession.

SECTION 33. 180.02 (2) of the statutes is amended to read:

180.02 (2) "Foreign corporation" means a corporation, joint stock company or association organized otherwise than under the laws of this state, except a railroad corporation, an association created solely for religious or charitable purposes, an insurance company or fraternal or beneficiary corporation, society, order or association furnishing life or casualty insurance or indemnity upon the mutual or assessment plan insurer or motor club, a building and loan association, a common law trust, or a corporation not organized or conducted for profit.

SECTION 34. 194.41 (title) and (1) to (3) of the statutes are amended to read:

194.41 (title) Contract of liability for damage to person or property. (1) No permit or vehicle registration shall may be issued to a common motor carrier of property, contract motor carrier or rental company and no permit or vehicle registration shall may remain in force to operate any motor vehicle for which a permit is required by this chapter unless the carrier or rental company has on file with the department and in effect an approved certificate for a policy of insurance or other written contract in writing in such form and containing such terms and conditions as may be approved by the department issued by an insurer authorized to do a surety, indemnity or insurance company or exchange lawfully qualified to transact such or automobile liability business in this state under which such indemnitor shall assume the insurer assumes the liability prescribed by this section with respect to the operation of such motor vehicles. Said The certificate or undertaking shall be other contract is subject to the approval of the department and shall provide that the indemnitor insurer shall be directly liable for and shall pay all damages for injuries to or for the death of persons or for injuries to or destruction of property that may be recovered against the owner or operator of any such motor vehicles by reason of the negligent operation thereof in such amount as the department may require. Such liability may be restricted so as to be inapplicable to damage claims on account of injury to or destruction of property transported, but the department may require an undertaking a certificate or other contract protecting the owner of the property transported by carriers from loss or damage thereto, which undertaking shall be in such amount and under such conditions as the department may require. No permit or vehicle registration shall may be issued to a common motor carrier of passengers by any motor vehicle, or other carrier of passengers by motor bus, except those registered in accordance with ss. 341.26 (2) and 341.267, and no permit or vehicle registration shall may remain in force to operate any motor vehicle unless it has on file with the department a like undertaking certificate or other contract in such form and containing such terms and conditions as may be approved by the department for the payment of damages for injuries to property and injuries to or for the death of persons, including passengers in such amounts as the department may require.

(2) No undertaking certificate or other contract filed under this section shall may be limited as to the total liability of the indemnitor insurer thereunder, for any series of accidents, and no such undertaking shall certificate or other contract may be terminated at any time prior to its expiration under the terms thereof, nor canceled for any reason whatever, unless there shall have has been filed with the department by the indemnitor insurer a notice thereof at least 30 days prior to the date of such termination or cancella-

tion. ~~Such~~ The 30-day notice may be waived if an acceptable replacement ~~undertaking~~ has been filed under this section.

(3) The provisions of this section shall be deemed a part of every such ~~undertaking certificate or other contract~~ and no other provision thereof or agreement between the parties thereto ~~shall~~ may operate to avoid the same.

SECTION 35. 218.05 (3) (c) and (6) of the statutes are amended to read:

218.05 (3) (c) Before any license is issued to a community currency exchange the applicant shall file annually with and have approved by the commissioner a surety bond in the principal sum of \$5,000, issued by a bonding company or insurance company an insurer authorized to do business in this state ~~in the principal sum of \$5,000. Such. The~~ bond shall run to the state of Wisconsin and shall be for the benefit of any creditors of ~~such~~ the community currency exchange for any liability incurred for any sum ~~or sums~~ due to any payee of any check, draft or money order left with the community currency exchange for collection, and also for any penalties that may be imposed ~~hereunder~~ under this section. If the commissioner finds at any time the bond is insecure or exhausted or otherwise doubtful, an additional bond in like amount to be approved by the commissioner shall be filed by the licensee within 30 days after written demand ~~therefor~~ by the commissioner.

(6) INSURANCE. Every applicant for a license ~~hereunder~~ under this section shall, after ~~his~~ the application for a license has been approved, submit a policy or policies of insurance to be approved by the commissioner, issued by an ~~insurance company or indemnity company~~ insurer authorized to do business ~~under the laws of in~~ in this state, which ~~shall insure~~ insures the applicant against loss by burglary, larceny, robbery, forgery or embezzlement in a principal sum ~~as may be determined from time to time~~ by the commissioner. Any such policy ~~or policies~~, with respect to forgery, may carry a condition that the community currency exchange assumes the first \$50 of each claim thereunder.

SECTION 36. 220.06 (1) of the statutes is amended to read:

220.06 (1) No commissioner of banking, deputy, assistant deputy or examiner ~~shall~~ may examine a bank in which ~~he~~ such person is interested as a stockholder, officer, employe or otherwise. No commissioner, deputy, assistant deputy or examiner ~~shall~~ may examine a bank located in the same village, city or county with any bank in which ~~he~~ such person is ~~so~~ interested as stockholder, officer, employe or otherwise. The commissioner of banking, ~~his~~ deputy, assistant deputies and every clerk in ~~this~~ the office of the commissioner, and each member and employe of the banking review board ~~and every employe thereof~~, shall be bound by oath to keep secret all ~~of the~~ facts and information obtained in the course of ~~such~~ examinations, except so far as the public duty of ~~such~~ the officer requires ~~him to report~~ reporting upon or ~~take~~ taking special action regarding the affairs of any bank, and except when called as a witness in any criminal proceeding or trial in a court of justice; ~~and except that. Any such commissioner, deputy, assistant deputy or examiner, or other person referred to herein, in this subsection may in his discretion and under such rules and regulations as prescribed by such the commissioner compare notes exchange information~~ as to names of borrowers, lines of credit, and other matters affecting a bank; with a national bank examiner, a clearing house examiner, or an examiner for an ~~insurance company duly licensed insurer authorized to do business in the~~ this state of Wisconsin to insure or guarantee depositors or deposits in banks or trust companies, and having such insurance in force. ~~Said~~ The commissioner may furnish to the federal deposit insurance corporation, or to any official or examiner thereof a copy of any examination made of any such bank or of any report made by such bank, and may give access to and disclose to ~~said~~ the corporation or to any official or examiner thereof any information possessed by ~~said~~ the commissioner with reference to the conditions or affairs of any such insured bank.

SECTION 37. 226.01 of the statutes is amended to read:

226.01 Definition. For the purposes of In this chapter ~~the term~~ “foreign corporation” ~~includes~~ means all corporations, associations and joint stock companies organized otherwise than under the laws of this state, except railroad corporations, ~~or~~ associations created solely for religious or charitable purposes, ~~insurance companies and fraternal or beneficiary corporations, societies, orders and associations furnishing life or casualty insurance or indemnity upon the mutual or assessment plan~~ insurers, motor clubs, building and loan associations and corporations not organized or conducted for profit.

SECTION 38. 227.01 (11) (p) of the statutes is amended to read:

227.01 (11) (p) Is a statistical plan relating to the administration of rate regulation laws ~~applicable to casualty insurance or to fire and allied lines insurance~~ under ch. 625 or 626;

SECTION 39. 234.40 (title) of the statutes is amended to read:

234.40 (title) Bonds for veterans housing loans and other veterans assistance programs.

SECTION 40. 343.10 (1) of the statutes is amended to read:

343.10 (1) If a person has had his or her chauffeur’s license revoked he or she may file a petition with the department for a limited chauffeur’s license under s. 343.126. If a person has had his or her license revoked under this chapter and if the person is engaged in an occupation or trade making it essential that he or she operate a motor vehicle, the person may after complying with sub. (2) file with a judge of a court of record in the county of his or her residence or of a municipal court in the county of his or her residence a petition setting forth in detail the need for operating a motor vehicle. Thereupon, if the petitioner has not had his or her license revoked or suspended under this chapter within the one-year period immediately preceding the present revocation, the judge may order the department to issue an occupational license to the person. For the purpose of determining whether a person has had his or her license revoked or suspended under this chapter within the one-year period immediately preceding the present revocation, the court shall not consider a prior revocation under s. 343.30 (1q) or 343.305 if the present revocation is under s. 343.30 (1q) or 343.305 and both the prior and present revocations arose out of the same incident or occurrence. The order for issuance of an occupational license shall contain definite restrictions as to hours of the day, not to exceed 12, type of occupation and areas or routes of travel to be permitted under the license. If the petitioner holds a valid chauffeur’s license at the time of filing petition the order for issuance shall further restrict operation under the occupational license to travel only between the licensee’s place of residence and his or her place of employment, in addition to operation permitted under the chauffeur’s license. The order may permit travel to and from church but the order shall specify the hours during which the travel is to be permitted. The order may permit travel necessary to comply with a rehabilitation plan ordered under s. 343.30 (1q) or 343.305. A copy of the petition and the order for the occupational license shall be forwarded to the department. If a certificate of insurance issued by the ~~insuring company~~ insurer or an agent of the ~~insuring company~~ insurer is submitted to the court and at least 15 days have elapsed since the date of conviction or, in the case of an appeal which is subsequently dismissed or affirmed, until at least 15 days have elapsed since the date of revocation following the dismissal or affirmance of the appeal, the court may issue a 30-day temporary occupational license. The license shall be on forms provided to the court by the department.

SECTION 41. 344.15 (1), (2) (intro.) and (b) and (3) to (5) of the statutes are amended to read:

344.15 (1) No policy or bond is effective under s. 344.14 unless issued by an ~~insurance company or surety company~~ insurer authorized to do an automobile liability or surety business in this state, except as ~~otherwise~~ provided in sub. (2), ~~nor or unless such~~ the policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$15,000 because of bodily injury to or death

of one person in any one accident and, subject to ~~such~~ that limit for one person, to a limit of not less than \$30,000 because of bodily injury to or death of 2 or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$10,000 because of injury to or destruction of property of others in any one accident.

(2) (intro.) A policy or bond with respect to a vehicle which was not registered in this state or was registered elsewhere at the time of the effective date of the policy or bond or the most recent renewal thereof may be effective under s. 344.14 even though not issued by an ~~insurance company or surety company~~ insurer authorized to do an automobile liability or surety business in this state if the following conditions are complied with:

(b) The ~~company~~ insurer which issued the policy or bond executes a power of attorney authorizing the secretary to accept service on its behalf of notice or process in any action upon ~~such~~ the policy or bond arising out of ~~such~~ the accident.

(3) Where service of process is made on the secretary under a power of attorney filed in accordance with sub. (2), the secretary shall forthwith mail by registered mail a copy of the process papers to the ~~company~~ insurer at the address given in the filed power of attorney. In all cases of such service, there shall be served 2 authenticated copies for the secretary and such additional number of authenticated copies as there are defendants so served in the action. One of the secretary's copies shall be retained for the secretary's record of service and the other copy shall be returned with proper certificate of service attached for filing in court as proof of service of the copies by having mailed them by registered mail to the defendants named therein. The service fee shall be \$4 for each defendant so served.

(4) After receipt of the report of an accident of the type specified in s. 344.12, the secretary shall forward to the ~~insurance company or surety company~~ insurer named therein, that portion of the report which pertains to an automobile liability policy or bond. The secretary shall assume that an automobile liability policy or bond as described in this section was in effect and applied to both the owner and operator with respect to the accident unless the ~~insurance company or surety company~~ insurer notifies the secretary otherwise within 30 days from the mailing to the ~~company~~ insurer of that portion of the report pertaining to the automobile liability policy or bond. Upon receipt of notice from the ~~company~~ insurer that an automobile liability policy or bond was in effect as to the owner only, the operator only or was not in effect as to either of them, the secretary shall within the remainder of the 90-day period specified in s. 344.13 (3) require the owner or operator or both, whichever is applicable, to deposit security pursuant to this chapter. As respects permission to operate the vehicle, the ~~company~~ insurer may correct the report only if it files with the secretary within the 30-day period specified in this subsection an affidavit signed by the owner stating that the operator did not have the owner's permission to operate the vehicle. Where the ~~company's~~ insurer's failure to notify the secretary within 30 days of a correction in that portion of the report pertaining to an automobile liability policy or bond is caused by fraud, the ~~company~~ insurer shall notify the secretary of the correction within 30 days of the time the fraud is discovered.

(5) Nothing in this chapter shall be construed to impose any obligation not otherwise assumed by the ~~insurance company or surety company~~ insurer in its automobile liability policy or bond except that if no correction is made in the report within 30 days after it is mailed to the ~~insurance company or surety company~~ insurer, the ~~company~~ insurer, except in case of fraud, whenever such fraud may occur, is estopped from using as a defense to its liability the insured's failure to give permission to the operator or a violation of the purposes of use specified in the automobile liability policy or bond or the use of the vehicle beyond agreed geographical limits.

SECTION 42. 344.32 (1) (intro.) of the statutes is amended to read:

344.32 (1) (intro.) A nonresident may give proof of financial responsibility by filing with the secretary a written certificate of an ~~insurance carrier~~ insurer authorized to transact an automobile liability or surety business in the state in which the person resides, provided ~~such the~~ certificate otherwise conforms to this chapter. The secretary shall accept the certificate ~~only upon condition that such insurance carrier~~ if the insurer complies with the following ~~provisions~~ with respect to the policies so certified:

SECTION 43. 344.33 (1) of the statutes is amended to read:

344.33 (1) CERTIFICATION. ~~As used in In~~ this chapter, a "motor vehicle liability policy" means a motor vehicle policy of liability insurance, certified as provided in s. 344.31 or 344.32 as proof of financial responsibility for the future, and issued, except as otherwise provided in s. 344.32, by an ~~insurance carrier~~ duly insurer authorized to ~~transact do an automobile liability~~ business in this state to or for the benefit of the person named ~~therein in the policy as the insured.~~

SECTION 44. 344.51 (1) of the statutes, is amended to read:

344.51 (1) No person ~~shall~~ may for compensation rent any motor vehicle to be operated by or with the consent of the person renting ~~such the~~ vehicle unless there is filed with the department a good and sufficient bond or policy of insurance ~~or certificate~~ issued by a ~~company or exchange organized under the laws of this state or~~ duly an insurer authorized to ~~transact do an automobile liability insurance or surety~~ business in this state. ~~Such The~~ bond, policy, or certificate shall provide that the ~~company or exchange~~ insurer which issued it will be liable for damages caused by the negligent operation of ~~such the~~ motor vehicle in the amounts set forth in s. 344.01 (2) (d).

SECTION 45. 440.26 (4) of the statutes is amended to read:

440.26 (4) BONDS OR LIABILITY POLICIES REQUIRED. No license ~~shall~~ may be issued ~~pursuant to under~~ this section until a bond or liability policy, as approved by the department, in the amount of \$10,000 if the applicant for ~~such the~~ license is an agency and includes all principals, partners or corporate officers, or in the amount of \$2,000 if the applicant is a private detective, has been executed and filed with the department. Such bonds or liability policies shall be furnished by a ~~surety or insurance company~~ an insurer authorized to do a surety business in this state in a form approved by the department.

SECTION 46. 551.22 (16) of the statutes is amended to read:

551.22 (16) Contribution notes issued under s. 611.33 (2) (b), 613.33 (2) or 614.33, and any debt securities approved by the commissioner of insurance and issued under s. 611.75 (2) in connection with the conversion of a stock ~~to a mutual~~ insurance corporation to a mutual, or under s. 613.75 or 614.76 in connection with the conversion of a service insurance corporation or fraternal to a mutual.

SECTION 47. 551.27 (13) of the statutes is amended to read:

551.27 (13) (a) Securities issued or guaranteed by an ~~insurance, surety or other company supervised~~ insurer authorized by the commissioner of insurance, or by a person whose business consists principally of owning or controlling the securities of any such ~~company insurer~~, may not be registered without the prior approval of the commissioner of insurance. Issuance of an organization permit under s. 611.13, 613.13 or 614.13 constitutes such approval for the securities described in the permit, and also precludes application of s. 551.28 (1) (d) and (i).

(b) No issuer which is being organized in this state or elsewhere solely or partly for the purpose of organizing a corporation under ch. 611, 613 or 614 may register or sell its securities in this state unless it obtains an organization permit under s. 611.13, 613.13 or 614.13. No security may be registered or sold in this state if there is any representation that an insurer will be organized or purchased in this state with the proceeds of the sale, unless the issuer obtains an organization permit under s. 611.13, 613.13 or 614.13.

SECTION 48. 600.01 (1) (a) and (b) 2, 5 and 6 of the statutes are amended to read:

600.01 (1) (a) The insurance code restricts otherwise legitimate business activity and what the code does not prohibit is ~~authorized~~ permitted unless contrary to other provisions of the law of this state.

(b) 2. Death and disability benefits provided by an organization the principal purpose of which is not to provide such benefits but to seek charitable, educational, social or religious objectives not related thereto, if the organization does not incur a legal obligation to pay a specified amount.

5. Other business specified in rules promulgated by the commissioner if on a finding that the transaction of such business in this state does not require regulation for the protection of the interests of Wisconsin insureds or public or for which it would be impracticable to require compliance with this code, when necessary expenses and efforts are compared with the possible benefits.

6. Transactions ~~independently~~ directly procured through negotiations under s. 618.42, except as they are subject to taxation under s. 618.43.

SECTION 49. 600.03 (1r) of the statutes is created to read:

600.03 (1r) "Agent" means the type of intermediary defined in s. 628.02 (4).

SECTION 50. 600.03 (6), (27) (a), (42) (a) and (45) (d) and (e) of the statutes are amended to read:

600.03 (6) "Business plan" means the aggregate of the information that must be supplied to the commissioner under s. 611.13 (2) (j) and (k) ~~or, 611.13 (2) (j) and (k) as incorporated by s. 614.13 (1), or 613.13 (1) (i) and (j).~~

(27) (a) "Insurer" means any person or association of persons doing an insurance business as a principal, and includes ~~fraternal benefit societies, fraternal, issuers of gift annuity societies~~ annuities, cooperative associations organized under s. 185.981, ~~1973 stats.,~~ and voluntary benefit plans organized under s. 185.991, ~~1973 stats.~~ It also includes any person purporting or intending to do an insurance business as a principal on his or her own account.

(42) (a) "State" means the same as in s. 990.01 (40) ~~and~~ except that in this code it also includes the Panama Canal Zone.

(45) (d) "Initial expendable surplus" is the amount of surplus in addition to capital or minimum permanent surplus or both that an insurer obtains in its organizational process in accordance with s. 611.19, ~~613.19 or 614.19~~ and is not required to maintain thereafter.

(e) "Minimum permanent surplus" is the surplus that an insurance corporation is required by statute or administrative determination to have and constantly to maintain in accordance with s. 611.19, ~~613.19 or 614.19.~~

NOTE: Enactment of chapter 614 of the statutes necessitates the additional cross-reference in subs. (6) and (45).

SECTION 51. 600.03 (8), (19), (28) and (35) of the statutes are repealed.

NOTE: Subsection (8) is identical to s. 600.03 (30) and thus is unnecessary.

Subsection (19) is unnecessary.

The definition in sub. (28) applies only to insurance policies and therefore is recreated as s. 631.02.

Subsection (35) duplicates s. 600.03 (40) and thus is unnecessary.

SECTION 52. 600.03 (23) of the statutes is renumbered 600.03 (15m) and amended to read:

600.03 (15m) "Independently Directly procured insurance" means insurance procured under s. 618.42.

SECTION 53. 600.03 (28a) and (34m) of the statutes are renumbered 600.03 (28) and (35), respectively.

SECTION 54. 600.12 of the statutes is renumbered 600.12 (1).

SECTION 55. 600.12 (2) of the statutes is created to read:

600.12 (2) If a provision of this code conflicts with another statutory provision, the provision of this code shall prevail.

SECTION 56. 601.01 (title) and (2) of the statutes are repealed.

NOTE: Subsection (2) is subsumed in s. 600.12.

SECTION 57. 601.01 (3) of the statutes is renumbered 601.01, and 601.01 (intro.), as renumbered, is amended to read:

601.01 Purposes. (intro.) The purposes of the insurance code ~~shall be~~ are:

SECTION 58. 601.12 (2) of the statutes is amended to read:

601.12 (2) ENFORCEMENT. Upon request of the commissioner, the attorney general shall proceed in any federal or state court or agency to recover any tax or fee related to insurance payable under the laws of this state and not paid when due, and any penalty or forfeiture authorized by the insurance code. Upon request of the commissioner, the attorney general or, in a proper case, the district attorney of any county, shall aid in any investigation, hearing or other procedure under the insurance code and shall institute, prosecute and defend proceedings relating to the enforcement or interpretation of the insurance code, including any proceeding to which the state, or the insurance commissioner or any employe of the office, in ~~his~~ the employe's official capacity, shall be a party or in which ~~he shall be the commissioner or the employe~~ is interested.

SECTION 59. 601.13 (1) (intro.), (3) to (5) and (11) of the statutes are amended to read:

601.13 (1) (intro.) RECEIPT OF DEPOSITS. Subject to the approval of the commissioner, the state treasurer shall accept deposits or control of acceptable book-entry accounts from insurers and other licensees of the office as follows:

(3) SECURITIES ELIGIBLE. All deposits may consist of any ~~bonds, notes or other evidence of indebtedness which are permitted investments for life insurers under s. 206.34 (1) (a), (b), (bm), (bn) and (j) of the 1969 statutes of the securities authorized in this subsection.~~ Each security must be approved by the commissioner, must be subject to disposition by the state treasurer, and must not be available to any other person except as expressly provided by law. The authorized securities are:

(4) VALUATION. Securities held on deposit shall be valued ~~as provided by the insurance code under s. 623.03~~ for valuation of such investments of life insurers, or at market, whichever is lower.

(5) RECEIPT, INSPECTION AND RECORD. The state treasurer shall deliver to the depositor a receipt for all securities deposited or held under the control of the state treasurer and shall permit the depositor to inspect its physically held securities at any reasonable time. On application of the depositor the treasurer shall ~~issue a certificate of the deposit as certify when~~ required by any law of the United States or of any other state or foreign country or by the order of any court of competent jurisdiction that the deposit was made. The treasurer and the commissioner shall each keep a permanent record of securities deposited or held under the control of the state treasurer and of any substitutions or withdrawals and shall compare records at least annually.

(11) ADVANCE DEPOSIT OF FEES. With the approval of the commissioner, any person required to pay fees or assessments to the state through the commissioner may make a deposit with the treasurer from which the fees or assessments shall be paid on order of the commissioner not less than twice each year. Upon request by the depositor, any balance

remaining ~~may~~ shall be returned on the certificate of the commissioner that all fees and assessments have been paid to date.

NOTE: These amendments to s. 601.13 are made necessary because of the new practice of handling the ownership of some securities without physical transfer of documents evidencing ownership. While this change creates the same obvious problems for the deposit holder that it does for any owner of securities, the problems are well within the capacity of the state treasurer.

SECTION 60. 601.13 (3) (a) to (h) of the statutes are created to read:

601.13 (3) (a) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of the United States or Canada or any state or province thereof.

(b) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of any county, city, village, town, school district or other governmental or civil division within the United States or Canada.

(c) Lawfully authorized bonds or other evidences of indebtedness payable from and adequately secured by revenues specifically pledged therefor of the United States or Canada, or of any state or province, or of a commission, board or other instrumentality of one or more of them.

(d) Interest-bearing notes of any savings and loan association organized under the laws of this state.

(e) Bonds or other securities of any savings and loan finance corporation organized under the laws of this state.

(f) Investment shares of any savings and loan association to the extent that they are or may be insured or guaranteed by the federal government, by the federal savings and loan insurance corporation or by any other agency of the United States.

(g) Shares of corporations chartered or incorporated under section 5 of the homeowners' loan act of 1933.

(h) Certificates of deposit of any bank organized under the laws of this state or of any national bank located in this state.

NOTE: These amendments to s. 601.13 (3), in this and the preceding section of this bill, replace the former reference to an obsolete statute by the contents of that statute. In addition, they modify those contents, the approved list for deposits, by narrowing it through eliminating securities that require extensive computations and by adding par. (h).

SECTION 61. 601.18 of the statutes is amended to read:

601.18 Delegation. Any power, duty or function vested in the commissioner by law may be exercised, discharged or performed by any employe of the office acting in the commissioner's name and by ~~his~~ the commissioner's delegated authority. Any person whose own course of action in good faith depends upon proof of the validity of an asserted delegation is not obligated to act until ~~he~~ the person is shown a written delegation with a handwritten signature of the commissioner or deputy commissioner.

SECTION 62. 601.20 (2) and (3) of the statutes are amended to read:

601.20 (2) (title) **REQUIRED CLASSIFICATIONS ADVISORY COUNCIL.** The commissioner shall ~~appoint~~ create a classifications advisory council under sub. (1) 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. The commissioner may also appoint consumers with expertise in insurance to be members of the council.

(3) **REQUIRED FORMS ADVISORY COUNCIL.** The commissioner shall create a forms advisory council under sub. (1); with ~~enough appointed~~ a sufficient number of members from different parts of the insurance industry to make possible the formation of subcom-

mittees with ~~special~~ specialized knowledge of different kinds of insurance. The commissioner may also appoint consumers with expertise in insurance to be members of the council.

SECTION 63. 601.31 (intro.), (1) to (15), (15m), (16), (17), (17m) and (18) to (24) of the statutes are renumbered 601.31 (1) (intro.), (a) to (o), (p), (q), (r), (s) and (t) to (z), respectively, and 601.31 (1) (a) 1 and 2, (b) 1 and 2, (c) 1 and 2, (o) 3, (p) 3, (u), (w), (intro.) and (x), as renumbered, are amended to read:

601.31 (1) (a) 1. Domestic and non domestic insurers, \$100;

2. Rate service organizations, \$100; ~~and.~~

(b) 1. Domestic and nondomestic insurers, \$100;

2. Rate service organizations, \$100; ~~and.~~

(c) 1. Domestic and nondomestic insurers, \$25;

2. Rate service organizations, \$100; ~~and.~~

(o) 3. Licensees authorized to place business under s. 618.41, \$100, including the fee prescribed under ~~par. (a) or (b) subd. 1 or 2~~ unless the license under this ~~paragraph subdivision~~ is separately issued; and

(p) 3. Holder of a license to place business under s. 618.41, including the fees set under ~~par. (a) or (b) subd. 1 or 2~~, \$100.

(u) For certifying and affixing the commissioner's seal or signature, \$1.

(w) (intro.) For a copy of a paper filed in ~~his~~ the commissioner's office:

(x) For ~~each company or agent preparation and furnishing of lists of insurers or intermediaries~~; per name, \$0.05.

NOTE: The existing sub. (22) was simply a renumbering of s. 200.12 (22), 1967 stats. It has been rewritten to make clear that it authorizes the office of the commissioner to sell lists of agents of companies and charge \$0.05 for each name on the list.

SECTION 64. 601.31 (25) of the statutes is renumbered 601.31 (2) and amended to read:

601.31 (2) Town ~~mutual insurance companies~~ mutuals, voluntary nonprofit sickness care plans organized under s. 185.981 and interscholastic benefit plans organized under s. 185.991 are exempt from all provision of this section except ~~subs. (19) sub. (1) (u) and (21) (w)~~. ~~Fraternal~~s are subject to this section ~~except they are exempt from subs. (2), (3), (10) to (13), (15), (16) and (17)~~.

NOTE: The exemption of fraternal in sub. (25) from certain fees is not justified.

SECTION 65. 601.31 (26) of the statutes is repealed.

NOTE: These definitions are provided in s. 600.03.

SECTION 66. 601.32 (1) of the statutes is amended to read:

601.32 (1) If the moneys credited to s. 20.145 (1) (g) under other sections of the statutes prove inadequate for the office's supervision of insurance industry program, the commissioner may on or after January 1, 1968, increase any or all of the fees imposed by s. 601.31, or may annually on June 1, beginning June 1, 1968, levy a special assessment on all domestic ~~insurance companies as defined in s. 601.31 (26)~~ insurers, or both, for the general ~~program~~ operation of that program.

SECTION 67. 601.41 (1) and (2) of the statutes are amended to read:

601.41 (1) DUTIES. The commissioner shall administer and enforce the insurance code. ~~He~~ and shall act as promptly as possible under the circumstances on all matters placed before him the commissioner.

(2) POWERS. The commissioner shall have all powers specifically granted to ~~him the commissioner~~, or reasonably implied in order to enable ~~him the commissioner~~ to perform the duties imposed ~~on him~~ by sub. (1).

SECTION 68. 601.415 of the statutes is created to read:

601.415 Miscellaneous duties. The duties listed in this section are in addition to other duties imposed under this code. Failure to list a specified power, duty or function of the commissioner in this section or in s. 15.731 does not affect the validity of the power, duty or function.

(1) JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS AND RETIREMENT RESEARCH COMMITTEE. The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the joint survey committee on retirement systems under s. 13.50 and the retirement research committee under s. 13.51.

(2) GROUP INSURANCE BOARD. The commissioner shall serve as a member of the group insurance board under s. 15.165 (2).

(3) WISCONSIN RETIREMENT FUND BOARD. The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the Wisconsin retirement fund board under s. 15.165 (3).

(4) COUNCIL ON FIRE SERVICE TRAINING PROGRAMS. The commissioner or a designated representative shall serve on the council on fire service training programs under s. 15.947 (1).

(5) COOPERATION WITH DEPARTMENT OF ADMINISTRATION. The commissioner shall cooperate with the department of administration in placing insurance under s. 16.865 (4).

(6) VALUATION OF FUTURE OR LIMITED ESTATES. The commissioner shall value estates under s. 72.28 (1) (c) 1. b upon application as provided therein.

(7) DETERMINATION OF VARIABLE INTEREST RATE ADJUSTMENTS. The commissioner shall approve indices for variable interest rate adjustments under s. 138.055 (4) (c).

(8) EXAMINATION OF FIDUCIARY OPERATIONS. The commissioner shall examine the fiduciary operations of organizations under the commissioner's jurisdiction under s. 223.105 (3) (a).

(9) CONSUMER CREDIT LAW. The commissioner shall cooperate with the commissioner of banking in the administration of ch. 424, shall determine the method for computation of refunds under s. 424.205, shall approve forms, schedules of premium rates and charges under s. 424.209 and shall issue rules or orders of compliance to insurers under s. 424.402.

SECTION 69. 601.42 (1) (a) of the statutes is amended to read:

601.42 (1) (a) Statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable form ~~he the commissioner~~ designates, and at such reasonable intervals as ~~he may choose~~ the commissioner chooses, or from time to time;

SECTION 70. 601.43 (1) (b) and (4) of the statutes are amended to read:

601.43 (1) (b) *Collateral examinations.* So far as reasonably necessary for an examination under par. (a), the commissioner may examine the accounts, records, documents or evidences of transactions, so far as they relate to the examinee, of any officer, manager, general agent, employe, person who has executive authority over or is in charge of any segment of the examinee's affairs, person controlling or having a contract under which ~~he~~

the person has the right to control the examinee whether exclusively or with others, person who is under the control of the examinee, or ~~any~~ person who is under the control of a person who controls or has a right to control the examinee whether exclusively or with others.

(4) ALTERNATIVES TO EXAMINATION. In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit already made by certified public accountants or actuarial evaluation by actuaries approved by ~~him~~ the commissioner, or the report of an examination made by the insurance department of another state or of the examination by another government agency in this state, the federal government or another state.

NOTE: Subsection (4). The commissioner should have maximum flexibility in making use of examinations by other agencies. Extra examinations are costly and should be avoided if a work product of comparable quality is already available.

SECTION 71. 601.43 (1) (d) of the statutes is created to read:

601.43 (1) (d) *Delivery of records to the office.* On order of the commissioner any licensee under this code shall bring to the office for examination such records as the order reasonably requires.

NOTE: This new paragraph makes expressly applicable to all licensees a duty already implicit in s. 601.43.

SECTION 72. 601.44 (8) of the statutes is amended to read:

601.44 (8) COPIES FOR BOARD. The examinee shall forthwith furnish copies of the adopted report to each member of its board ~~of directors or other governing board.~~

SECTION 73. 601.45 (4) of the statutes is amended to read:

601.45 (4) EXEMPTIONS. On the examinee's request or on ~~his~~ the commissioner's own motion, the commissioner may pay all or part of the costs of an examination from the appropriation under s. 20.145 (1) (g), whenever ~~he~~ the commissioner finds that because of the frequency of examinations or other factors, imposition of the costs would place an unreasonable burden on the examinee. The commissioner shall include in his ~~or her~~ annual report information about any instance in which ~~he~~ the commissioner applied this subsection.

SECTION 74. 601.46 (2) of the statutes is amended to read:

601.46 (2) RECORD OF PROCEEDINGS AND ACTIVITIES. The commissioner shall maintain a permanent record of ~~his~~ proceedings and important activities, including a concise statement of the condition of each insurer visited or examined ~~by him~~, and including a record of all certificates of authority and licenses issued ~~by him~~.

SECTION 75. 601.47 (2) of the statutes is amended to read:

601.47 (2) ANNUAL REPORT. The commissioner shall ~~determine the form for and have printed in a form to be determined by him~~ the report required in s. 601.46 (3), in number sufficient to meet all requests for copies. ~~He~~ The commissioner shall distribute copies upon request to any person who pays the reasonable price thereof determined under sub. (1).

SECTION 76. 601.49 of the statutes is amended to read:

601.49 Access to records. The commissioner shall have access to the records of any agency of the state government or of any political subdivision thereof which ~~he~~ the commissioner may wish to consult in discharging his ~~or her~~ duties.

SECTION 77. 601.63 (2) of the statutes is amended to read:

601.63 (2) NOTIFICATION TO AGENTS OF REVOCATION OF CERTIFICATE OF AUTHORITY OF INSURER. Upon issuance of any order limiting, suspending or revoking an insurer's authority to do business in this state, the commissioner shall notify by mail all agents of the insurer of whom ~~he~~ the commissioner has record. ~~He~~ The commissioner shall also publish a class 1 notice of the order under ch. 985.

SECTION 78. 601.64 (2), (3) (d) and (5) of the statutes are amended to read:

601.64 (2) COMPULSIVE FORFEITURES. If a person does not comply with an order issued under s. 601.41 (4) within 2 weeks after the commissioner has given ~~him~~ the person notice of ~~his~~ the commissioner's intention to proceed under this subsection, the commissioner may commence an action for a forfeiture in such sum as the court considers just, but not exceeding \$5,000 for each day that the violation continues after the commencement of the action until judgment is rendered. No forfeiture ~~shall~~ may be imposed under this subsection if at the time the action was commenced the person was in compliance with the order. ~~For purposes of this subsection, no forfeiture shall be imposed, nor~~ for any violation of an order occurring while any proceeding for judicial review of the order was pending, unless the court in which the proceeding was pending certifies that the claim of invalidity or nonapplicability of the order was frivolous or a sham. If after judgment is rendered the person ~~still~~ does not comply with the order, the commissioner may commence a new action for a forfeiture, and may continue commencing actions until the person complies. The proceeds of all actions under this subsection, after deduction of the expenses of collection, shall be paid into the common school fund of the state.

(3) (d) *Procedure*. The commissioner may demand and accept any forfeiture imposed under this subsection, which shall be paid into the common school fund. ~~At his discretion he~~ The commissioner may cause action to be commenced to recover the forfeiture in an amount to be determined by the court. Before an action is commenced, the commissioner may compromise the forfeiture; after the action is commenced, the attorney general may compromise the forfeiture.

(5) REVOCATION, SUSPENSION AND LIMITATION OF LICENSES. Whenever a licensee of the office other than an insurer, a motor club, an adjuster or an insurance intermediary persistently or substantially violates the insurance code or an order of the commissioner under s. 601.41 (4), or if the licensee's methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public, the commissioner may, after a hearing, in whole or in part revoke, suspend, or limit ~~or refuse to renew~~ the license.

SECTION 79. 601.71 of the statutes is amended to read:

601.71 Enforcement of policyholder rights. When the commissioner is satisfied that any ~~foreign or alien~~ nondomestic insurer which no longer has a certificate of authority in this state does or omits to do any act whereby the rights of policyholders who are residents of this state, or who hold contracts issued or delivered in this state, are adversely affected, or whereby its ability to carry out its contracts with those policyholders is impaired, ~~he~~ the commissioner may, with the agreement of the attorney general, bring an action in the name of the state on behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney general shall act as attorney for the state in the action and the expenses shall be borne as in other civil actions in behalf of the state. Upon service of the complaint the insurer shall file with the commissioner the names and addresses of all policyholders so situated. A notice of the action shall be mailed to every such policyholder either by the commissioner or by the insurer, as the commissioner determines. Any policyholder affected by the action may intervene.

SECTION 80. 601.72 (1) (intro.) and (c) of the statutes are amended to read:

601.72 (1) (intro.) GENERAL. ~~The~~ Under procedures specified in s. 601.73, the commissioner is by law constituted attorney, except in cases in which the proceeding is to be brought by the state, in which event the secretary of state is by law constituted attorney,

to receive service of summons, notices, orders, pleadings and all other legal ~~processes~~ process relating to any court or administrative agency in this state:

(c) *Unauthorized insurers.* For all ~~unauthorized~~ insurers or other persons doing an unauthorized insurance business in this state as to any proceeding arising out of the unauthorized transaction; and

SECTION 81. 601.73 (1) (a) and (2) (b) of the statutes are amended to read:

601.73 (1) (a) Two copies of the process are left in the hands or office of the commissioner or secretary of state respectively; and

(2) (b) *Process mailed.* The commissioner or secretary of state shall send immediately by certified mail to the person served ~~immediately at his last known~~ the person's last-known principal place of business or residence or post-office address one copy of any process received ~~by certified mail~~ and shall retain the other copy ~~for his files~~.

NOTE: The amendment of sub. (2) (b) is intended to improve the structure of the sentence and not to make any change of meaning.

SECTION 82. 601.73 (1) (c) of the statutes is repealed.

NOTE: In its original form, the procedures of ss. 601.72 and 601.73 for substituted service of process through the commissioner or secretary of state required, in s. 601.73 (1) (b), the serving party to also mail a copy of the process to the person served, as additional assurance that this substituted service would provide actual notice. Paragraph (c) then required filing of an affidavit of compliance with pars. (a) and (b) to make the service effective. It may have been cumbersome, but it was logical. Some time later, the requirement of mailing by the serving party was eliminated by an amendment (ch. 189, laws of 1971) that did not go through the Insurance Laws Revision Committee, and did not make the necessary collateral changes. It makes little sense for the serving party to have to provide an affidavit as to what the public official does under par. (b). Moreover, under par. (b) the service is not complete anyway unless the public official does perform the statutory duty. Thus, the affidavit seems unnecessary and, because service is not complete without mailing by the public official, no further requirement seems needed. The reasonable solution, therefore, is to repeal par. (c).

SECTION 83. 601.93 (2) of the statutes is amended to read:

601.93 (2) Every company ~~effecting doing a fire insurance business~~ in this state shall, before March 1 in each year, file with the commissioner a statement, showing the amount of premiums upon fire insurance, and pay to the commissioner the total amount of fire department dues required. Return premiums, ~~as defined in s. 76.30~~, may be deducted in determining the premium on which the fire department dues are computed.

SECTION 84. 604.04 (2) of the statutes is amended to read:

604.04 (2) OTHER PERSONNEL. The manager of a fund may employ such personnel as are necessary for proper administration. To the extent practicable, ~~he the manager~~ shall manage the funds, issue policies and prepare reports in the same way that as commissioner he or she requires other insurers to do. ~~He~~ The manager may make such reasonable rules for the administration of the funds as are necessary to implement the enabling statutes.

SECTION 85. 605.21 (1) of the statutes is amended to read:

605.21 (1) STATE PROPERTY. The person or board having charge of property described in s. 605.02 (1) shall furnish to the manager a list of all such property under his the person's or board's charge with estimates of its insurable value based on such data and standards as the manager reasonably prescribes. The manager shall compute the premium; and ~~he~~ may consider the rates suggested by rate service organizations in this state

for the perils against which the fund insures, with such deviations and other departures from those rates as ~~he~~ the manager considers sound. ~~He~~ The manager shall submit to the department of administration a statement of the amount of required insurance on the property and the premium payable therefor. The amount due for insurance shall be paid to the property fund.

SECTION 86. 605.23 (1) and (3) of the statutes are amended to read:

605.23 (1) STATE PROPERTY. The manager shall determine within a reasonable time any loss on state property or property for which the state is liable and promptly file a statement with the state treasurer and the department of administration. The department of administration shall then issue a warrant for the amount of the loss less any applicable amounts under s. 605.03 (2) or (3), as a transfer from the property fund to the fund of the person in whose charge the building or property belongs, to be disbursed to ~~him~~ the person by the state treasurer in the same manner as other state funds for ~~his~~ the person's use are paid out.

(3) APPRAISAL IN CASE OF DISAGREEMENT. If there is disagreement between the manager and the local governmental unit or person in charge of state property as to the amount of the loss or damage to property covered by the property fund, the amount shall be determined by appraisal, upon the demand of the local governmental unit or person having charge of state property. The manager and the claimant shall each select a competent and disinterested appraiser and notify the other of the selection within 20 days of the demand. If either party fails to select an appraiser within the allotted time, the other party may request a court of record to appoint an appraiser. The appraisers shall first select a competent and disinterested umpire. If they do not agree on one within 15 days, then either party may request a judge of a court of record in the county in which the property is located to select a competent and disinterested umpire and ~~he~~ the judge shall do so promptly. The appraisers shall then appraise the loss and damage, stating separately the actual cash value or other applicable basis of valuation and the loss or damage to each item. If they fail to agree they shall submit their differences to the umpire. An itemized award in writing of any 2 of the 3 when filed with the manager shall determine the amount of the insured value and of loss or damage. Each appraiser shall be paid by the party selecting ~~him~~ that appraiser and other expenses of appraisal and of the umpire shall be paid by the parties equally.

SECTION 87. 610.01 (4) of the statutes is created to read:

610.01 (4) In any provision of ch. 180 or 181 made applicable by any section of the insurance code, "secretary of state" shall be read "commissioner of insurance".

SECTION 88. 610.21 (1) of the statutes is amended to read:

610.21 (1) PROHIBITION FOR DOMESTIC INSURERS. No domestic insurer may engage, directly or indirectly, in any business other than insurance and business reasonably incidental to its insurance business, except as specifically authorized by s. 611.26 (4), 611.26 (4) as incorporated by s. 614.24 (1), or 613.26 or any other statute provision of this state code.

NOTE: This adds the necessary cross-references to make the section complete.

SECTION 89. 610.24 of the statutes is created to read:

610.24 Insurers as fundholders. All assets shall be held, invested and disbursed for the use and benefit of the insurer and no policyholder, member or beneficiary may have or acquire individual rights in such assets or become entitled to any apportionment or the surrender of any part of such assets, except as provided in the contract. An insurer may create, maintain, invest, disburse and apply any special funds necessary to carry out any purpose permitted by the laws of this state and the articles and bylaws of the insurer.

NOTE: This applies to all insurers an appropriate authority and clarification of law formerly found only in the fraternal chapter.

SECTION 90. 610.47 of the statutes is amended to read:

610.47 Transition provisions for miscellaneous unincorporated insurers. Except for associations under ss. 185.981 and 185.991, and except as otherwise provided in this code, all unincorporated domestic insurance associations, societies or organizations shall be reorganized as corporations under ch. 611, 612, 613 or 614 before January 1, 1973, or the commissioner shall thereupon petition for and the court shall forthwith issue an order for liquidation under s. 645.42 on the ground of failure to incorporate ~~as here required~~.

SECTION 91. 610.51 of the statutes is amended to read:

610.51 Special charter corporations. Any insurance corporation organized under any special law is subject to all the provisions applicable to like corporations organized under the general law. Prior to January 1, 1973, the board, without approval by the shareholders or policyholders, may adopt articles of incorporation restating the charter, as amended, which conform to the general law. ~~Such~~ The restated articles shall be filed with the commissioner promptly upon adoption and may be disapproved by ~~him~~ the commissioner if changes are made from the charter that are not necessary or appropriate to make the articles conform to the general law.

SECTION 92. 610.55 and 610.57 of the statutes are repealed.

NOTE: See the note for ss. 630.05 and 630.10.

SECTION 93. 610.61 of the statutes is created to read:

610.61 Duty of life insurers to report abandoned property. An insurer doing a life insurance business shall report under s. 177.11 any property presumed abandoned under s. 177.03.

SECTION 94. 611.01 (3) of the statutes is created to read:

611.01 (3) **APPLICABILITY OF OTHER DEFINITIONS.** The definitions of ss. 600.03 and 610.01 apply to corporations under this chapter.

SECTION 95. 611.03 (2) of the statutes is amended to read:

611.03 (2) **ORDERS ELIMINATING RESTRICTIONS.** The commissioner may free a new corporation from any ~~or all~~ of the restrictions generally applicable only to new corporations under ss. 611.28, 611.29 (2), 611.32 (5), 611.33 (1) (a) and (2) (a) 1 and 2, 611.34, 611.54 (1) (b) and 617.22 (2), if the commissioner is satisfied that its financial condition, management ~~or and other circumstance gives assurance~~ circumstances assure that the interests of insureds and the public will not be endangered thereby.

SECTION 96. 611.20 (4) (b) of the statutes is amended to read:

611.20 (4) (b) *By commissioner.* If the commissioner issues a summary order under s. 645.21 against a corporation, he or she may also revoke the corporation's certificate and issue a new one with ~~such~~ the limits as he the commissioner deems necessary.

SECTION 97. 611.31 (4) (a) to (d) of the statutes are amended to read:

611.31 (4) (a) Every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance corporation, or who is a director or officer thereof, shall file in the office of the commissioner within 10 days after ~~he becomes such~~ becoming a beneficial owner or a director or officer, and within 10 days after the close of any calendar month thereafter in which there has been a change in his or her ownership or office, a statement in the form prescribed by the commissioner, of ~~his~~ the office and of all equity securities of the company of which ~~he~~ the person is the beneficial owner, and of all changes in either.

(b) For the purpose of preventing the unfair use of information which may have been obtained by such a beneficial owner or by a director or officer because of his or her relationship to the corporation, any profit realized by him or her from any purchase and sale or sale and purchase of any equity security of the corporation within any period of less

than 6 months, unless the security was acquired in good faith in connection with a debt previously contracted, shall be recoverable by the corporation, irrespective of any intention by the beneficial owner, director or officer in entering into the transaction to hold the security purchased or not to repurchase the security sold for a period exceeding 6 months. Suit to recover the profit may be instituted in any court of competent jurisdiction by the corporation, or if the corporation fails to bring suit within 60 days after request or fails to prosecute it diligently thereafter by the owner of any security thereof, in the name and in behalf of the corporation; but no such suit may be brought more than 2 years after the date the profit was realized. This paragraph does not cover any transaction where the beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, nor does it cover any transaction which the commissioner by rule exempts as not comprehended within the purpose of this paragraph.

(c) It is unlawful for any director or officer, or any beneficial owner subject to par. (a), to sell any equity security of the corporation, directly or indirectly, unless ~~he~~ the director, officer or beneficial owner or ~~his~~ the director's, officer's or beneficial owner's principal owns the security sold and either delivers it within 20 days after the sale or deposits it within 5 days after the sale in the mails or other usual channels of transportation. A person has not violated this paragraph if ~~he~~ the person proves that despite the exercise of good faith ~~he~~ the person was unable to deliver or deposit ~~his~~ the securities within the specified times, or could only have done so with unreasonable inconvenience or expense.

(d) Par. (b) does not apply to a purchase and sale or sale and purchase and par. (c) does not apply to a sale of any equity security of a domestic stock insurance corporation not then or earlier held by him or her in an investment account, by a dealer in the ordinary course of his or her business and incident to his or her establishment or maintenance of a primary or secondary market (otherwise than on an exchange as defined in the federal securities exchange act of 1934) for the security. The commissioner may by rule define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

SECTION 98. 611.33 (2) (b) (intro.) of the statutes is amended to read:

611.33 (2) (b) (intro.) *Contribution notes.* Any mutual may issue contribution notes if the commissioner approves. ~~He~~ The commissioner may approve only if ~~he~~ she finds that:

SECTION 99. 611.51 (5) to (8) of the statutes are amended to read:

611.51 (5) CLASSIFICATION OF DIRECTORS. If directors ~~of a corporation~~ are divided into classes by the articles or the bylaws, no class may contain fewer than 3 members. Subject thereto, s. 180.33 applies to stock corporations.

(6) UNLAWFUL DELEGATION. The board ~~of a corporation~~ shall manage the business and affairs of the corporation and may not delegate its power or responsibility to do so, except to the extent authorized by ss. 180.41 (2), 181.25 (2) and 611.56.

(7) QUORUM OF DIRECTORS. Section 180.35 applies to stock corporations and s. 181.22 applies to mutuals except as ~~specifically provided otherwise~~ modified by s. 611.60.

(8) PLACE AND NOTICE OF DIRECTORS' MEETINGS. Section 180.37 applies to stock corporations and s. 181.24 applies to mutuals.

SECTION 100. 611.52 (2) of the statutes is amended to read:

611.52 (2) ELECTION. At each annual meeting of shareholders, the shareholders shall elect directors to hold office until the next succeeding annual election except as provided in sub. (3) or under s. 180.33. Each director shall hold office for the term for which ~~he~~ she is elected and until his or her successor ~~shall have been~~ is elected and qualified if qualification is required.

SECTION 101. 611.54 (1) (b) of the statutes is amended to read:

611.54 (1) (b) *New corporations*. For 5 years after the initial issuance of a certificate of authority to a corporation, the commissioner may within 30 days after receipt of a report under par. (a) disapprove any person selected who fails to satisfy ~~him~~ the commissioner that he the person is trustworthy and has the competence, experience and freedom from conflict of interest necessary to discharge his or her responsibilities.

SECTION 102. 611.56 (1) of the statutes is amended to read:

611.56 (1) **APPOINTMENT**. If the articles or bylaws of a corporation so provide, the board by resolution adopted by a majority of the full board may designate one or more committees, each consisting of 3 or more directors serving ~~thereon~~ at the pleasure of the board. The board may designate one or more directors as alternate members of any committee to substitute for any absent member at any meeting of the committee. The designation of a committee and delegation of authority to it shall not relieve the board or any director of any responsibility imposed upon it or him by law.

SECTION 103. 611.61 (title) and (1) (intro.) of the statutes are amended to read:

611.61 (title) Transactions of insurers with affiliates. (1) (intro.) **RESTRICTED TRANSACTIONS**. No transaction may be entered into between ~~a stock~~ an insurer authorized to do business in this state and any affiliate unless:

NOTE: There is no reason to limit the effect of this provision to prevent self-dealing contracts to transactions of stock insurers. Mutuels may also have affiliates. See the definition of "affiliate" in s. 600.03 (1).

SECTION 104. 611.62 (3) of the statutes is amended to read:

611.62 (3) **INSURANCE**. Notwithstanding the limitations of ~~sub. subs. (1) and (2)~~, an insurance corporation insurer may arrange and pay for lawful insurance on behalf of any person subject to ~~sub. subs. (1) and (2)~~ against any liability incurred by him the person in connection with ~~his~~ service to the corporation, whether or not the corporation could lawfully indemnify him the person.

SECTION 105. 611.73 (3) of the statutes is amended to read:

611.73 (3) **APPROVAL BY THE COMMISSIONER**. The plan of merger or consolidation shall be submitted to the commissioner for his or her approval after any necessary action by the boards and before any necessary action by the policyholders. The commissioner shall approve the plan unless he or she finds, after a hearing, that the proposed merger or consolidation would be contrary to the law or to the interests of the insureds of any participating domestic corporation or the Wisconsin insureds of any participating nondomestic corporation.

SECTION 106. 611.74 (1) of the statutes is amended to read:

611.74 (1) **PLAN OF DISSOLUTION**. At least 60 days prior to the submission to shareholders or policyholders of any proposed voluntary dissolution of an insurance corporation under s. 180.753 or 181.50 the plan shall be filed with the commissioner. The commissioner may require the submission of ~~such~~ additional information as will to establish the financial condition of the corporation or other facts relevant to the proposed dissolution. If the shareholders or policyholders adopt the resolution to dissolve, the commissioner shall, within 30 days after the adoption of the resolution, begin to examine the corporation. The commissioner shall approve the dissolution unless finding, after a hearing, the commissioner finds that it is insolvent or may become insolvent in the process of dissolution. Upon approval, the corporation may dissolve under ss. 180.753 to 180.768, or ss. 181.51 to 181.555, except that s. 180.757 (2) and the last sentence of s. 181.555 do not apply, except that papers required by those sections to be filed with the secretary of state shall instead be filed with the commissioner. Upon disapproval, the commissioner shall petition the court for liquidation or for rehabilitation under ch. 645.

SECTION 107. 611.76 (4) (b) and (e) of the statutes are amended to read:

611.76 (4) (b) That each person who has been a policyholder and has paid premiums within 5 years prior to the resolution under sub. (2) shall be entitled without additional payment to so much common stock of the new stock corporation as his or her equitable share of the value of the converting corporation will purchase; that the equitable share shall be determined by the ratio which the net premium (gross premium less return premium and dividends paid) he or she has paid to the corporation during the 5 years immediately preceding the resolution under sub. (2) bears to the total net premiums received by the corporation during the same period; and that, if the equitable share is sufficient only for the purchase of a fraction of a share of stock, the policyholder shall have the option either to receive the value of the fractional share in cash or to purchase a full share by paying the balance in cash;

(e) That no policyholder may receive a distribution of shares valued in excess of the amount to which he or she is entitled under s. 645.72 (2). Any excess over that amount shall be distributed in shares to the state treasury for the benefit of the common school fund. After 5 years the shares may be sold by the treasurer at his or her discretion and the proceeds credited to the common school fund.

SECTION 108. 611.78 (1) of the statutes is amended to read:

611.78 (1) (title) SALE, LEASE, EXCHANGE OR MORTGAGE OF ASSETS WITH OR WITHOUT SHAREHOLDER ACTION AND RIGHTS OF DISSENTING SHAREHOLDERS. Sections Except as modified by subs. (2) and (3), ss. 180.70, 180.71 and to 180.72 apply to stock corporations and s. 181.49 applies to mutuals.

SECTION 109. Subchapter VI of chapter 611 of the statutes is created to read:

CHAPTER 611

SUBCHAPTER VI

MISCELLANEOUS PROVISIONS

611.94 Trustee of proceeds. Section 632.42 applies to insurers doing a life insurance business.

SECTION 110. 612.01 (title) of the statutes is amended to read:

612.01 (title) Purposes, scope, interpretation and definitions.

SECTION 111. 612.01 (1) of the statutes is repealed.

SECTION 112. 612.01 (2) and (3) of the statutes are renumbered 612.01 (1) and (2), respectively, and 612.01 (1) (c), as renumbered, is amended to read:

612.01 (1) (c) To preserve and strengthen the interest of the members in and their control of the membership of town mutuals;

SECTION 113. 612.01 (3) and (4) of the statutes are created to read:

612.01 (3) INTERPRETATION. Whenever a section of ch. 611 is applied to town mutuals by this chapter, the portion to be applied is that portion applicable to a mutual under ch. 611.

(4) APPLICABLE DEFINITIONS. The definitions in ss. 181.02 (3) to (6) and (8), 600.03 and 610.01 (1), (2) and (4) apply to town mutuals.

SECTION 114. 612.02 (5) (a) and (6) of the statutes are amended to read:

612.02 (5) (a) *Requirement.* The incorporating members shall pay in or procure an initial surplus in an amount at least as large as that specified by the commissioner. The amount ~~he specifies~~ specified by the commissioner shall be sufficient to permit the town mutual to commence business and to protect the members in case initial losses are unexpectedly high, but may not exceed \$100,000. The surplus may be provided by gifts or by contribution notes bearing interest at a rate approved by the commissioner and repayable under par. (c).

(6) CERTIFICATE OF AUTHORITY. The commissioner shall issue a certificate of authority if he or she:

(a) ~~He finds~~ Finds that all requirements of law have been met;

(b) ~~He is~~ Is satisfied that the proposed directors and officers are trustworthy and individually competent for the tasks assigned them and that collectively they have the competence and experience to administer the affairs of the proposed town mutual;

(c) ~~He is~~ Is satisfied that the total amount initially at risk and its distribution permit a sound insurance operation; and

(d) ~~He is~~ Is satisfied that the business plan is consistent with the interests of the members and of the public.

SECTION 115. 612.04 (1) of the statutes is amended to read:

612.04 (1) RIGHT TO AMEND ARTICLES AND MAKE AND AMEND BYLAWS. Section 181.35 applies to town mutuals. A town mutual may make and amend bylaws as provided by the articles or, in the absence of any such provision, in the same manner as the articles may be made or amended.

SECTION 116. 612.18 of the statutes is amended to read:

612.18 (title) Transactions with affiliates and in which directors and others are interested. ~~Section~~ Sections 611.60 ~~applies~~ and 611.61 apply to town mutuals.

NOTE: See the note to s. 611.61 (1) (intro.). Even town mutuals may have affiliates under the definition in s. 600.03 (1).

SECTION 117. 612.21 (3) and (7) of the statutes are amended to read:

612.21 (3) APPROVAL BY COMMISSIONER. Each of the participating town mutuals shall file with the commissioner for ~~his~~ approval a copy of the resolution and any explanatory statement proposed to be issued to the members, together with so much of the information under s. 612.02 (4) for the surviving or new town mutual as ~~he~~ the commissioner reasonably requires. The commissioner shall approve the plan unless ~~he or she~~ he or she finds, after a hearing, that it would be contrary to the law, or that the surviving or new town mutual would not satisfy the requirements for a certificate of authority under s. 612.02 (6), or that the plan would be contrary to the interests of insureds or of the public.

(7) CERTIFICATE OF AUTHORITY. If the requirements of the law are met, the commissioner shall issue a certificate of authority to the surviving or new town mutual. Thereupon the nonsurviving town mutuals shall cease their legal existence, the corporate existence of any new town mutual shall begin, and ~~any~~ the directors elected under sub. (5) shall take office. The surviving or new town ~~mutuals~~ mutual shall have all the assets and be liable for all of the obligations of each of the participating town mutuals.

SECTION 118. 612.22 (3), (4) and (7) of the statutes are amended to read:

612.22 (3) APPROVAL BY COMMISSIONER. Each of the participating corporations shall file with the commissioner for ~~his~~ approval a copy of the resolution and any explanatory material proposed to be issued to the members, together with so much of the information under s. 611.13 (2) for the surviving or new corporation as ~~he~~ the commissioner reasonably requires. The commissioner shall approve the plan unless ~~he or she~~ he or she finds, after a hearing, that it would be contrary to the law, or that the surviving or new corporation would not satisfy the requirements for a certificate of authority under s. 611.20, or that the plan would be contrary to the interest of insureds or of the public.

(4) APPROVAL BY MEMBERS OF THE TOWN MUTUALS. After being approved by the commissioner under sub. (3), the plan shall be submitted to the members of the participating town mutuals for their approval. The members of each town mutual shall vote separately.

(7) **CERTIFICATE OF AUTHORITY.** If the requirements of the law are met, the commissioner shall issue a certificate of authority to the surviving or new mutual ~~in case of consolidation, and a letter confirming completion of the merger process in case of a merger.~~ Thereupon the nonsurviving corporations shall cease their legal existence, the corporate existence of any new mutual shall begin, and the directors elected under sub. (5) shall take office. The surviving or new mutual shall have all the assets and be liable for all of the obligations of each of the participating corporations.

SECTION 119. 612.23 (1) (intro.) and (b), (2) and (5) of the statutes are amended to read:

612.23 (1) (intro.) **CONVERSION PLAN.** The ~~boards~~ board of the each participating town mutuals mutual shall adopt the same plan of conversion by resolution stating:

(b) The proposed terms, conditions and procedures for and ~~the~~ estimated expenses of implementing the conversion;

(2) **APPROVAL BY COMMISSIONER.** The town mutuals shall file with the commissioner for ~~his~~ approval the plan together with so much of the information under s. 611.13 (2) as the commissioner reasonably requires. The commissioner shall approve the plan unless ~~he~~ the commissioner finds, after a hearing, that it would be contrary to the law, that the new mutual would not satisfy the requirements for a certificate of authority under s. 611.20 or that the plan would be contrary to the interests of insureds or of the public.

(5) **REPORTS TO COMMISSIONER.** Each town mutual shall file with the commissioner a copy of the resolution adopted under sub. (3), stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately in each case the mail votes and the votes cast in person. Any election of directors under sub. (4) shall also be reported to the commissioner.

SECTION 120. 612.25 (3) of the statutes is amended to read:

612.25 (3) **APPROVAL BY MEMBERS AND COMMISSIONER.** The plan shall thereupon be submitted to the members. If the members adopt the plan, the corporation shall file with the commissioner for ~~his~~ approval a copy of the resolution of the members, stating the number of members entitled to vote, the number of members voting and the number of votes cast in favor of the plan, stating separately the mail votes and the votes cast in person. The commissioner shall approve the plan unless ~~he~~ or she finds, after a hearing, that the town mutual is insolvent or may become insolvent in the process of dissolution unless it makes an assessment. If an assessment would be required, the commissioner shall institute proceedings under s. 645.41 (10).

SECTION 121. 612.33 (1) of the statutes is amended to read:

612.33 (1) **PERMITTED AND PROHIBITED REINSURANCE.** A town mutual may cede reinsurance only under s. 612.31 (6), or to an insurer authorized to do business in this state under s. 612.71 or ch. 611 or 618, or under arrangements which are approved in advance by the commissioner and which are subject to ~~such~~ the controls ~~as he~~ the commissioner prescribes.

SECTION 122. 612.52 of the statutes is amended to read:

612.52 Undertaking to pay premiums and assessments. No town mutual may issue a policy unless the prospective member has signed an undertaking ~~in which he agrees~~ agreeing to pay the advance premiums for any insurance on ~~his~~ the member's behalf and any assessment which may be levied ~~upon him~~ in accordance with the terms of the policy, the articles, the bylaws, the statutes, and the reasonable expenses of collecting ~~from him~~ the assessment and any reasonable penalties for nonpayment. The undertaking may provide that for such collection the member shall waive any exemptions otherwise applicable to the property covered by the policy.

SECTION 123. 613.01 (4), (5), (6) and (7) of the statutes are renumbered 613.01 (5), (6), (8) and (9), respectively.

SECTION 124. 613.01 (4), (7) and (10) of the statutes are created to read:

613.01 (4) DIRECTOR. "Director" includes "trustee".

(7) OFFICER. "Officer" does not include "director".

(10) GENERAL DEFINITIONS. The general definitions in s. 600.03 apply.

SECTION 125. 613.02 (1) (b) of the statutes is renumbered 613.03 (3) and amended to read:

613.03 (3) (title) APPLICABILITY OF INSURANCE LAWS. Except as otherwise specifically provided, service insurance corporations organized or operating under this chapter are subject to ss. 610.01, 610.11, 610.21, 610.23, 610.24 and 610.46 and chs. 600, 601, 617, 620, 623, 625, 627, 628, 631, 632, 636 and 645 and to no other insurance laws.

NOTE: This brings the cross-references in this section up-to-date and moves it to a more appropriate place.

SECTION 126. 613.03 (title) and (1) of the statutes are amended to read:

613.03 (title) Applicability of other laws to service insurance corporations. (1) (title) CHAPTER 181 GENERALLY INAPPLICABLE TO SERVICE INSURANCE CORPORATIONS. ~~Chapters Chapter 181 and 611 do~~ does not apply to service insurance corporations except as specifically made applicable by this chapter.

SECTION 127. 613.13 (1) (intro.) and (i) (intro.) and (2) (c) of the statutes are amended to read:

613.13 (1) (intro.) APPLICATION. The application for a certificate of incorporation and authority shall be signed and acknowledged by or on behalf of each incorporator, and shall include or have attached ~~all of the following~~:

(i) (intro.) The plan for conducting the insurance business, including ~~all of the following~~:

(2) (c) The commissioner is satisfied that the business plan is consistent with the interests of the corporation's potential ~~policyholders~~ insureds and of the public.

SECTION 128. 613.33 (1) (intro.) of the statutes is amended to read:

613.33 (1) (intro.) SERVICE INSURANCE CORPORATION BONDS. The articles of a service insurance corporation may authorize service insurance corporation bonds of one or more classes and shall specify the amount of each class of bonds the corporation is authorized to issue, their designations, preferences, limitations, rates of interest, and relative rights, subject to ~~all~~ the following provisions:

SECTION 129. 613.56 (2) and (3) (b) of the statutes are amended to read:

613.56 (2) DELEGATION; MAJOR COMMITTEES. When the board is not in session, a committee satisfying all of the requirements for the composition of a full board under s. 613.51 may exercise any of the powers of the board in the management of the business and affairs of the corporation, including action under ~~s. ss. 611.60 and 611.61~~ as applied to service insurance corporations by s. 613.60, to the extent authorized in the resolution or in the articles or bylaws.

(3) (b) Approval of any contract required to be approved by the board under ~~s. ss. 611.60 and 611.61~~ as applied to service insurance corporations by s. 613.60, or of any other transaction in which a director has a material interest adverse to the corporation;

SECTION 130. 613.60 of the statutes is amended to read:

613.60 (title) Transactions with affiliates and in which directors and others are interested. ~~Section Sections 611.60 applies and 611.61 apply~~ to service insurance corporations.

NOTE: See NOTE to s. 611.61.

SECTION 132. 613.72 (5) of the statutes is amended to read:

613.72 (5) APPLICATION OF CH. 181. Except as otherwise provided in this section, ss. 181.42 and to 181.48 apply to service insurance corporations.

SECTION 133. 613.75 (1) of the statutes is amended to read:

613.75 (1) AUTHORIZATION. Any service insurance corporation may be converted into an a stock insurance corporation under ch. 611 upon complying with the applicable provisions of that chapter and of sub. (2) and as much of s. 611.76 as is applicable, or into a mutual under ch. 611 upon complying with sub. (2) and s. 611.75.

NOTE: This amendment replaces a possibly ambiguous directive with the appropriate statutory reference to ch. 611.

SECTION 134. 614.01 (6) of the statutes is created to read:

614.01 (6) The definitions in ss. 181.02 (3) to (6), 600.03 and 610.01 (1), (2) and (4) apply to fraternal.

SECTION 135. 614.12 (3) of the statutes is amended to read:

614.12 (3) PRINCIPAL OFFICERS. Section 181.25 applies to fraternal. The articles of incorporation or the bylaws shall specifically designate 3 or more offices, the holders of which shall be the principal officers of the fraternal. ~~Each~~ The principal office offices shall be held by a at least 3 separate natural ~~person~~ persons.

NOTE: In addition to solving a potential problem where 2 or more principal offices are held by the same person (though there are still at least 3 natural persons), this amendment makes the language conform to s. 611.12 (3), as it should.

SECTION 136. 614.29 (1) of the statutes is amended to read:

614.29 (1) RIGHT TO AMEND ARTICLES. The articles of a fraternal may provide for amendment by the supreme governing body or by the board of directors, and may provide also for amendment by the members by referendum. If amendment is by referendum, a majority of those members who vote must vote affirmatively. Votes cast within 6 months 60 days from the date of mailing of the first ballot by the fraternal shall be counted. The timeliness of a vote is determined by the date of its mailing as proved by its postmark or other suitable evidence.

NOTE: Though the point has not been researched specifically for this purpose, it is believed that all experience with respect to return of mail ballots, mail solicitations, mail questionnaires and even first class letters asking for information from persons with whom the writer has no prior relationship would strongly support the proposition that the vast majority of all responses that will ever be made to any of those forms of communication are made within the first 2 months, and that increasing the length of the delay to 6 months would not appreciably improve the accuracy of the sampling process, which is essentially the nature of such a referendum. On the other side of the cost-benefit equation, the administrative problems created by the additional delay are far from negligible. Thus, much convenience is gained and little accuracy is sacrificed by reduction of the time period.

SECTION 137. 614.43 of the statutes is repealed and recreated to read:

614.43 Annual report to fraternal members. Every domestic fraternal shall send to each member having insurance or publish in the official publication under s. 614.41 (1) an annual report which shall contain basic financial and operating data, information about important business and corporate developments and such other information as the fraternal wishes to include or as the commissioner by rule requires it to include in order to keep members adequately informed.

SECTION 138. 614.53 of the statutes is amended to read:

614.53 Removal of directors and officers and filling of vacancies. A director may be removed from office for cause by an affirmative vote of a majority of the full board at a meeting of the board called for that purpose. ~~Subject to the previous sentence, ss. 181.21 and or may be removed under s. 181.26 apply.~~ Any vacancy occurring in the board, including a vacancy created by an increase in the number of directors, may be filled until the next succeeding regular election by the affirmative vote of a majority of the directors then in office, although less than a quorum. If the laws of the fraternal provide that at least two-thirds of the directors are elected by the members, elected director vacancies may be filled for the remainder of the terms for which there is a vacancy. If the vacancy is one to be filled in some manner other than by a regular election, the election by the board is effective only until a reasonable time has elapsed for choosing the director in that other manner. Section 181.21 (2) applies to fraternal. A director elected under this section to fill the unexpired term of an elected director is an elected director within the meaning of s. 614.42 (1) (a).

NOTE: Section 614.42 (1) (a) contemplates that some directors may be chosen by other means than elections by the members. Election by the board is then valid only as an interim measure, until the vacancy can be filled in the way contemplated by the bylaws. If the particular director holds that position ex officio, the board election lasts only until the position is filled which carries with it ex officio membership on the board. If the board position is an elective one, board election should be effective only until the constituency with power to elect has a regular opportunity to speak. Under this section, special elections are unnecessary, but the board's power to select its own members is not enlarged by a vacancy beyond the period required for the preservation of continuity. An exception is made when the elected members of the board so predominate that the risks to corporate democracy are minimal.

SECTION 139. 614.60 of the statutes is amended to read:

614.60 (title) Transactions with affiliates and in which directors and others are interested. ~~Section Sections 611.60 applies and 611.61 apply to fraternal except that local lodges are not required to keep detailed records under s. 611.61 (1) (b) if the fraternal does so.~~

NOTE: See NOTE to s. 611.61.

SECTION 140. 614.73 (4) (c) of the statutes is amended to read:

614.73 (4) (c) The proposed contract is just and equitable to the members of ~~the~~ each fraternal.

SECTION 141. 614.74 (1) of the statutes is amended to read:

614.74 (1) **PLAN OF DISSOLUTION.** At least 60 days prior to the submission to the supreme governing body or the members of any proposed voluntary dissolution, the proposal shall be filed with the commissioner. The commissioner may require the submission of additional information necessary to establish the financial condition of the fraternal or other facts relevant to the proposed dissolution. If the supreme governing body or the members adopt the resolution to dissolve by a majority of those voting or such larger number as the laws of the fraternal require, the commissioner shall, within 30 days after the adoption of the resolution, begin to examine the fraternal. The commissioner shall approve the dissolution unless finding, after a hearing, that it is insolvent or may become insolvent in the process of dissolution. Upon approval, the fraternal may dissolve under ss. 181.51 to 181.555, except that the last sentence of s. 181.555 does not apply. Upon disapproval, the commissioner shall petition the court for liquidation under s. 645.41 (10).

SECTION 142. 614.94 of the statutes is repealed and recreated to read:

614.94 Fraternal as fundholders. Sections 610.24 and 611.94 apply to fraternal.

NOTE: See NOTE to s. 610.24.

SECTION 143. 615.15 of the statutes is created to read:

615.15 Transactions with affiliates and in which directors and others are interested. Sections 611.60 and 611.61 apply to gift annuities.

NOTE: Self-dealing is as easily possible in this case as in any other and should be forbidden in the same way.

SECTION 144. 617.21 (4) of the statutes is amended to read:

(4) TRANSACTIONS OF NONDOMESTIC INSURERS SUBJECT TO DISCLOSURE. The commissioner may require by rule that any or all of the transactions under sub. (2) made between a ~~foreign or alien~~ nondomestic insurer required to report under s. 617.11 and any affiliate, so far as not reported under s. 617.11, be reported to ~~him~~ the commissioner within a specified time, not less than 15 days after the end of the month in which they became effective. The commissioner may by rule specify a shorter period, not less than 5 days, for reporting classes of transactions where prompt reporting is necessary to achieve the purposes of this chapter.

SECTION 145. 617.22 (1) of the statutes is amended to read:

617.22 (1) GENERAL. Any action by the board of ~~directors~~ of a stock ~~insurance corporation~~ insurer authorized to do business in this state authorizing any distribution to shareholders other than a stock dividend shall be reported to the commissioner in writing. No payment may be made until at least 30 days after such report.

SECTION 146. 617.23 (1) of the statutes is amended to read:

617.23 (1) RIGHT OF RECEIVER TO RECOVER DIVIDENDS PAID. If an order for the liquidation, rehabilitation or conservation of an insurer authorized to do business in this state is entered under ch. 645, the receiver appointed under ~~such~~ the order shall have a right to recover on behalf of the insurer the amount of distributions other than stock dividends paid by the insurer on its capital stock at any time during the 5 years preceding the petition for liquidation, rehabilitation or conservation, subject to the limitations of subs. (2) to (4).

SECTION 147. 618.41 (6) (d) of the statutes is amended to read:

618.41 (6) (d) *Evaluations.* The commissioner may issue lists of unauthorized nondomestic insurers whose solidity he or she believes to be doubtful or whose practices he or she believes to be objectionable. ~~He~~ The commissioner may issue lists of unauthorized nondomestic insurers he or she believes to be reliable and solid. ~~He~~ The commissioner may also issue other relevant evaluations of unauthorized insurers. No action ~~shall~~ may lie against the commissioner or any employe of the office for anything said in the issuance of such lists and evaluations.

SECTION 148. 618.43 (8) of the statutes is amended to read:

618.43 (8) TAXES AS PREFERRED CLAIMS. If the property of any agent or broker is seized upon any process in any court in this state, or when his or her business is suspended by the action of creditors or put into the hands of any assignee, receiver or trustee, all taxes and penalties due the state from him or her under this section are preferred claims and the state is to that extent a preferred creditor.

SECTION 149. 618.47 (1) (a) and (2) of the statutes are amended to read:

618.47 (1) (a) Deposits with the clerk of the court in which the action or proceeding is pending, or with the commissioner in administrative proceedings before ~~him~~ the commissioner, bond with sureties in an amount fixed by the court or the commissioner, sufficient to secure the payment of any probable final judgment or order. The court, or the commissioner in administrative proceedings before ~~him~~ the commissioner, may make an order dispensing with a deposit or bond where the person makes a satisfactory showing that in a

state of the United States he or she maintains funds or securities, in trust or otherwise, sufficient and available to satisfy any probable final judgment or order; or

(2) **POSTPONEMENT.** The court in any such action or proceeding, or the commissioner in any administrative proceeding before ~~him~~ the commissioner, may order ~~such any~~ postponement ~~as may be~~ necessary to afford the unauthorized person reasonable opportunity to comply with sub. (1).

SECTION 150. 618.50 (1) and (2) of the statutes are amended to read:

618.50 (1) **ADJUSTERS' DUTY TO REPORT.** Every person investigating or adjusting any loss or claim on a subject of insurance in this state shall promptly report to the commissioner every insurance policy or contract connected with his or her investigation or settlement, of which he or she knows, which has been entered into illegally by any insurer not authorized to transact business in this state.

(2) **CONSULTANT'S DUTY TO REPORT.** Every person acting in the capacity of insurance consultant shall report immediately to the commissioner every insurance policy or contract effected with his or her assistance or otherwise known to him or her covering a subject of insurance in this state, which has been entered into legally by an insurer not authorized to transact such insurance in this state.

SECTION 151. 619.03 of the statutes is amended to read:

619.03 Voluntary risk sharing plans. Insurers doing business within this state are authorized to prepare voluntary plans providing any specified kind, line or class of insurance coverage or subdivision or combination thereof for all or any part of this state in which such insurance is not readily available in the voluntary market and in which the public interest requires the availability of such coverage. Such Voluntary risk sharing plans shall be submitted to the commissioner and if approved ~~by him~~ may be put into operation.

SECTION 152. 623.01 of the statutes is created to read:

623.01 Applicability. Except as otherwise provided, this chapter and the rules promulgated under it apply to all insurers authorized to do business in this state.

NOTE: Sections 623.02 to 623.11 are already applicable through chs. 601 and 645 but a general scope section is a useful reference. This section parallels s. 620.01 (2), relating to investments.

SECTION 153. 623.11 (1) (b) (intro.) of the statutes is amended to read:

623.11 (1) (b) (intro.) *Controlling factors.* In ~~his~~ making the determination under this subsection, the commissioner shall take into account the following factors:

SECTION 154. 623.34 of the statutes is created to read:

623.34 Accounting for repurchased shares. When a corporation acquires its own shares under s. 611.34 or in any other way, the acquired shares shall be accounted for as a deduction from capital and not as assets.

NOTE: When a corporation acquires its own shares, it is misleading if it accounts for them as assets, for that suggests that there has been no alteration in its financial structure. In fact, there has been a decrease in the investment of the whole group of shareholders in the enterprise, and the accounts should clearly reflect that fact. See NOTE to s. 611.34.

SECTION 155. 625.21 (1) and (4) of the statutes are amended to read:

625.21 (1) **RULE INSTITUTING DELAYED EFFECT.** If the commissioner finds that competition is not an effective regulator of the rates charged or that a substantial number of companies are competing irresponsibly through the rates charged, or that there are widespread violations of this chapter, in any kind or line of insurance or subdivision thereof or in any rating class or rating territory, he or she may promulgate a rule requiring that in the kind or line of insurance or subdivision thereof or rating class or rating territory comprehended by the finding any subsequent changes in the rates or supplementary rate in-

formation be filed with ~~him~~ the commissioner at least 15 days before they become effective. ~~He~~ The commissioner may extend the waiting period for not to exceed 15 additional days by written notice to the filer before the first 15-day period expires.

(4) SUPPORTING INFORMATION. Whenever a filing is not accompanied by ~~such the~~ information as the commissioner ~~has required~~ requires under sub. (2), ~~he~~ the commissioner may so inform the insurer and the filing shall be deemed to be made when the information is furnished.

SECTION 156. 625.23 of the statutes is amended to read:

625.23 Special restrictions on individual insurers. The commissioner may by order require that a particular insurer file any or all of its rates and supplementary rate information 15 days prior to their effective date, if and to the extent that ~~he or she~~ finds, after a hearing, that the protection of the interests of its insureds and the public in this state requires closer supervision of its rates because of the insurer's financial condition or rating practices. ~~He~~ The commissioner may extend the waiting period for any filing for not to exceed 15 additional days by written notice to the insurer before the first 15-day period expires. A filing not disapproved before the expiration of the waiting period shall be deemed to meet the requirements of this chapter, subject to the possibility of subsequent disapproval under s. 625.22.

SECTION 157. 625.32 (3) of the statutes is amended to read:

625.32 (3) GRANTING OF LICENSE. If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of law are met, ~~he or she~~ shall issue a license specifying the authorized activity of the applicant. ~~He shall~~ The commissioner may not issue a license if the proposed activity would tend to create a monopoly or to lessen or destroy price competition.

SECTION 158. 628.10 of the statutes is amended to read:

628.10 Termination of license. (1) GENERAL. An intermediary's license issued under s. 628.04 ~~shall remain~~ remains in force until ~~it is~~ revoked, suspended or limited under sub. (2), ~~or until it is~~ surrendered, ~~or until the licensee dies or is adjudicated incompetent as defined in s. 880.01 (4) or found by~~ until the commissioner finds, after a hearing ~~to be incompetent to act, that the licensee is unqualified as an intermediary or is not of good character.~~

(2) REVOCATION, SUSPENSION, AND LIMITATION OF LICENSES. (a) *For nonpayment of fees or failure to comply with continuing education requirements.* ~~If a licensed intermediary fails to pay a fee on time or fails to produce evidence of compliance with the continuing education standards set by the commissioner, the~~ The commissioner may by order suspend the license of any intermediary who fails to pay a fee when due or who fails to produce evidence of compliance with continuing education standards set by the commissioner.

(b) *For other reasons.* ~~Whenever a licensed intermediary persistently or substantially violates~~ After a hearing, the commissioner may revoke, suspend or limit in whole or in part the license of any intermediary found to be unqualified as an intermediary or to have repeatedly or knowingly violated an insurance statute or rule or an a valid order of the commissioner under s. 601.41 (4), or if the intermediary's methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public, ~~the commissioner may, after a hearing, in whole or in part revoke, suspend or limit the license.~~

(3) DELAY FOR NEW APPLICATION. ~~In an~~ An order revoking an intermediary's license under sub. (2), ~~the commissioner shall~~ may specify a time not to exceed 5 years within which ~~no application~~ the former intermediary may not apply for a new license may be

~~made. If the commissioner does not so specify, no application~~ no time is specified, the intermediary may be made not apply for 5 years.

(4) PENALTIES. Any intermediary whose license ~~has been~~ is suspended or revoked shall, when the suspension ends or ~~when relicensed a new license is issued,~~ pay all fees that would have been payable if the license had not been suspended or revoked, unless the commissioner by order waives the payment of the fees. ~~If suspension is for nonpayment of fees, the intermediary shall, in order to terminate the suspension, pay double the fees that would have been payable if the license had not been suspended.~~

NOTE: This section is amended to follow as accurately as possible s. 636.10.

Normally, a license continues for life so long as the license fee is paid annually.

SECTION 159. 628.13 of the statutes is renumbered 221.04 (9) and amended to read:

221.04 (9) INSURANCE INTERMEDIARY LICENSE. A bank organized under ~~ch. 221~~ this chapter, or an officer or salaried employe of any such bank, may obtain a license as an insurance intermediary if otherwise qualified.

SECTION 159m. 628.61 (1) of the statutes is amended to read:

628.61 (1) No intermediary or insurer may pay any consideration, nor reimburse out-of-pocket expenses, to any person for services performed within this state as an intermediary if he or she knows or should know that the payee is not licensed under s. 628.04 or 628.09. No person may accept compensation for service performed as an intermediary unless the person is licensed under s. 628.04 or 628.09, except that a duly licensed agent may direct that the agent's commissions be paid to a duly licensed partnership of which the agent is a member, employe or agent, or to a duly licensed corporation of which the agent is an officer, employe or agent.

SECTION 160. Chapter 630 of the statutes is created to read:

CHAPTER 630

GENERAL PUBLIC POLICY PROVISIONS

APPLICABLE TO INSURERS AND OTHERS

NOTE: There have long existed a handful of general public policy limitations on the conduct of insurers that have no necessary relationship to the insurance business, but are designed to prevent misuse of government activity. The creation of chapter 630 provides a place to continue the few existing provisions (notably ss. 610.55 and 610.57), and to put any that later seem desirable to the legislature.

630.05 Political contributions. Section 11.38 applies to:

- (1) All insurers under s. 600.03 (27) (a).
- (2) Service insurance corporations under ch. 613.
- (3) Cooperatives under ss. 185.981 and 185.991.
- (4) Motor clubs under ss. 616.71 to 616.82.

NOTE: This section provides a convenient cross-reference to the general corporate provision and makes clear that it applies to all types of insurers. It replaces s. 610.55 which applied only to life insurance companies. That section was originally enacted by ch. 343, laws of 1906. Apparently, the provision has been generally ignored since that time, except for the filing of a special schedule to annual statements. A reason for ignoring the section appears to be the action of the 1905 legislature in passing a general prohibition against political contributions [ch. 492, laws of 1905].

630.10 Lobbying. Subch. III of ch. 13 applies to all persons subject to regulation under any part of this code.

NOTE: This section provides a convenient cross-reference to the laws regulating lobbying generally and makes clear that it applies to persons regulated under the insurance code.

It replaces s. 610.57 which applied only to life insurance companies. Section 610.57 has been a part of the statutes since passage of ch. 131, laws of 1907. It has been largely ignored in the belief that the general lobbying laws applied to insurance companies and others concerned with insurance matters, especially since adoption of ch. 609, laws of 1947, creating ss. 13.60 to 13.73.

630.15 Prohibited relationships between life insurers and funeral directors or cemeteries. No life insurer may invest directly in or, except as a loan secured by a mortgage on real estate or as a policy loan, lend money to a funeral director or cemetery or any association of funeral directors or cemeteries. No funeral director or cemetery or association of funeral directors or cemeteries may control a life insurer.

NOTE: This provision will further effectuate the anti-tie-in provisions of s. 632.41 (2), relating to life insurers generally, and s. 614.82 (2), relating to fraternalists. It belongs in this chapter rather than in either the chapters on insurance contracts (chs. 631 and 632) or insurance investments (ch. 620), for it has a broader thrust than either. It is concerned with precluding anti-competitive tie-ins in situations where there would be real risk that they might develop unless the control situation that makes them possible is itself prohibited.

SECTION 161. 631.02 of the statutes is created to read:

631.02 Definition. "Interest of the insured", when used in an insurance policy, includes the interest of the named insured and of any other person with whom the named insured holds the insured property in joint tenancy.

SECTION 162. 631.24 of the statutes is created to read:

631.24 Credit life and disability insurance. Section 631.20 does not apply to credit life and disability insurance forms which are subject to approval under s. 424.209.

SECTION 163. 631.36 (1) (a) of the statutes is amended to read:

631.36 (1) (a) *General.* Except as otherwise provided by statute in this section or in other statutes or by rule under par. (c), this section applies to all contracts of insurance based on forms which are subject to filing and approval under s. 631.20 (1).

SECTION 164. 631.36 (5) of the statutes is repealed and recreated to read:

631.36 (5) RENEWAL WITH ALTERED TERMS. (a) *General.* Subject to par. (b), if the insurer offers or purports to renew the policy but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer sent by 1st class mail or delivered to the policyholder notice of the new terms or rates at least 30 days prior to the expiration date. If the insurer has not so notified the policyholder, the new terms or rates do not take effect until 30 days after the notice is mailed or delivered, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period. Return premiums or additional premium charges shall be calculated proportionately on the basis of the old rates.

(b) *Exception.* This subsection does not apply if the only change in terms that is adverse to the policyholder is a rate increase generally applicable to the class of business to which the policy belongs or a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against.

NOTE: The cases in the exception are those subject to the commissioner's review.

E.g., the "change in other terms" would involve changes in the form being used, which would be subject to approval under subch. II of ch. 631.

SECTION 165. 631.36 (10) to (12) of the statutes are renumbered 631.37 (1) to (3), respectively.

SECTION 166. 631.37 of the statutes is created to read:

631.37 Special cancellation provisions. The following cancellation provisions apply to the policies specified, whether or not s. 631.36 is also applicable to them.

(4) **SPECIAL LIMITATIONS ON CANCELLATION.** (a) *School bus insurance.* Section 121.53 (4) applies to school bus insurance.

(b) *Insurance on common carriers.* Section 194.41 (2) applies to insurance on common carriers.

(c) *Driver education motor vehicles.* Section 341.267 (6) applies to motor vehicles used for driver education.

(d) *Insurance of juveniles.* Section 343.15 (4) applies to motor vehicle policies covering juveniles as described therein.

(e) *Motor vehicle liability policy.* Section 344.34 applies to motor vehicle liability policies certified under s. 344.31 and to policies certified under s. 344.32.

INTRODUCTORY NOTE TO SECTIONS 631.43 (3), 632.26, 632.32 and 632.34: Early drafts for the bill that became ch. 375, laws of 1975, included, in a preliminary form, some basic changes in this very complex collection of rules. They were later abandoned, for purposes of the insurance revision, because they were so controversial as to make enactment of the larger revision bill on insurance contracts unlikely. They still deserve careful consideration, but the present bill is not the occasion for proposing basic changes, either. All that this bill tries to do is to deal with problems requiring immediate attention, including some ambiguities and narrowing of coverage inadvertently produced by ch. 375. It does so by creating a new s. 632.26 and by essentially combining ss. 632.32 and 632.34 into a single section, s. 632.32.

SECTION 167. 631.43 (3) of the statutes is created to read:

631.43 (3) **EXCEPTION.** Subsection (1) does not affect the rights of insurers to exclude coverages under s. 632.32 (5) (b) and (c).

NOTE: Concern has been expressed that s. 631.43 (1) might have changed the posture of the law respecting the coverage afforded automobile handlers and other persons with respect to "loaners" on the one side or "road tests" by garages on the other. Prior law permitted policies covering either automobile handlers or other persons to exclude coverage on the other person if other coverage with minimum limits was in effect on that other person. That was a resolution of a conflict between 2 different groups of automobile insurers some years ago. It need not be disturbed. The public interest is primarily in first being sure that injured 3rd persons are protected by some insurance, and then in making the rules certain in order to minimize litigation between insurance companies. This provision should achieve both objectives.

SECTION 168. 631.83 (1) (c) of the statutes is repealed and recreated to read:

631.83 (1) (c) *Life insurance.* Actions on life insurance policies are governed by s. 632.49.

SECTION 169. 632.08 of the statutes is amended to read:

632.08 Mortgage clause. A provision for payment to a mortgagee or other owner of a security interest in property may be contained in or added by endorsement to any insurance policy protecting against loss or destruction of or damage to property. ~~If the provision is contained in an endorsement and~~ the insurance covers real property, any loss not exceeding \$500 shall be paid to the insured mortgagor despite the provision, unless the mortgagee is a named insured.

NOTE: The purpose of this section is to facilitate payment of small claims, but convenience should always bow to the specified intention of the parties in this situation.

SECTION 170. 632.26 of the statutes, under subchapter III of chapter 632, is created to read:

632.26 Notice provisions. (1) **REQUIRED PROVISIONS.** Every liability insurance policy shall provide:

(a) That notice given by or on behalf of the insured to any authorized agent of the insurer within this state, with particulars sufficient to identify the insured, is notice to the insurer.

(b) That failure to give any notice required by the policy within the time specified does not invalidate a claim made by the insured if the insured shows that it was not reasonably possible to give the notice within the prescribed time and that notice was given as soon as reasonably possible.

(2) **EFFECT OF FAILURE TO GIVE NOTICE.** Failure to give notice as required by the policy as modified by sub. (1) (b) does not bar liability under the policy if the insurer was not prejudiced by the failure, but the risk of nonpersuasion is upon the person claiming there was no prejudice.

NOTE: Subsection (1) is former s. 632.32 (1), altered in 2 ways: (1) to extend its coverage to all liability policies; and (2) to change "may" to "shall". The subsection is divided into 2 paragraphs for clarity.

The first change would strengthen the law. It is entirely new and seems a desirable extension.

The second change corrects an error. The word "shall" was used in the fourth draft of the bill that ultimately became ch. 375, laws of 1975, and was not changed in the addendum to the fourth draft, dated July 14, 1975. Those documents went to the insurance laws revision committee and then to the legislative council for action. Nothing appears in the minutes of the committee's meeting of July 14, 1975 to indicate that a change was made. But in LRB-6218/1 of 1975, "may" appears instead of "shall". That error, which was probably inadvertent and the source of which we have not been able to trace, was carried on into the final enactment.

Subsection (2) continues the second sentence of former s. 632.34 (4). Shifting it to s. 632.26, which is applicable to all liability insurance, broadens its application, but that seems desirable. The term "burden of proof" is changed to "risk of nonpersuasion" to tighten up the meaning. "Burden of proof" is a broad term that comprehends 2 separate concepts: (1) the burden of going forward with the evidence and (2) the burden of persuading the trier of fact, better termed the "risk of nonpersuasion". See McCormick, Evidence, (2nd ed.), at 784 n. 4 (1972). The statute is concerned with determining who wins when the totality of evidence is inconclusive, not with the burden of going forward, which ought to be settled on the basis of general principles. Indeed, since the insurer will have best (or the only) access to information about prejudice, it may be quite unfair to put the burden of going forward on the claimant.

Subsections (1) (b) and (2) are related. The first is a required provision in the policy. The 2nd is a rule of law. It is preferable not to go too far in inserting excuses into the policy. Subsection (1) (b) encourages the insured not to give up automatically if notice is not timely given, but insertion of sub. (2) into the policy would arguably encourage an unduly long delay that might prejudice both parties.

SECTION 171. 632.32 of the statutes is repealed and recreated to read:

632.32 Provisions of motor vehicle insurance policies. (1) **SCOPE.** Except as otherwise provided, this section applies to every policy of insurance issued or delivered in this state against the insured's liability for loss or damage resulting from accident caused by any motor vehicle, whether the loss or damage is to property or to a person.

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

(a) "Motor vehicle" means a self-propelled land motor vehicle designed for travel on public roads and subject to motor vehicle registration under ch. 341. It includes trailers and semitrailers designed for use with such vehicles. It does not include farm tractors, well drillers, road machinery or snowmobiles.

(b) "Motor vehicle handler" means a motor vehicle sales agency, repair shop, service station, storage garage or public parking place.

(c) "Using" includes driving, operating, manipulating, riding in and any other use.

(3) **REQUIRED PROVISIONS.** Except as provided in sub. (5), every policy subject to this section issued to an owner shall provide that:

(a) Coverage provided to the named insured applies in the same manner and under the same provisions to any person using any motor vehicle described in the policy when the use is for purposes and in the manner described in the policy.

(b) Coverage extends to any person legally responsible for the use of the motor vehicle.

(4) **REQUIRED UNINSURED MOTORIST AND MEDICAL PAYMENTS COVERAGES.** Every policy of insurance subject to this section that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall contain therein or supplemental thereto provisions approved by the commissioner:

(a) *Uninsured motorist.* 1. For the protection of persons injured who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom, in limits of at least \$15,000 per person and \$30,000 per accident. The insurer may increase the coverage limits provided under this paragraph up to the bodily injury liability limits provided in the policy.

2. In this paragraph "uninsured motor vehicle" also includes:

a. An insured motor vehicle if before or after the accident the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction.

b. An unidentified motor vehicle involved in a hit-and-run accident.

3. Insurers making payment under the uninsured motorists' coverage shall, to the extent of the payment, be subrogated to the rights of their insureds.

(b) *Medical payments.* To indemnify for medical payments or chiropractic payments or both in the amount of at least \$1,000 per person for protection of all persons using the insured motor vehicle from losses resulting from bodily injury or death. The named insured may reject the coverage. If the named insured rejects the coverage, it need not be provided in a subsequent renewal policy issued by the same insurer unless the insured requests it in writing. Under the medical or chiropractic payments coverage, the insurer shall be subrogated to the rights of its insured to the extent of its payments. Coverage written under this paragraph may be excess coverage over any other source of reimbursement to which the insured person has a legal right.

(5) **PERMISSIBLE PROVISIONS.** (a) A policy may limit coverage to use that is with the permission of the named insured or, if the insured is an individual, to use that is with the permission of the named insured or an adult member of that insured's household other

than a chauffeur or domestic servant. The permission is effective even if it violates s. 343.45 (2) and even if the use is not authorized by law.

(b) If the policy is issued to anyone other than a motor vehicle handler, it may limit the coverage afforded to a motor vehicle handler or its officers, agents or employes to the limits under s. 344.01 (2) (d) and to instances when there is no other valid and collectible insurance with at least those limits whether the other insurance is primary, excess or contingent.

(c) If the policy is issued to a motor vehicle handler, it may restrict coverage afforded to anyone other than the motor vehicle handler or its officers, agents or employes to the limits under s. 344.01 (2) (d) and to instances when there is no other valid and collectible insurance with at least those limits whether the other insurance is primary, excess or contingent.

(d) If a motor vehicle covered by the policy is sold or transferred, the purchaser or transferee is not an additional insured unless the consent of the insurer is endorsed on the policy.

(e) A policy may provide for exclusions not prohibited by sub. (6) or other applicable law. Such exclusions are effective even if incidentally to their main purpose they exclude persons, uses or coverages that could not be directly excluded under sub. (6) (b).

(6) PROHIBITED PROVISIONS. (a) No policy issued to a motor vehicle handler may exclude coverage upon any of its officers, agents or employes when any of them are using motor vehicles owned by customers doing business with the motor vehicle handler.

(b) No policy may exclude from the coverage afforded or benefits provided:

1. Persons related by blood or marriage to the insured.
2. Any person who is a named insured or passenger in or on the insured vehicle, with respect to bodily injury, sickness or disease, including death resulting therefrom, to that person.
3. Any person while using the motor vehicle, solely for reasons of age, if the person is of an age authorized to drive a motor vehicle.
4. Any use of the motor vehicle for unlawful purposes, or for transportation of liquor in violation of law, or while the driver is under the influence of intoxicating liquors or narcotics or any use of the motor vehicle in a reckless manner.

(c) No policy may limit the time for giving notice of any accident or casualty covered by the policy to less than 20 days.

NOTE: Subsection (1) retains the scope portion of former sub. (1), but the notice provision of former sub. (1) is transferred to new s. 632.26 and broadened to apply to all liability insurance.

Subsection (2) (b) continues former sub. (2) (a); pars. (a) and (c) are new definitions in this place, though par. (a) tracks the language of s. 344.01 (2) (b). It would be possible to sharpen up the definition of motor vehicle, though that can only be done on the basis of a policy determination of what policies should be subject to this section. The exact delimitation of the affected class of policies is of less importance than if the section were mandating insurance or purported to change rules of law.

Subsection (4) continues former sub. (3) and former s. 632.34 (5) with major editorial changes but without intended change of meaning except to add an unidentified hit-run vehicle as an uninsured vehicle. A precise definition of hit-and-run is not necessary for in the rare case where a question arises the court can draw the line.

Subsection (5) continues the permitted provisions of former sub. (2) (b). Paragraph (d) continues a sentence of former s. 632.32 (2) (b), relocated in relation to other provisions to make its application clearer.

Paragraph (e) deals with a latent ambiguity in former s. 204.34, carried forward into s. 632.34, which was picked up and noticed by the Wisconsin Supreme Court in Davison v. Wilson (1975), 71 Wis. 2d 630. The court suggested (at p. 641) that the section should be the subject of a clarifying amendment. The same ambiguity was dealt with by the court in Dahm v. Employers Mutual Liability Insurance Company of Wisconsin (1976), 74 Wis. 2d 123. The resolution of the ambiguity in par. (e) is believed to represent the probable intention of the legislature in the original enactment and, in any event, to represent the sound position in public policy.

Subsection (6) deals with prohibited provisions. Paragraph (a) picks up the last sentence of former sub. (2) (b) which was a prohibited rather than a required provision. Paragraph (b) incorporates what was formerly s. 632.34 (3) in sub. (6) (b) 1, former subs. (5) and (6) in sub. (6) (b) 2, former sub. (2) (a) in sub. (6) (b) 3 and former sub. (2) (b) and (c) in sub. (6) (b) 4. Paragraph (c) continues the first sentence of former s. 632.34 (4), without change.

It escaped the attention of everyone involved in the revision, and not least the principal drafters, that former s. 632.34 (1) narrowed the coverage of old s. 204.34. That has led, in this amendment, to combining most of ss. 632.32 and 632.34 in a single section, numbered 632.32. All parts of s. 632.34 which need to be preserved are transferred to s. 632.32, with the minor exception contained in new s. 632.34.

SECTION 172. 632.34 of the statutes is repealed and recreated to read:

632.34 Defense of noncooperation. If a policy of automobile liability insurance provides a defense to the insurer for lack of cooperation on the part of the insured, the defense is not effective against a 3rd person making a claim against the insurer unless there was collusion between the 3rd person and the insured or unless the claimant was a passenger in or on the insured vehicle. If the defense is not effective against the claimant, after payment the insurer is subrogated to the injured person's claim against the insured to the extent of the payment and is entitled to reimbursement by the insured.

NOTE: This provision is continued from former s. 632.34 (8). It is changed from a required provision of the policy to a rule of law. It is not the kind of rule that needs to be put in the policy to inform the policyholder. Indeed, the policyholder should receive no encouragement to fail to cooperate. This is a relaxation of present law.

SECTION 172m. 632.35 of the statutes is amended to read:

632.35 (title) Prohibited rejection, cancellation and nonrenewal. No insurer may cancel or refuse to issue or renew an automobile insurance policy ~~solely~~ wholly or partially because of one or more of the following characteristics of any person: age, sex, residence, race, color, creed, religion, national origin, ancestry, marital status or occupation ~~of any one who is an insured.~~

SECTION 173. 632.41 (2) of the statutes is amended to read:

632.41 (2) BURIAL INSURANCE. No contract in which the insurer agrees to pay for any of the incidents of burial or other disposition of the body of a deceased may provide that the benefits are payable to ~~an undertaker~~ a funeral director or any other person doing business related to burials.

NOTE: "Funeral director" is the terminology adopted by s. 156.01 (3).

SECTION 174. 632.41 (3) of the statutes is renumbered 632.49 and amended to read:

632.49 Death presumed from absence. ~~Section~~ Sections 813.22 (1) applies to 813.34 apply to all life insurance policies.

NOTE: This provision is removed from a section with provisions to which it lacks any relationship.

SECTION 175. 632.45 (1) of the statutes is amended to read:

632.45 (1) IDENTIFICATION. Any contract issued under s. 611.25 or under any section of the code incorporating s. 611.25 by reference which provides for payment of benefits in variable amounts shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of the variable benefits. It shall contain appropriate nonforfeiture benefits in lieu of those under s. 632.43 and a grace provision appropriate to such a contract in lieu of the provision required by s. 632.44. Any such individual contract and any such certificate issued under a group contract shall state that the dollar amount may decrease or increase and shall conspicuously display ^{or} its first page a statement that the benefits thereunder are on a variable basis, with a statement where in the contract the details of the variable provisions may be found.

NOTE: This amendment makes the provision relating to grace period consistent with that in the model variable contract law recognized by the national association of insurance commissioners at its December 1970 meeting.

SECTION 176. 632.46 (3) (title) and (a) of the statutes are amended to read:

632.46 (3) (title) MISSTATED AGE OR SEX. (a) Subject to par. (b), if the age or sex of the person whose life is at risk is misstated in an application for a policy of life insurance and the error is not adjusted during the person's lifetime the amount payable under the policy is what the premium paid would have purchased if the age or sex had been stated correctly.

NOTE: This amendment extends to all life insurers a requirement that presently applies only to fraternal.

SECTION 177. 632.62 (1) (a) of the statutes is amended to read:

632.62 (1) (a) *Stock insurers.* A stock insurer may issue both participating and non-participating life insurance policies and annuity contracts, subject to this section.

NOTE: This was the original intent of the section and it is amended to make sure it is not interpreted restrictively by the court or the commissioner. Compare s. 632.47 (1).

SECTION 178. 632.77 (1) of the statutes is amended to read:

632.77 (1) CHANGE OF OCCUPATION. Any provision respecting change of occupation may provide only for a lower maximum payment and for reduction of loss payments proportionate to the change in appropriate premium rates if the change is to a higher rated occupation, and must provide for retroactive reduction of premium rates at least to from the date of change of occupation or the last policy anniversary date, whichever is the more recent, if the change is to a lower rated occupation.

NOTE: This change makes a necessary adjustment to the language of the section to treat the insurer fairly in adjusting premiums retroactively for change of occupation.

SECTION 179. 632.93 (1) of the statutes is amended to read:

632.93 (1) ISSUANCE OF CERTIFICATE. A fraternal shall issue to each benefit member a policy or certificate specifying the benefits provided and containing at least in substance all sections of the laws of the fraternal which might result in the termination of coverage or the reduction of benefits. The policy or certificate, any riders or endorsements attached thereto, the laws of the fraternal, and the application and declarations made in connection therewith and signed by the applicant, constitute the agreement between the fraternal and the member, and the policy or certificate shall so state. ~~A copy of the~~

~~application and the declarations shall be endorsed upon or attached to the policy or certificate and may not be used in defense against a claim under the policy or certificate unless so endorsed or attached.~~

SECTION 180. 632.93 (2) of the statutes is repealed.

SECTION 181. 632.93 (3) and (4) of the statutes are renumbered 632.93 (2) and (3).

SECTION 182. 632.93 (4) to (7) of the statutes are created to read:

632.93 (4) INAPPLICABLE PROVISIONS. Sections 631.13 and 632.44 (2) do not apply to fraternal contracts.

(5) GRACE PERIOD. Every fraternal certificate shall contain a provision entitling the member to a grace period of not less than one month, or 30 days at the fraternal's option, for the payment of any premium due except the first, during which the death benefit shall continue in force. A fraternal may specify in the grace period provision that the overdue premium will be deducted from the death benefit in the event of death before it is paid.

(6) COMPLIANCE WITH OTHER PROVISIONS. If a fraternal's laws provide for expulsion or suspension of a member for any reason other than nonpayment of premium or under s. 632.46, the fraternal's insurance certificate shall contain a provision that if a member is expelled or suspended for any reason other than nonpayment of premium or under s. 632.46, the expelled member has the right to maintain the policy in force by continuing payment of the required premium.

(7) SCOPE OF APPLICATION. This section applies to all contracts made by a fraternal beginning 6 months after the effective date of this act (1979). A fraternal may elect to have this section apply at an earlier date, so long as it applies simultaneously to all such contracts and the fraternal gives the commissioner at least 30 days' notice of intention to adopt this section.

NOTE: Section 632.93, as amended, is intended to make the rules applicable to the fraternal contract conform, as near as may be, to those applicable to commercial life insurance.

SECTION 183. 632.94 of the statutes is repealed.

SECTION 184. 632.98 of the statutes is amended to read:

632.98 (title) Worker's compensation insurance. Section Sections 102.31 applies and 102.62 apply to worker's compensation insurance.

SECTION 185. 636.04 (3) and (4) of the statutes are amended to read:

636.04 (3) ~~Such A~~ certificate issued under sub. (2) shall be revoked by the commissioner, if after due investigation and hearing, ~~he~~ the commissioner determines that the holder has violated the insurance code. No person whose certificate is revoked ~~shall~~ may be granted another certificate within one year thereafter, nor shall ~~he~~ the person, until again so authorized, act as employe or participate in the pay of any fire insurance adjuster.

(4) A person does not violate this section by making his or her first adjustment during a license year prior to obtaining such certificate; ~~provided, that he shall, if~~ within two 2 days after entering upon such the adjustment, make the person makes application therefor; and ~~shall~~ complies in all other respects ~~comply~~ with this section.

SECTION 186. 641.09 (1) of the statutes is amended to read:

641.09 (1) The commissioner may examine into the affairs and actuarial status of any employe welfare fund as often as he or she deems it necessary, ~~and to~~. To that end he the commissioner may establish regular programs of examinations of funds at ~~such the~~ intervals as he or she determines.

SECTION 187. 641.10 (1) and (2) of the statutes are amended to read:

641.10 (1) Whenever, pursuant to this chapter, the commissioner determines to examine the affairs of any employe welfare fund ~~he the commissioner~~ shall make an order indicating the scope of the examination and may, without regard to the classified service, appoint as examiners one or more competent persons not employed by the trustees of ~~such the fund~~ or interested in ~~such the fund~~. A copy of ~~such the~~ order shall, upon demand and before the examination begins, be exhibited to at least one of the trustees of the fund whose affairs are to be examined. Any examiner authorized by the commissioners shall have convenient access at all reasonable hours to the books, records, files, assets, securities, and other documents of ~~such the~~ employe welfare fund including those of any affiliated or subsidiary fund thereof, which are relevant to the examination. The commissioner and anyone designated by ~~him the commissioner~~ may administer oaths and examine under oath the trustees of ~~such the~~ fund and their officers, agents and employes and any other persons regarding any matter relevant to the examination.

(2) In conducting an examination of any employe welfare fund, in lieu of the procedures otherwise required by this chapter, the commissioner may utilize any appropriate procedures which will safeguard the best interests of participating employes and will fulfill the policy of this chapter. To this end, ~~he the commissioner~~ may require the trustees or sponsoring employer to furnish him ~~or her~~ with a report of examination of ~~such the~~ fund by a certified public accountant and reports by fund consultants in ~~such the~~ form ~~as he the commissioner~~ requires.

SECTION 188. 641.11 (1) and (3) of the statutes are amended to read:

641.11 (1) Pending or after an examination the commissioner shall ~~not~~ neither make public nor ~~shall he~~ permit to become public any financial statement, report or finding affecting the status, standing or rights of any such employe welfare fund, until a copy thereof has been served upon ~~such the~~ employe welfare fund, nor until ~~such the~~ employe welfare fund has been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

(3) The commissioner may assemble and file for public inspection ~~such the~~ information covering forms of trust indentures in use, commission and fee schedules adopted by insurers and compensation paid to trustees of employe welfare funds and ~~such other~~ matters affecting the establishment and administration of such funds as, in ~~his the commissioner's~~ opinion, are in the public interest.

SECTION 189. 641.12 (1) of the statutes is amended to read:

641.12 (1) The expenses of every examination of the affairs of any employe welfare fund required to register under this chapter, including any appraisal of real property, shall be borne and paid by the employe welfare fund so examined but the commissioner may in his ~~or her~~ discretion remit in whole or in part such charges upon showing of extreme financial hardship. For any such examination by the commissioner or a deputy commissioner personally, the charge made shall be only for necessary traveling expenses and other actual expenses. In all other cases the expenses of examination shall also include reimbursement for the compensation paid for the services of persons employed by the commissioner or by ~~his the commissioner's~~ authority to make ~~such the~~ examination or appraisal. All charges incurred by ~~or on behalf of~~ the commissioner ~~or in his behalf~~, including necessary traveling and other actual expenses, as duly audited and paid to the person or persons making the examination or appraisal, shall be presented to the trustees of the employe welfare fund so examined in the form of a copy of the itemized bill therefor as certified and approved by the commissioner or a deputy commissioner. Upon receiving ~~such the~~ certified copy ~~such the~~ trustees shall pay the amount thereof to the commissioner to be paid by ~~him the commissioner~~ into the state treasury.

SECTION 190. 641.13 of the statutes is amended to read:

641.13 Annual statement to commissioner. The trustees of every employe welfare fund which covers more than 25 persons employed in this state shall file in the office of the commissioner, annually within 5 months after the close of the fiscal year used in maintaining the records of ~~such~~ the fund, a statement, to be known as the annual statement of ~~such~~ the fund, verified by the oath of its trustee or, if there is more than one trustee, then by the oaths of at least 2 of ~~such~~ the trustees, showing its condition and affairs during ~~such~~ the fiscal year. ~~Such~~ The statement shall be in ~~such~~ the form and contain ~~such~~ substantiation by vouchers and otherwise and ~~such~~ any other information as the commissioner from time to time prescribes. The commissioner shall cause to be prepared and furnished to the trustees of every employe welfare fund, required by law to report ~~to him~~ under this section, printed forms of the required statements and schedules ~~required by him~~. For good cause, ~~he~~ the commissioner may grant reasonable extensions of time for filing under this subsection, not to exceed 90 days.

SECTION 191. 641.14 of the statutes is amended to read:

641.14 Special statements to commissioner. In addition to any other statements or reports required by this chapter, the commissioner may also address to the trustees of any employe welfare fund or to their officers, agents or employes any inquiry in relation to the transactions or condition of the fund or any matter connected therewith. Every person so addressed shall reply in writing to ~~such~~ the inquiry promptly and truthfully, and ~~such~~ the reply shall be verified, if required by the commissioner, by ~~such~~ the individual or individuals ~~as he shall designate~~ the commissioner designates.

SECTION 192. 641.15 of the statutes is amended to read:

641.15 Reports to employers and employes. The annual statement and ~~such~~ any other statements as the commissioner requires shall be kept on file with the commissioner and at the principal office of the trustees ~~and such statement~~. The statements or such the portion thereof as the commissioner deems appropriate and relevant, shall be made available by the commissioner or by the trustees, or both, for inspection by any employer contributing to ~~such~~ the fund, by any labor organization which is a party to an agreement establishing ~~such~~ the fund, or by any employe covered by ~~such~~ the fund. In addition to ~~such~~ the extent that he or she deems it to be in the public interest, the commissioner may require the trustees to mail ~~such statement~~ the statements, or ~~such~~ the portions thereof as the commissioner deems appropriate and relevant, to employes covered by the fund, to contributing employers or to any labor organization which is a party to an agreement establishing ~~such~~ the fund, ~~or to any or all such parties~~.

SECTION 193. 641.18 of the statutes is amended to read:

641.18 Regulation under other laws. The commissioner may waive examination of any welfare fund which is not located in this state but which is required to register under this chapter, upon being furnished with a certified copy of a report of examination made under the jurisdiction of the proper supervisory official of another state or the federal government which indicates adequate compliance with all of the requirements of this state that would otherwise be determined by an examination directed by the commissioner. Application for ~~such~~ the waiver shall be made in writing to the commissioner on ~~such~~ the form ~~as he may require~~ the commissioner requires and any waiver issued by ~~him~~ the commissioner shall be in writing and shall be of record in his or her office. No waiver ~~shall bar~~ bars the commissioner from investigating any matter not included within the scope of the examination or which is not reported upon to ~~his~~ the commissioner's satisfaction to accomplish the purposes of this chapter in respect to the interests of the employes and employers in this state. The action of the commissioner pursuant to this section shall be subject to judicial review.

SECTION 194. 641.19 (2) (a), (5) and (6) of the statutes are amended to read:

641.19 (2) (a) No trustee, employer or labor organization representing any employees eligible for benefits under an employee welfare plan provided by an employee welfare fund required to register under this chapter, and no officer, agent or employee of any such trustee, employer or labor organization ~~shall~~ may receive, directly or indirectly, any payment, commission, loan, service or any other thing of value from any insurance company, insurance agent, insurance broker or any hospital, surgical or medical service plan, in connection with the solicitation, sale, service or administration of a contract providing employee benefits for ~~such~~ the fund, or receive any payment, commission, loan, service or any other thing of value from ~~such~~ the employee welfare fund, or which is charged against ~~such~~ the fund or would otherwise be payable to ~~such~~ the fund either directly or indirectly, except that any such person may receive any benefits under an employee welfare plan to which he or she is otherwise entitled, and any such trustee, or his or her officer, agent or employee, may receive from ~~such~~ the employee welfare fund reasonable compensation for necessary services and expenses rendered or incurred by him or her in connection with his or her official duties ~~as such; provided that nothing~~ Nothing in this section ~~shall affect~~ affects the payment of any dividend or rate credit or other adjustment due under the terms of any insurance or annuity contract to the policyholder or contract holder.

(5) In any case where, after notice and a hearing, the commissioner finds that any employee welfare fund has been depleted by reason of any wrongful or negligent act or omission of a trustee or of any other person, ~~he~~ the commissioner may transmit a copy of ~~his~~ the findings to the attorney general, who may bring an action in the name of the people of the state, or intervene in an action brought by or on behalf of an employee, for the recovery of ~~such~~ the fund for the benefit of the employees and ~~such~~ other persons ~~as may~~ who have an interest in the fund.

(6) If any trustee, agent or employee of an employee welfare fund fails or refuses to register ~~such~~ the fund or to file the annual statement or any special statement required under this chapter, within the time prescribed for ~~such~~ the filing, after 20 days' notice from the commissioner he or she shall be subject, at the discretion of the commissioner, to a forfeiture of \$5 per day for each and every day of default, but not to exceed \$500 for any default, and the commissioner may maintain an action in the name of the state to recover ~~such~~ the forfeiture, and the ~~same~~ forfeiture shall be paid into the state treasury. ~~A No~~ No forfeiture imposed under this section upon any trustee ~~shall not~~ may be recovered from the fund.

SECTION 195. 645.01 (4) (e) of the statutes is amended to read:

645.01 (4) (e) Lessening the problems of interstate rehabilitation and liquidation by facilitating ~~co-operation~~ cooperation between states in the liquidation process, and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state; and

SECTION 196. 645.07 (title) and (1) (intro.) of the statutes are amended to read:

645.07 (title) Cooperation of officers and employees. (1) (title) DUTY TO COOPERATE. (intro.) Any officer, manager, trustee or general agent of any insurer and any other person with executive authority over or in charge of any segment of the insurer's affairs shall ~~co-operate~~ cooperate with the commissioner in any proceeding under this chapter or any investigation preliminary or incidental to the proceeding. "~~To co-operate~~ cooperate" includes, ~~but is not limited to the following:~~

SECTION 197. 645.09 (2) (b) of the statutes is amended to read:

645.09 (2) (b) *Final study.* The commissioner shall include in his or her annual report, not later than the 2nd annual report following discharge of the receiver, a detailed study of the delinquency proceeding for each insurer subjected to a formal proceeding, with an analysis of the problems faced and their solutions. ~~He~~ The commissioner shall also suggest alternative solutions, as well as other material of interest, for the purpose of assisting and guiding liquidators or rehabilitators in the future. For this purpose the

commissioner may appoint a special assistant qualified to conduct the study and prepare the analysis, and may determine his or her compensation, which shall be paid from the appropriation under s. 20.145 (1) (g).

SECTION 198. 645.21 (2) of the statutes is amended to read:

645.21 (2) SUMMARY ORDER BEFORE HEARING. If the conditions of sub. (1) are satisfied, and if it appears to the commissioner that irreparable harm to the property or business of the insurer or to the interests of its policyholders, creditors or the issues public may occur unless ~~he~~ the commissioner issues with immediate effect the orders described in sub. (1), ~~he~~ the commissioner may make and serve such orders without notice and before hearing, simultaneously serving upon the insurer notice of hearing under s. 601.62.

SECTION 199. 645.23 (1) and (3) of the statutes are amended to read:

645.23 (1) ISSUANCE. If it appears to the commissioner that the interests of creditors, policyholders or the public will be endangered by the delay incident to asking for a court seizure order, then on any ground that would justify a court seizure order under s. 645.22, without notice and without applying to the court, ~~he~~ the commissioner may issue seizure order which must contain a verified statement of the grounds ~~of his~~ for the action. As directed by the seizure order, the commissioner's representatives shall forthwith take possession and control of all or part of the property, books, accounts, documents and other records of the insurer, and of the premises occupied by the insurer for the transaction of its business. The commissioner shall retain possession and control until the order is vacated or is replaced by an order of the court pursuant to a proceeding commenced under sub. (2) or a formal proceeding under this chapter.

(3) DUTY TO ASSIST COMMISSIONER. Every law enforcement officer shall assist the commissioner in making and enforcing any such seizure, and every sheriff's and police department shall furnish ~~him~~ the commissioner with such deputies, patrolmen or officers as are necessary to assist ~~him~~ in the seizure.

SECTION 200. 645.24 (3) and (4) of the statutes are amended to read:

645.24 (3) RECORDS. In all summary proceedings and judicial reviews thereof, all records of the company, other documents, and all office of the commissioner of insurance files and court records and papers, so far as they pertain to or are a part of the record of the summary proceedings, shall be and remain confidential except as is necessary to obtain compliance therewith, unless the court, after hearing arguments from the parties in chambers, ~~shall order orders~~ otherwise, or unless the insurer requests that the matter be made public. Until ~~such~~ the court order ~~is issued~~, all papers filed with the clerk of the court shall be held by ~~him~~ the clerk in a confidential file.

(4) PARTIES. If at any time it appears to the court that any person whose interest is or will be substantially affected by an order did not appear at the hearing and has not been served, the court may order that notice be given and the proceedings be adjourned to give ~~him~~ the person opportunity to appear on ~~such~~ just terms ~~as may be just~~.

SECTION 201. 645.31 (intro.) and (1) of the statutes are amended to read:

645.31 Grounds for rehabilitation. (intro.) The commissioner may apply by verified petition to the circuit court for Dane county or for the county in which the principal office of the insurer is located for an order directing ~~him to rehabilitate~~ rehabilitation of a domestic insurer or an alien insurer domiciled in this state on any one or more of the following grounds:

(1) Any ground on which ~~he~~ the commissioner may apply for an order of liquidation under s. 645.41, whenever ~~he~~ or she believes that the insurer may be successfully rehabilitated without substantial increase in the risk of loss to creditors of the insurer or to the public;

SECTION 202. 645.33 (2) of the statutes is amended to read:

645.33 (2) GENERAL POWER. Subject to court approval, the rehabilitator may take ~~such the~~ action as he or she deems necessary or expedient to reform and revitalize the insurer. ~~He~~ The rehabilitator shall have all the powers of the officers and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. ~~He~~ The rehabilitator shall have full power to direct and manage, to hire and discharge employes subject to any contract rights they may have, and to deal with the property and business of the insurer.

SECTION 203. 645.42 (1) of the statutes is amended to read:

645.42 (1) ORDER TO LIQUIDATE. An order to liquidate the business of a domestic insurer shall appoint the commissioner and his or her successors in office liquidator and shall direct the liquidator forthwith to take possession of the assets of the insurer and to administer them under the orders of the court. The liquidator shall be vested by operation of law with the title to all of the property, contracts and rights of action and all of the books and records of the insurer ordered liquidated, wherever located, as of the date of the filing of the petition for liquidation. ~~He~~ The liquidator may recover and reduce the same to possession except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are prescribed in s. 645.84 (3) for ancillary receivers appointed in this state as to assets located in this state. The filing or recording of the order with any register of deeds in this state imparts the same notice as a deed, bill of sale or other evidence of title duly filed or recorded with that register of deeds.

SECTION 204. 645.44 of the statutes is amended to read:

645.44 Dissolution of insurer. The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the U.S. branch of an alien insurer domiciled in this state at the time ~~he~~ of the application for a liquidation order. If the court issues a liquidation order, it also shall order dissolution if the commissioner has petitioned for it. The court shall order dissolution of the corporation upon petition by the commissioner at any time after a liquidation order has been granted. If the dissolution has not previously occurred, it shall be effected by operation of law upon the discharge of the liquidator.

SECTION 205. 645.45 (2) of the statutes is amended to read:

645.45 (2) COMPLIANCE WITH FEDERAL REQUIREMENTS. If the commissioner is appointed receiver under this section, ~~he~~ the commissioner shall comply with any requirements necessary to give him or her title to and control over the assets and affairs of the insurer.

SECTION 206. 645.46 (1), (5), (6), (9), (12) and (23) of the statutes are amended to read:

645.46 (1) Appoint a special deputy to act for ~~him~~ the liquidator under this chapter, and determine ~~his~~ the special deputy's compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to his or her testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, records or other documents which ~~he~~ the liquidator deems relevant to the inquiry.

(6) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts; ~~do such~~ perform any other acts ~~as are~~ necessary or expedient to collect, conserve or protect its assets or property, including sell, compound, compromise or assign for purposes of collection, upon

such terms and conditions as he or she deems best, any bad or doubtful debts; and pursue any creditor's remedies available to enforce his or her claims.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with any property of the insurer at its market value or upon ~~such fair and reasonable~~ terms and conditions ~~as are fair and reasonable~~, except that no transaction involving property the market value of which exceeds \$10,000 shall be concluded without express permission of the court. ~~He~~ The liquidator also may execute, acknowledge and deliver any deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the register of deeds for the county in which the property is located a certified copy of the order ~~appointing him~~ of appointment.

(12) Continue to prosecute and institute in the name of the insurer or in his or her own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims he or she deems unprofitable to pursue further. If the insurer is dissolved under s. 645.44, ~~he~~ the liquidator may apply to any court in this state or elsewhere for leave to substitute himself or herself for the insurer as plaintiff.

(23) The enumeration in this section of the powers and authority of the liquidator is not a limitation upon ~~him the liquidator~~, ~~nor and~~ does it ~~not~~ exclude ~~his the~~ right to do ~~such~~ other acts not herein specifically enumerated or otherwise provided for ~~as which~~ are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

SECTION 207. 645.48 (1) of the statutes is amended to read:

645.48 (1) WRITTEN NOTICE. Every person who receives notice in the form prescribed in s. 645.47 that an insurer which ~~he the person~~ represents as an independent agent is the subject of a liquidation order shall as soon as practicable give notice of the liquidation order. The notice shall be sent by first class mail to the last address contained in the agent's records to each policyholder or other person named in any policy issued through the agent by the company, if ~~he the agent~~ has a record of the address of the policyholder or other person. A policy shall be deemed issued through an agent if the agent has a property interest in the expiration of the policy; or if the agent has had in his or her possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another. The written notice shall include the name and address of the insurer, the name and address of the agent, identification of the policy impaired and the nature of the impairment under s. 645.43. Notice by a general agent satisfies the notice requirement for any agents under contract to ~~him the general agent~~.

SECTION 208. 645.49 (1) of the statutes is amended to read:

645.49 (1) TERMINATION OF ACTIONS AGAINST INSURER BY ORDER APPOINTING LIQUIDATOR. Upon issuance of any order appointing the commissioner liquidator of a domestic insurer or of an alien insurer domiciled in this state, all actions and all proceedings against the insurer whether in this state or elsewhere shall be abated and the liquidator shall not intervene in them, except as provided in this subsection. Whenever in the liquidator's judgment an action in this state has proceeded to a point where fairness or convenience would be served by its continuation to judgment, ~~he the liquidator~~ may apply to the court for leave to defend or to be substituted for the insurer, and if the court ~~gives him leave grants the application~~, the action shall not be abated. Whenever in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, with approval of the court ~~he the liquidator~~ may intervene in the action. The liquidator may defend at the expense of the estate of the insurer any action in which he or she intervenes under this section at the expense of the estate of the insurer.

SECTION 209. 645.54 (1) (b) of the statutes is amended to read:

645.54 (1) (b) *Invalidation of preferences.* Any preference may be avoided by the liquidator, if 1) the insurer was insolvent at the time of the transfer, or 2) the transfer was made within 4 months before the filing of the petition, or 3) the creditor receiving it or to be benefited thereby or his or her agent acting with reference thereto had reasonable cause to believe at the time when the transfer was made that the insurer was insolvent or was about to become insolvent, or 4) the creditor receiving it was an officer, employe, attorney or other person who was in fact in a position of comparable influence in the insurer to an officer whether or not he or she held such position, or any shareholder holding directly or indirectly more than 5% of any class of any equity security issued by the insurer, or any other person with whom the insurer did not deal at arm's length. Where the preference is voidable, the liquidator may recover the property or, if it has been converted, its value from any person who has received or converted the property, except a bona fide purchaser from or lienor of the debtor's transferee for a present fair equivalent value. Where the bona fide purchaser or lienor has given less than fair equivalent value, he or she shall have a lien upon the property to the extent of the consideration actually given by him or her. Where a preference by way of lien or security title is voidable, the court may on due notice order the lien or title to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

SECTION 210. 645.55 (1) of the statutes is amended to read:

645.55 (1) **DISALLOWANCE FOR FAILURE TO SURRENDER PROPERTY.** No claims of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment or encumbrance, voidable under this chapter, ~~shall~~ may be allowed unless ~~he~~ the creditor surrenders the preference, lien, conveyance, transfer, assignment or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within 30 days from the date of the entering of the final judgment, except that the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

SECTION 211. 645.56 (2) (a) of the statutes is amended to read:

645.56 (2) (a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle ~~him~~ the person to share as a claimant in the assets of the insurer;

SECTION 212. 645.57 (4) and (5) (a) of the statutes are amended to read:

645.57 (4) **NOTICE.** The liquidator shall give notice of the order to show cause by publication if so directed by the court and by first class mail to each member liable thereunder mailed at least 20 days before the return day of the order to show cause to ~~his last known~~ the member's last-known address as it appears on the records of the insurer.

(5) (a) If a member does not appear and serve duly verified objections upon the liquidator upon the return day of the order to show cause under sub. (3), the court shall make an order adjudging the member liable to the liquidator for the amount of the assessment against ~~him~~ the member and other indebtedness, ~~pursuant to~~ under sub. (3), together with costs, ~~and the liquidator shall have a judgment against the member therefor.~~

SECTION 213. 645.61 (2) (intro.) and (a) and (3) of the statutes are amended to read:

645.61 (2) (intro.) **EXCUSED LATE FILINGS.** For a good cause shown, the liquidator shall recommend and the court shall permit a claimant making a late filing to share in dividends, whether past or future, as if ~~he~~ the claim were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

(a) That existence of a claim was not known to the claimant and ~~that he~~ which the claimant filed within 30 days after ~~he learned~~ learning of it;

(3) UNEXCUSED LATE FILINGS. The liquidator may consider any claim filed late which is not covered by sub. (2), and permit it to receive dividends, other than the first dividend, which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive, at each distribution, the same percentage of the amount allowed on ~~his~~ the late claim as is then being paid to other claimants of the same priority plus the same percentage of the amount allowed on ~~his~~ the late claim as is then being paid to claimants of any lower priority. This shall continue until ~~his~~ the late claim has been paid in full.

SECTION 214. 645.62 (1) (a) 8 of the statutes is amended to read:

645.62 (1) (a) 8. The name and address of the claimant and the attorney, if any, who represents ~~him~~, if any the claimant.

SECTION 215. 645.63 (1) of the statutes is amended to read:

645.63 (1) CLAIMS CONTINGENT ON JUDGMENTS. The claim of a ~~third~~ 3rd party which is contingent only on ~~his~~ the party's first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency.

SECTION 216. 645.64 (2) and (3) of the statutes are amended to read:

645.64 (2) INSURED'S CLAIM. Whether or not the ~~third~~ 3rd party files a claim, the insured may file a claim on his or her own behalf in the liquidation. If the insured fails to file a claim by the date for filing claims specified in the order of liquidation or within 60 days after mailing of the notice required by s. 645.47 (1) (b), whichever is later, ~~he~~ the insured is an unexcused late filer.

(3) PROCEDURE FOR INSURED'S CLAIM. The liquidator shall make ~~his~~ recommendations to the court under s. 645.71 for the allowance of an insured's claim under sub. (2) after consideration of the probable outcome of any pending action against the insured on which the claim is based, the probable damages recoverable in the action and the probable costs and expenses of defense. After allowance by the court, the liquidator shall withhold any dividends payable on the claim, pending the outcome of litigation and negotiation with the insured. Whenever it seems appropriate, ~~he~~ the liquidator shall reconsider the claim on the basis of additional information and amend ~~his~~ the recommendations to the court. The insured shall be afforded the same notice and opportunity to be heard on all changes in the recommendation as in its initial determination. The court may amend its allowance as it thinks appropriate. As claims against the insured are settled or barred, the insured shall be paid from the amount withheld the same percentage dividend as was paid on other claims of like priority, based on the lesser of a) the amount actually recovered from the insured by action or paid by agreement plus the reasonable costs and expenses of defense, or b) the amount allowed on the claims by the court. After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed assets of the insurer. Delay in final payment under this subsection shall not be a reason for unreasonable delay of final distribution and discharge of the liquidator.

SECTION 217. 645.65 (1) of the statutes is amended to read:

645.65 (1) NOTICE OF REJECTION AND REQUEST FOR HEARING. When a claim is denied in whole or in part by the liquidator, written notice of the determination and of the right to object shall be given promptly to the claimant and ~~his~~ the claimant's attorney by first class mail at the address shown in the proof of claim. Within 60 days from the mailing of the notice, the claimant may file his objections with the court. If ~~no such filing is made~~ objections are not filed within that period, the claimant may not further object to the determination.

SECTION 218. 645.66 of the statutes is amended to read:

645.66 Claims of surety. Whenever a creditor whose claim against an insurer is secured in whole or in part by the undertaking of another person fails to prove and file that claim, the other person may do so in the creditor's name, and ~~shall be~~ is subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name, to the extent that ~~he~~ the other person discharges the undertaking. In the absence of an agreement with the creditor to the contrary, the other person shall not be entitled to any dividend until the amount paid to the creditor on the undertaking plus the dividends paid on the claim from the insurer's estate to the creditor equals the amount of the entire claim of the creditor. Any excess received by the creditor shall be held ~~by him~~ in trust for such other person.

SECTION 219. 645.71 (1) of the statutes is amended to read:

645.71 (1) **RECOMMENDED CLAIMS.** The liquidator shall review all claims duly filed in the liquidation and shall make ~~such~~ all further investigation as ~~he deems necessary~~ deemed necessary by the liquidator. ~~He~~ The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court. Unresolved disputes shall be determined under s. 645.65. As often as practicable, ~~he~~ the liquidator shall present to the court reports of claims against the insurer with his or her recommendations. The liquidator shall notify claimants of the liquidator's recommendations. The reports shall include the name and address of each claimant, the particulars of the claim and the amount of the claim finally recommended, if any. As soon as reasonably possible after the last day for filing claims, ~~he~~ the liquidator shall present a list of all claims not already reported. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment values and the amounts owed. If the insurer has issued policies on the advance premium plan, the liquidator shall report the persons to whom, according to the records of the insurer, unearned premiums are owed and the amounts owed.

SECTION 220. 645.73 (1) of the statutes is amended to read:

645.73 (1) **UNCLAIMED FUNDS.** All unclaimed funds subject to distribution remaining in the liquidator's hands when ~~he~~ or she is ready to apply to the court for discharge, including the amount distributable to any creditor, shareholder, member or other person who is unknown or cannot be found or who is under disability with no person legally competent to receive ~~his~~ a distributive share, shall be deposited with the state treasurer, and shall be paid over without interest except in accordance with s. 645.68 to the person entitled thereto or his or her legal representative upon proof satisfactory to the state treasurer of his or her right thereto. Any amount on deposit not claimed within 6 years from the discharge of the liquidator is deemed abandoned and shall become the property of the state. The state treasurer shall at the end of each fiscal year transfer these amounts to the common school fund.

SECTION 221. 645.83 (1) of the statutes is amended to read:

645.83 (1) **PROPERTY RIGHTS AND TITLE: RECIPROCAL STATE.** The domiciliary liquidator of an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books, accounts and other records of the insurer located in this state. The date of vesting shall be the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state; otherwise, the date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator shall have the immediate right to recover balances due from agents and to obtain possession of the books, accounts and other records of the insurer located in this state. ~~He also shall have the right to~~ The domiciliary liquidator may also recover the other assets of the insurer located in this state, subject to s. 645.84 (2).

SECTION 222. 645.84 (3) of the statutes is amended to read:

645.84 (3) **PROPERTY RIGHTS AND TITLE: ANCILLARY RECEIVERS IN THIS STATE.** When a domiciliary liquidator has been appointed in a reciprocal state, the ancillary receiver appointed in this state under sub. (1) shall have the sole right to recover all the assets of the insurer in this state not already recovered by the domiciliary liquidator, except that the domiciliary liquidator shall be entitled to and have the sole right to recover balances due from agents and the books, accounts and other records of the insurer. The ancillary receiver shall have the right to recover balances due from agents and books, accounts and other records of the insurer, if such action is necessary to protect the assets because of inaction by the domiciliary liquidator. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. ~~He~~ The ancillary receiver shall promptly transfer all remaining assets to the domiciliary liquidator. Subject to this section, the ancillary receiver and ~~his~~ the ancillary receiver's deputies shall have the same powers and be subject to the same duties with respect to the administration of assets as a liquidator of an insurer domiciled in this state.

SECTION 223. 645.85 of the statutes is amended to read:

645.85 Ancillary summary proceedings. The commissioner in his or her sole discretion may institute proceedings under ss. 645.21 to 645.23 at the request of the commissioner or other appropriate official of the domiciliary state of any ~~foreign or alien~~ nondomestic insurer having property located in this state.

SECTION 224. 645.87 (2) of the statutes is amended to read:

645.87 (2) **PROVING CLAIMS.** Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state or in ancillary proceedings, if any, in this state. If a claimant elects to prove his or her claim in this state, ~~he~~ the claimant shall file ~~his~~ the claim with the court in the manner provided in ss. 645.61 and 645.62. The ancillary receiver shall make his or her recommendation to the court as under s. 645.71. ~~He~~ The ancillary receiver also shall arrange a date for hearing if necessary under s. 645.65 and shall give notice to the liquidator in the domiciliary state, either by registered mail or by personal service at least 40 days prior to the date set for hearing. If the domiciliary liquidator, within 30 days after the giving of such notice, gives notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his or her intention to contest the claim, ~~he~~ the domiciliary liquidator shall be entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

SECTION 225. 645.89 (3) of the statutes is amended to read:

645.89 (3) **PRIORITY OF SECURED CLAIMS.** The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender ~~his~~ the security for the claim and file ~~his~~ the claim as a general creditor, or the claim may be discharged by resort to the security in accordance with s. 645.67, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors.

SECTION 226. 646.01 (1) of the statutes is amended to read:

646.01 (1) **SCOPE.** This chapter ~~shall apply~~ applies to all:

(a) All kinds and lines of direct insurance, except variable annuities and variable value life insurance contracts, ~~and to all~~.

(b) All insurers authorized to do business in this state except ~~fraternals, assessable mutual corporations~~:

2. Assessable mutuals, including town mutuals, ~~issuers~~.
3. Issuers of gift annuities under ch. 615, ~~service~~.
4. Service insurance corporations under ch. 613 ~~and state~~.
5. State insurance funds.

SECTION 227. 646.01 (1) (b) 1, 6 and 7 of the statutes are created to read:

646.01 (1) (b) 1. Fraternal.

6. Municipal mutuals under s. 611.23.

7. Insurers and motor clubs under ch. 616.

SECTION 228. 646.04 of the statutes is amended to read:

646.04 Custody of assets. The treasurer shall be custodian of the fund. ~~He~~ The treasurer shall not receive additional compensation for ~~his~~ services as custodian, but ~~his or her~~ reasonable and necessary expenses in performing ~~his~~ duties as custodian shall be charged to the fund.

SECTION 229. 646.11 (2) (c) 2 of the statutes is amended to read:

646.11 (2) (c) 2. The claim is for bodily or personal injuries suffered in this state or by a person who when ~~he suffered~~ suffering the injuries was a resident of this state; or

SECTION 230. 646.12 (3) of the statutes is amended to read:

646.12 (3) **INELIGIBLE CLAIMS.** If the administrator finds that a claim for which the claimant has requested payment out of the fund is not eligible under s. 646.11 or the board reduces the amount of the award under sub. (2), the administrator shall notify the claimant in writing and advise ~~him~~ the claimant of his or her rights under s. 646.13.

SECTION 231. 646.14 (2) of the statutes is amended to read:

646.14 (2) **COOPERATION.** The claimant shall cooperate with the fund in pursuing its rights under sub. (1) and if cooperation is unreasonably withheld, the fund shall have a right to recover ~~from any payment made to the claimant~~ any payment made to him.

SECTION 232. 646.21 (2) of the statutes is amended to read:

646.21 (2) **EXEMPTIONS FROM ASSESSMENTS.** If the commissioner finds that a ~~foreign or alien~~ nondomestic insurer is subject to another guaranty fund plan providing substantially the same protection to claimants under s. 646.11 as would be provided by this chapter, ~~he the commissioner~~ shall exempt the insurer from assessments on the classes of business to which the other plan applies.

SECTION 233. 646.31 of the statutes is amended to read:

646.31 Unfair trade practices. It is an unfair trade practice for any insurer or agent to make use in any manner of the protection given policyholders by this chapter as a reason for buying insurance from ~~him~~ the insurer or agent.

SECTION 234. 801.11 (5) (d) of the statutes is amended to read:

801.11 (5) (d) If against any ~~domestic or foreign insurance corporation~~ insurer, to any agent of ~~such corporation~~ the insurer as defined by ~~the insurance code of this state s. 628.02~~. Service upon ~~such an agent of a domestic or foreign insurance corporation~~ the insurer is not valid unless a copy of the summons and proof of service is sent by registered mail to the principal place of business of ~~such corporation~~ the insurer within 5 days after service upon the agent. Service upon any ~~domestic or foreign insurance corporation~~ insurer may also be made under par. (a).

SECTION 235. **Program responsibilities.** In the list of program responsibilities specified for the office of the commissioner of insurance in section 15.731 of the statutes, references to sections "13.50", "13.51", "15.165 (2) and (3)", "15.947 (1)", "16.865 (4)", "76.60 to 76.69", "138.055 (4) (c)", "424.205 (4)" and "424.402" are inserted.

NOTE: At present, the administration of all tax laws is recognized as a program responsibility of the department of revenue (s. 15.431). This bill recognizes that the administration of ss. 76.60 to 76.69, the insurance tax provisions, rests with the office of the commissioner of insurance.

SECTION 236. Term changes. (1) Wherever in the following sections of the statutes the term “chapter” is found, the term “subchapter” is substituted: 76.01, 76.02 (11), (11a) and (13), 76.03 (3), 76.05 (2), 76.06, 76.09, 76.11 (2), 76.14, 76.18, 76.24 (intro.) and 76.25.

(2) Wherever in the following sections of the statutes the term “foreign or alien” is found, the term “nondomestic” is substituted: 617.11 (2) and 617.22 (4).

(3) Wherever in the following sections of the statutes the term “insurance carrier”, “insurance company” or “insurance corporation” is found, the term “insurer” is substituted: 40.20 (2), 66.191 (6), 71.01 (4) (a) 10, (b) 1 and (g), 71.03 (1) (g) 3, 76.61 as renumbered, 102.13 (1), 144.86 (2), 225.02 (1), 289.80 (3) (c), 344.31, 344.32 (1) (a) and (b) and (2), 344.33 (5) (a) to (c) and (7), 344.34, 440.26 (7) (a), 551.02 (13) (b), 551.23 (8) and 801.50 (5).

(4) Wherever in the following sections of the statutes the term “insurance carriers”, “insurance companies” or “insurance corporations” is found, the term “insurers” is substituted: 20.515 (1) (wm), 40.01 (2) (b) and (c), 40.25, 46.10 (9), 59.071 (2), 71.01 (4) (b) 4, (c) (intro.), (d) and (e), 76.61 (title) as renumbered, 218.04 (1) (f), 225.05 (2) (intro.), 227.01 (11) (o), 344.33 (9), 601.32 (1) and 801.50 (5) (title).

(5) Wherever in the following sections of the statutes the term “he” is found, the term “he or she” is substituted: 601.64 (4), 604.04 (6), 611.20 (2) (a) (intro.) and (4) (a) (intro.), 611.24 (2), 611.28 (2), 611.32 (2) (b) (intro.), 611.33 (1) (a) 1 and 2 and (2) (a) 2, 611.35, 611.42 (5), 611.51 (2) (c), 611.72 (3), 611.75 (4) (intro.), 611.76 (3) (a) (intro.), (4) (intro.) and (7), 611.77, 612.02 (2) (c), 612.04 (3) (intro.), 612.31 (2) (c), 612.33 (2) (b), (d) 1, and (e), 612.34 (2), 612.51 (1) (intro.), 617.11 (5), 617.23 (3) (a) and (b), 618.12 (4), 618.22 (2) (intro.), 618.23 (2), 618.36 (3) (intro.) and (4), 618.42 (2), 618.47 (3), 645.45 (1), 645.51 (2), 645.53 (2) (c), 645.54 (11) (a) and 645.68 (6).

(6) Wherever in the following sections of the statutes the term “he” is found, the term “the commissioner” is substituted: 601.04 (3), 601.43 (2) (b), 601.44 (4) and (6), 601.47 (1), 601.61, 611.11 (3), 611.54 (3), 612.25 (4), 617.03, 617.21 (3), 618.12 (2) (intro.), 618.24 (1) (c), 618.31 (2) (b), 618.41 (11), 619.01 (5), 620.03 (2) and (3), 620.04 (1), 620.23 (5), 625.04, 625.22 (1), 645.41 (1) and 645.84 (1) (a).

(7) Wherever in the following sections of the statutes the term “He” is found, the term “The commissioner” is substituted: 612.02 (5) (c), 612.24 (3), 618.36 (5), 623.03 and 646.02 (3).

(8) Wherever in the following sections of the statutes the term “he” is found, the term “the person” is substituted: 601.42 (4), 618.42 (3) (c), 618.44 and 618.47 (1) (intro.).

(9) Wherever in the following section of the statutes the term “he” is found, the term “the examinee” is substituted: 601.43 (5).

(10) Wherever in the following section of the statutes the term “he” is found, the term “the rehabilitator” is substituted: 645.35 (1).

(11) Wherever in the following section of the statutes the term “he” is found, the term “the liquidator” is substituted: 645.46 (intro.).

(12) Wherever in the following section of the statutes the term “he” is found, the term “the administrator” is substituted: 646.12 (2).

(13) Wherever in the following sections of the statutes the term “his” is found, the term “his or her” is substituted: 604.04 (1), 611.31 (5), 611.63 (5) (b), 611.76 (4) (c), 612.10 (1), 612.15 (2), 612.31 (5), 612.32 (1), 612.33 (2) (c), 612.54 (5) (a), 618.41

(10), 641.19 (4) (b), 645.09 (1) (intro.) and (2), 645.31 (6), 645.32 (1), 645.53 (2) (b), 645.54 (1) (a), 645.67 (2), 645.72 (2) (b), 645.90 and 646.21 (3).

(14) Wherever in the following sections of the statutes the term "his" appears, the term "the commissioner's" is substituted: 601.19, 601.48 (1), 611.15, 645.08, 645.09 (1) (a) and 645.31 (7).

(15) Wherever in the following sections of the statutes the term "his" is found, the term "the person's" is substituted: 605.24 (1) and 645.07 (1) (b).

(16) Wherever in the following section of the statutes the term "his" is found, the term "the claimant's" is substituted: 646.13 (1).

(17) Wherever in the following section of the statutes the term "his" is found, the term "the examinee's" is substituted: 601.44 (5).

(18) Wherever in the following section of the statutes the term "his" is found, the term "the insurer's" is substituted: 601.72 (2).

(19) Wherever in the following section of the statutes the term "his" is found, the term "the manager's" is substituted: 607.07 (2).

(20) Wherever in the following sections of the statutes the term "him" is found, the term "him or her" is substituted: 611.63 (5) (a), 611.73 (4), 617.21 (2) (intro.), 645.41 (intro.), 645.54 (9) and 645.81 (1) (intro.).

(21) Wherever in the following sections of the statutes the term "him" is found, the term "the commissioner" is substituted: 601.42 (1) (c) and (5), 611.41 (1), 611.60 (3), 612.54 (2), 618.25 (3), 618.41 (4), 625.22 (4), 625.34 and 645.82 (1) (intro.).

(22) Wherever in the following sections of the statutes the term "him" is found, the term "that person" is substituted: 600.03 (13) and 600.13 (1).

(23) Wherever in the following section of the statutes the term "him" is found, the term "the treasurer" is substituted: 645.73 (2).

(24) Wherever in the following section of the statutes the term "him" is found, the term "the claimant" is substituted: 645.63 (2).

SECTION 237. Cross reference changes. In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
15.251 (intro.)	76.37 (4)	76.68 (4)
20.435 (1) (c)	58.06 (2)	58.06
46.10 (2m)	58.06 (2)	58.06
49.08 (1)	58.06 (2)	58.06
66.94 (5) (c)	ch. 76	subch. I of ch. 76
66.98 (1)	ch. 76	subch. I of ch. 76
76.37 (1)	601.31 (2)	601.31 (1) (b)
76.46 (2)	this chapter	subch. I
146.13 (1)	ch. 76	subch. I of ch. 76
146.14 (2)	ch. 76	subch. I of ch. 76
146.14 (5)	ch. 76	subch. I of ch. 76
601.04 (4)	601.31 (2)	601.31 (1) (b)
601.04 (4)	601.31 (3)	601.31 (1) (c)
601.31 (1) (o) 3, as renumbered by this act	par. (a) or (b)	subd. 1 or 2
601.31 (1) (p) 3, as renumbered by this act	par. (a) or (b)	subd. 1 or 2
601.32 (1)	601.31 (26)	600.03 (27) (c)
601.51 (1)	601.31 (23)	601.31 (1) (y)
601.72 (4)	601.31 (18)	601.31 (1) (t)
610.001 (intro.)	chs. 611 to 614	chs. 611 to 616
610.53 (3)	601.31 (1) (e)	601.31 (1) (d)
611.11 (1)	611.13	this chapter
613.63 (2)	611.63 (3) to (5)	611.63 (3) to (6)
614.80	601.31 (25)	601.31 (2)
616.74 (2)	601.31 (2)	601.31 (1) (b)
618.41 (7) (b)	601.31 (15) (c)	601.31 (1) (o) 3
618.43 (4)	76.37	76.68
626.09 (4)	601.31 (3) (b)	601.31 (1) (c) 2
628.11	601.31 (16)	601.31 (1) (q)
628.31 (2)	601.31 (17m)	601.31 (1) (s)

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630.05 (4), as created by this act	ss. 616.71 to 616.82	subch. II of ch. 616
632.93 (3), as renumbered	subs. (1) to (3)	subs. (1) and (2)
636.04 (2)	601.31 (15) (d)	601.31 (1) (o) 4
646.21 (7)	ch. 76	subch. III of ch. 76

SECTION 238. Reconciliation. The treatment of section 646.01 (1) of the statutes by this act is void if the treatment of section 646.01 (1) of the statutes by 1979 Senate Bill 23 is enacted into law.

SECTION 239. Effective date. (1) The treatment of section 630.05 (4) of the statutes by SECTION 237 of this act takes effect on the day after publication or on the effective date of chapter (Senate Bill 145), laws of 1979, whichever is later, but is void if 1979 Senate Bill 145 is not enacted into law.
