

1983 Senate Bill 120

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1983 Wisconsin Act 120

AN ACT *to repeal* 20.145 (6) and 646.71; *to renumber* 646.31 (3), 646.31 (6) and 646.61; *to amend* 646.01 (1) (a) 1, 646.11 (3), 646.21 (2), 646.31 (2) (b), 646.31 (4), 646.51 (3), 646.51 (6) and 646.61 (title); *to repeal and recreate* 617.21 (5), 646.01 (1) (b) and 646.11 (1) and (2); and *to create* 600.03 (19), 646.01 (1) (a) 2. h and j, 646.31 (3) (b), 646.31 (6) (b), 646.35 (5) and (6), 646.51 (3) (c), 646.51 (8) and 646.61 (2) of the statutes; and *to affect* laws of 1979, chapter 221, sections 2026 (5) (b) and 2204 (26) (c), *relating to* miscellaneous changes affecting the insurance security fund and transactions with affiliates and granting rule-making authority.

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

SECTION 1. 20.145 (6) of the statutes, as affected by chapters 34, 109 and 221, laws of 1979, is repealed.

SECTION 1d. 600.03 (19) of the statutes is created to read:

600.03 (19) "Extraordinary dividend" means any dividend or distribution of cash or other property whose fair market value, together with that of other dividends and distributions made within the preceding 12 months, exceeds 10% of the insurer's surplus as regards policyholders as of the next preceding December 31.

SECTION 1h. 617.21 (5) of the statutes is repealed and recreated to read:

617.21 (5) DIVIDENDS. Subsection (3) does not apply to any of the following:

- (a) Dividends paid to a domestic insurer.
- (b) Dividends paid by a domestic insurer that is a wholly owned subsidiary, either directly or indirectly, of a domestic mutual insurer.
- (c) Dividends that are not extraordinary dividends.

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

646.01 (1) (a) 1. All kinds and lines of direct insurance, except ~~variable annuities and variable value life insurance contracts as provided in par. (b).~~

SECTION 2. 646.01 (1) (a) 2. h and j of the statutes are created to read:

- 646.01 (1) (a) 2. h. Risk retention groups operating under 15 USC 3901 to 3904.
- j. Health maintenance organizations not organized under ch. 611.

SECTION 3. 646.01 (1) (b) of the statutes is repealed and recreated to read:

646.01 (1) (b) *Exceptions*. This chapter does not apply to any of the following:

1. The nonguaranteed provisions of annuities and life insurance contracts.
2. Title insurance.
3. Surety bonds.
4. Bail bonds.
5. Mortgage guaranty insurance.
6. Ocean marine insurance.
7. Credit insurance.
8. Product liability or completed operations liability insurance, and comprehensive general liability including either of these coverages, provided to a purchasing group or a member of a purchasing group operating under 15 USC 3901 to 3904.

SECTION 4. 646.11 (1) and (2) of the statutes, as affected by chapters 102, 109 and 221, laws of 1979, are repealed and recreated to read:

646.11 (1) ORGANIZATION. There is created a fund to be known as the "insurance security fund". All insurers subject to this chapter are contributors to the fund as a result of their authority to transact business in this state. The fund shall consist of all payments made by insurers under s. 646.51, of the earnings resulting from investments under s. 646.21 (2) and of the amounts recovered under s. 645.72 (2).

(2) ACCOUNTS. The fund shall be composed of 5 segregated accounts, one for life insurance, one for annuities, one for disability insurance, one for all other kinds of insurance subject to this chapter and an administrative account.

SECTION 4m. 646.11 (3) of the statutes is amended to read:

646.11 (3) EXPENSES OF FUND. Necessary expenses of administration of the fund incurred in connection with actual liquidations or with continuation of contracts under s. 646.35 shall be charged to the appropriate account of the fund. All other expenses, ~~but not including any portion of the compensation of employees under s. 646.12 (2) (d),~~ shall be charged to the ~~budget of the office of the commissioner~~ administrative account.

SECTION 5. 646.21 (2) of the statutes is amended to read:

646.21 (2) INVESTMENT OF ASSETS. ~~All~~ The board may request that assets of the fund not needed currently shall be invested by the investment board under s. 25.17, unless the court orders otherwise. Investments shall be. If so requested, the investment board shall invest those assets in securities investments with maturities and liquidity appropriate to the probable needs of the fund for money to perform its duties. All income attributable to the investments shall be credited to the fund, and both income and principal shall be transferred to it on request of the board of the fund on request of the board. Assets held by the board of the fund shall be invested in a similar manner.

SECTION 6. 646.31 (2) (b) of the statutes is amended to read:

646.31 (2) (b) *Certain nonresidents.* The claim is made under a life or disability insurance policy or annuity contract subject to this section and issued by a domestic insurer, whether or not the claimant is a resident of this state.

SECTION 7. 646.31 (3) of the statutes is renumbered 646.31 (3) (a).

SECTION 8. 646.31 (3) (b) of the statutes is created to read:

646.31 (3) (b) The board may waive the application of par. (a) to claims under contracts subject to s. 646.35 (2) or (3), to the extent that the board determines that application of par. (a) would be impracticable.

SECTION 9. 646.31 (4) of the statutes is amended to read:

646.31 (4) MAXIMUM CLAIM. ~~The maximum aggregate~~ obligation of the fund on a single claim is risk, loss or life may not exceed \$300,000.

SECTION 10. 646.31 (6) of the statutes is renumbered 646.31 (6) (a).

SECTION 11. 646.31 (6) (b) of the statutes is created to read:

646.31 (6) (b) The board may waive the application of par. (a) to claims under contracts subject to s. 646.35 (2) or (3), to the extent that the board determines that application of par. (a) would be impracticable.

SECTION 12. 646.35 (5) and (6) of the statutes are created to read:

646.35 (5) RATE INCREASES. The board may increase any rates or premiums on policies during continuation of coverage under sub. (2) (b) or (3) (b) to the extent the policies permit the insurer to increase the rates or premiums. If the board determines that the rates or premiums on policies which do not permit an increase or the rates or premiums as increased to the extent permitted by the policies are inadequate under s. 625.11 (3), the board may offer the policyholders the option of terminating the coverage or continuing the coverage at adequate rates or premiums as determined by the board.

(6) LIMITATIONS. In performing its duties under this section:

(a) In the case of an annuity contract, the board may limit its performance to payment of the then current value of the loss claim under s. 645.68 (3) as of the date of the order of liquidation, with interest to the date of payment, in lieu of the requirements of sub. (2) or (3).

(b) In the case of a disability insurance policy which is neither guaranteed renewable nor noncancelable, the board is not obligated to continue the policy in force beyond the time required under s. 645.43 or the date established in the liquidation order of another state, but may continue the coverage under any disability insurance policy for up to 180 days after the date of the liquidation order. The commissioner may adopt rules defining "guaranteed renewable" and "noncancelable" for the purposes of this paragraph.

SECTION 13. 646.51 (3) of the statutes is amended to read:

646.51 (3) CALCULATION. (a) *General.* Except as provided in ~~par. pars.~~ (b) and (c), assessments shall be calculated as a percentage of premiums written in this state in the classes protected by the account, as reported in the ~~most recent~~ annual statement of each insurer for the year preceding the year of the liquidation order. Premiums for the pur-

pose of this section means gross premiums and other considerations received for direct insurance and annuities less return premiums and other considerations and dividends paid or credited to policyholders ~~or applied in part payment of premiums~~ on the direct business.

(b) (title) *Continuation of coverage.* Assessments to provide protection under s. 646.35 (2) shall for each account be made separately for each state in which the domestic insurer in liquidation was authorized to transact business at any time. The assessment attributable to each state shall be in the proportion that the premiums the insurer received on business in that state on policies covered by the account, as reported in its annual statement for the year preceding the year of the liquidation order, bears to the premiums it received in all such states. Assessments against insurers shall be in the proportion that ~~the~~ those premiums received on business in each such state by each assessed insurer on policies covered by each account bears to such premiums received on business in each state by all assessed insurers.

SECTION 14. 646.51 (3) (c) of the statutes is created to read:

646.51 (3) (c) *Administrative assessments.* The board may make assessments on a nonprorated basis to meet administrative costs and other expenses not related to the liquidation or rehabilitation of a particular insurer. These assessments may not exceed \$150 per insurer in any year.

SECTION 14m. 646.51 (6) of the statutes is amended to read:

646.51 (6) **APPEAL AND REVIEW.** Within 10 days after receipt of the statement under sub. (5), an insurer may appeal ~~the amount of~~ the assessment to the board or a committee thereof. The decision of the board on the appeal is subject to judicial review, after payment has been made under protest.

SECTION 15. 646.51 (8) of the statutes is created to read:

646.51 (8) **ABATEMENT AND DEFERRAL.** The board may abate or defer the assessment of an insurer in whole or part if payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. The amount by which an assessment is abated or deferred may be assessed under this section against other insurers.

SECTION 16. 646.61 (title) of the statutes is amended to read:

646.61 (title) Disposal and transfer of assets.

SECTION 17. 646.61 of the statutes is renumbered 646.61 (1).

SECTION 18. 646.61 (2) of the statutes is created to read:

646.61 (2) To meet the needs of the fund the board may temporarily transfer assets from one account to another.

SECTION 18e. 646.71 of the statutes, as affected by chapters 109 and 221, laws of 1979, is repealed.

SECTION 18m. Laws of 1979, chapter 221, sections 2026 (5) (b) and 2204 (26) (c) are repealed.

SECTION 18s. Nonstatutory provisions; liquidation of the temporary workers' compensation insurance security fund. Notwithstanding the treatment of section 646.71 of the statutes, as affected by chapters 109 and 221, laws of 1979, the board of the insurance security fund shall do both of the following:

(1) Determine the interests of insurers in the temporary workers' compensation insurance security fund as of the first day of the month commencing after the effective date of this act, as follows: The aggregate amount ever paid by each insurer doing business in this state on July 1, 1980, into the stock workers' compensation security fund established under section 102.65 (2), 1967 stats., the mutual workers' compensation security fund established under section 102.65 (4), 1967 stats., and the reciprocal workers' compensation security fund established under section 102.65 (6), 1967 stats., which were consoli-

dated into the temporary workers' compensation insurance security fund shall be ascertained. The ratio of the aggregate amount paid by each such insurer to the aggregate amount paid by all such insurers is the percentage interest of the insurer in the fund.

(2) Disburse promptly to each such insurer its balance in the fund based on its percentage interest thereof, after adjustments for assessments chargeable to it.

SECTION 19. 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
646.31 (2)(e)	par. (a), (b) or (c)	par. (a), (b), (c) or (d)
