Chapter Ins 2

LIFE INSURANCE

Ins 2.01 Estoppel by report of medical examiner.

No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

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

Ins 2.03 Policies not dated back to lower insurance age.

(1) No company shall issue for delivery in this state any policy or contract of life insurance which purports to be issued or take effect as of a date more than 6 months before the application therefor was made, if thereby the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. The date of application must be considered to be the date on which the application (Part I) or the medical examination (Part II) is completed, whichever is the later.

(2) This ruling does not prohibit the exchange, alteration or conversion of policies of life insurance as of the original date of such policies if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy would have purchased if the new policy had been originally applied for, whichever is greater; nor prohibit the exercise of any conversion privilege contained in any policy or contract.

Ins 2.05 Separate statement of premiums for certain disability insurance benefits included in life or endowment insurance policies.

(1) PURPOSE. This rule provides guidelines to determine which disability coverages may be included in life or endowment insurance policies without a separate statement of premium charge. This rule interprets and implements the separation of premium requirements stated in s. 632.44 (1), Stats., as they relate to the inclusion of disability insurance by policy provision or rider in life or endowment insurance policies such as authorized by s. Ins 6.70 and s. 627.06, Stats.

(2) SCOPE. This rule shall apply to the kinds of disability insurance authorized by s. Ins 6.75 (1) (a) and (c), when such insurance is provided in a life or endowment policy either by specific policy provision or by a rider attached to such policy.

(3) DEFINITIONS. (a) *Life or endowment insurance.* The basic life or endowment insurance coverage provided by the policy and additional disability benefits which have been determined by the standards in sub. (4) to be benefits which are life or endowment insurance or an integral part of such coverages.

(b) *Disability insurance benefit.* Insurance coverages written under the authority of s. Ins 6.75 (1) (a) and (c), to indemnify persons in whole or in part for financial loss due to bodily injury, death by accident, or health of persons.

(c) *Separate statement of premium.* Individual statement of the exact gross premium charged for each distinct disability insurance coverage required by this rule to be stated separately from the premium charge for the basic life or endowment insurance coverage.

(4) STANDARDS AND PROCEDURES FOR DETERMINATION. The following criteria or standards in pars. (a) through (e) shall be used to determine whether a disability benefit, coverage, or clause may be included in the basic life or endowment policy without a separate statement of the premium charged for such disability benefit. Subject to the approval of the commissioner of insurance, a disability benefit, coverage, or clause which satisfies the standards listed below may be included in the basic life or endowment coverage without a separate statement of cost. Disability coverages not meeting these standards may be included in or attached to the policy only with a separate statement of the premium if they otherwise meet the statutory requirements in respect to combination of coverages. The rule in no way requires that a disability benefit, coverage, or clause be included in the premium charge for the basic life or endowment coverage if the company desires to show the premium separately.

(a) Small or very nominal cost for the disability coverage when compared with the cost of the basic life or endowment coverage.

(b) Logical reason for including the disability benefit without a separate statement of premium.

(c) There is a demonstrated need for, and the applicant would usually desire, the inclusion of the disability benefit.

(d) Inclusion of the disability coverage could be easily understood by the applicant and is not subject to possible misinterpretation.

(e) Custom of the insurance business has classed the disability coverage as basically a life insurance benefit.

(5) DISABILITY BENEFITS WHICH REQUIRE A SEPARATE

STATEMENT. The following list constitutes a partial listing of disability coverages considered by the commissioner to be additional benefits which generally require a separate statement of premium charge if they are attached to or included in life or endowment coverage in accordance with other statutory requirements. Any such benefit may be included in a life or endowment insurance policy without a separate statement of premium if it is demonstrated that it meets the requirements listed in sub. (4).

(a) Waiver of premium benefit for death and/or disability of payor.

(b) Loss of sight and/or dismemberment benefit.

(c) Disability income benefit.

(d) Hospital insurance.

(e) Basic or primary medical insurance.

(f) Major medical benefit.

(g) Surgical benefit.

(6) DISABILITY BENEFITS NOT LISTED. Disability benefits which are not specifically listed above will be examined at the time of filing to determine whether a separate statement of premium is required.

(7) RESERVE VALUES. Reserve values, on account of included provisions, will be based upon the requirements of s. 623.06, Stats., or other applicable statutes or, in the absence of specific requirements, on such additional standards as the commissioner of insurance may prescribe.

(8) EFFECTIVE DATE. On or after April 1, 1965, no life insurance policy shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless it meets the requirements of this rule.

Note: See historical note relating to s. Ins 2.05 as printed with this rule as released in December, 1984.

History: 1-2-56; r. and recr. Register, March, 1965, No. 111, eff. 4-1-65; emerg. am. (1), (2) and (3) (b), eff. 6-22-76; am. (1), (2) and (3)(b), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (3) (b), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16., Stats., Register December, 1984, No. 348; corrections made under s. 13.93 (2m) (b) 6., Stats., Register, June, 1997, No. 498.

Ins 2.07 Replacement of life insurance or annuity contracts; disclosure requirements. (1) PURPOSE. The purpose of this section is:

(a) To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities.

(b) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions to assure that purchasers receive information with which a decision can be made in the purchaser's best interest, reduce the opportunity for misrepresentation and incomplete disclosure, and establish penalties for failure to comply with requirements of this section.

(2) SCOPE. This section shall apply to the solicitation of life insurance and annuities authorized by s. Ins 6.75 (1) (a) and (b), covering residents of this state, and issued by insurers including insurance corporations, fraternal benefit societies, or the State Life Insurance Fund. Except as specifically stated, this section shall not apply to transactions involving any of the following:

(a) Credit life insurance.

(b) Group life insurance or group annuities where there is no direct solicitation of individuals by a producer. Direct solicitation shall not include any group meeting held by a producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of sub. (8).

(c) Group life insurance and annuities used to fund prearranged funeral contracts.

(d) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates.

(e) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same insurer.

(f) Policies or contracts used to fund an employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act, ERISA, 29 USC 1001 et. seq., a plan described by sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer, a governmental or church plan defined in section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code, or a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor. This section shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among 2 or more insurers and there is a direct solicitation of an individual employee by a producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not include any group meeting held by a producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee.

(g) Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member.

(h) Existing life insurance that is a non-convertible term life insurance policy that will expire in 5 years or less from the date of issue and cannot be renewed.

(i) Immediate annuities that are purchased with proceeds from an existing annuity contract. Immediate annuities purchased with proceeds from an existing life insurance policy are not exempted from the requirements of this section.

(j) Structured settlements.

(k) Registered contracts shall be exempt from the requirements of subs. (6) (a) 2. and (7) (b) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

(3) DEFINITIONS. In this section:

(a) "Direct response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mail, telephone, the Internet or other mass communication media.

(b) "Existing insurer" means the insurer whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

(c) "Existing policy or contract" means an individual life insurance policy or annuity contract in force, including a policy un-

der a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

(d) "Financed purchase" means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy to pay all or part of any premium due on the new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same insurer within 4 months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in sub. (5) (a).

(e) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined in s. Ins 2.17.

(f) "Policy summary" for policies or contracts other than universal life policies, means a written statement regarding a policy or contract which shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan. For universal life policies "policy summary" means a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type, for example, interest, mortality, expense and riders; the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

(g) "Producer" shall include intermediaries, agents, brokers and producers.

(h) "Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933, 15 USC 77a et. seq.

(i) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated, converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values, amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid, reissued with any reduction in cash value, or used in a financed purchase.

(j) "Replacing insurer" means the insurer that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

(k) "Sales material" means a sales illustration and any other written, printed or electronically presented information created, or completed or provided by the insurer or producer and used in the presentation to the policy or contract owner related to the policy or contract purchased.

(4) DUTIES OF PRODUCERS. (a) A producer who initiates an application shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the answer is "no," the producer's duties with respect to replacement are complete.

(b) If the applicant answered "yes" to the question regarding existing coverage referred to in par. (a), the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix I or other substantially similar form approved by the commissioner. However, no approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced. The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud, in which case the producer need not have read the notice aloud, and left with the applicant.

(c) The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(d) In connection with a replacement transaction the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract owner in printed form no later than at the time of policy or contract delivery.

(e) Except as provided in sub. (6) (c), in connection with a replacement transaction the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

(5) DUTIES OF INSURERS THAT USE PRODUCERS. Each insurer shall do all of the following:

(a) Maintain a system of supervision and control to insure compliance with the requirements of this section that shall at a minimum: inform its producers of the requirements of this section and incorporate the requirements of this section into all relevant producer training manuals prepared by the insurer, provide to each producer a written statement of the insurer's position with respect to the acceptability of replacements providing guidance to its producer as to the appropriateness of these transactions, establish and maintain a system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with the written statement of the insurer's position with respect to the acceptability of replacements, establish and maintain procedures to confirm that the requirements of this section have been met, and establish and maintain procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this paragraph may include systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.

(b) Have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer,

and shall produce, upon request, and make such records available to the commissioner. The capacity to monitor shall include the ability to produce records for each producer's replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance, number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance, annuity contract replacements as a percentage of the producer's total annual annuity contract sales, number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the insurer's monitoring system, and replacements, indexed by replacing producer and existing insurer.

(c) Require with or as a part of each application for life insurance or an annuity a signed statement by both the applicant and the producer as to whether the applicant has existing policies or contracts.

(d) Require with each application for life insurance or an annuity that indicates an existing policy or contract a completed notice regarding replacements as contained in Appendix I.

(e) When the applicant has existing policies or contracts, each insurer shall, upon request of the commissioner, produce copies of any sales material required by sub. (4) (e), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased, and the producer's and applicant's signed statements with respect to financing and replacement for at least 5 years after the termination or expiration of the proposed policy or contract.

(f) Ascertain that the sales material and illustrations required by sub. (4) (e) meet the requirements of this section and are complete and accurate for the proposed policy or contract.

(g) If an application does not meet the requirements of this section, notify the producer and applicant and fulfill the outstanding requirements.

(h) Maintain records in paper, photograph, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

(6) DUTIES OF REPLACING INSURERS THAT USE PRODUCERS. (a) When a replacement is involved in a transaction, the replacing insurer shall do all of the following:

1. Verify that the required forms are received and are in compliance with this section.

2. Notify any other existing insurer that may be affected by the proposed replacement within 5 business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within 5 business days of a request from an existing insurer.

3. Be able to produce copies of the replacement notification required in sub. (4) (b) indexed by producer, for at least 5 years or until conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.

4. Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under the policy or contract. The notice may be included in Appendix I or III.

(b) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(c) If an insurer prohibits the use of sales material other than that approved by the insurer, as an alternative to the requirements made of an insurer pursuant to sub. (4) (e) the insurer may do all of the following:

1. Require with each application a statement signed by the producer that represents that the producer used only insurer-approved sales material, and states that copies of all sales material were left with the applicant in accordance with sub. (4) (d).

2. Within 10 days of the issuance of the policy or contract notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with sub. (4) (d), provide the applicant with a toll free number to contact insurer personnel involved in the compliance function if such is not the case, and stress the importance of retaining copies of the sales material for future reference, and be able to produce a copy of the letter or other verification in the policy file for at least 5 years after the termination or expiration of the policy or contract.

(7) DUTIES OF THE EXISTING INSURER. Where a replacement is involved in the transaction, the existing insurer shall do all of the following:

(a) Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least 5 years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.

(b) Send a letter to the policy or contract owner of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced within 5 business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within 5 business days of receipt of the request from the policy or contract owner.

(c) Upon receipt of a request to borrow, surrender or withdraw any policy values, send a notice, advising the policy owner that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separately from the check if the check is sent to anyone other than the policy owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

(8) DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SOLICITATIONS. (a) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement

as described in Appendix II, or other substantially similar form approved by the commissioner.

(b) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall do all of the following:

1. Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix III, or other substantially similar form approved by the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this subdivision. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice referred to in this subdivision.

2. Comply with the requirements of sub. (6) (a) 2., if the applicant furnishes the names of the existing insurers, and the requirements of sub. (6) (a) 3. and 4. and (b).

(9) VIOLATION. (a) Any failure to comply with this section shall be considered a violation of s. 628.34, Stats. Examples of violations include any deceptive or misleading information set forth in sales material, failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement, the intentional incorrect recording of an answer, advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer, or advising a policy or contract owner to write directly to the insurer in such a way as to attempt to obscure the identity of the replacing producer or insurer.

(b) Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate this section.

(c) When it is determined that the requirements of this section have not been met, the replacing insurer shall provide to the policy owner or contract owner an in force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix I or III.

(d) Any violation of this section shall be subject to s. 601.64, Stats. Failure to comply with the requirements of this section shall not alter the requirements of any insurer with respect to claims.

History: Cr. Register, March, 1972, No. 195, eff. 6-1-72; emerg. am. (1) and (2) eff. 6-22-76; am. (1) and (2); Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; r. and recr. Register, January, 1982, No. 313, eff. 3-1-82; r. (8), under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; CR 08-107: r. and recr. Register June 2009 No. 642, eff. 7-1-09.

Ins 2.07 Appendix I
IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

This document must be signed by the applicant and the producer, if there is one, and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? ___ YES ___ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? ___ YES ___ NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER

NAME

CONTRACT OR POLICY #

INSURED OR ANNUITANT

REPLACED (R) OR FINANCING (F)

1.

2.

3.

Make sure you know the facts. Contact your existing insurer or its agent for information about the existing policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because _____.

I certify that the responses herein are, to the best of my knowledge, accurate:

_____

Applicant's Signature and Printed Name and Date

_____

Producer's Signature and Printed Name and Date

I do not want this notice read aloud to me. ____ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the insurer or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on cer-

tain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older—are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the existing policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.

Acquisition costs for the existing policy may have been paid, you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your existing policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE EXISTING POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the existing policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your existing contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the existing policy under the federal tax code?

Will the existing insurer be willing to modify the existing policy?

How does the quality and financial stability of the new insurer compare with your existing insurer?

Ins 2.07 Appendix II

NOTICE REGARDING REPLACEMENT

REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one — or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract's benefits.

Make sure you understand the facts. You should ask the insurer or agent that sold you your existing policy or contract to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

Ins 2.07 Appendix III

IMPORTANT NOTICE:

REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost.

A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? ___ YES ___ NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? ___ YES ___ NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER

NAME

CONTRACT OR POLICY #

INSURED OR ANNUITANT

REPLACED (R) OR FINANCING (F)

1.

2.

3.

Make sure you know the facts. Contact your existing insurer or its agent for information about the existing policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

_____

Applicant's Signature and Printed Name and Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the insurer or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?

Could they change?

You're older — are premiums higher for the proposed new policy?

How long will you have to pay premiums on the new policy? On the existing policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.

Acquisition costs for the existing policy may have been paid, you will incur costs for the new one.

What surrender charges do the policies have?

What expense and sales charges will you pay on the new policy?

Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your existing policy, the new one could cost you more, or you could be turned down.

You may need a medical exam for a new policy.

Claims on most new policies for up to the first two years can be denied based on inaccurate statements.

Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE EXISTING POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?

How will the premiums on your existing policy be affected?

Will a loan be deducted from death benefits?

What values from the existing policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

Will you pay surrender charges on your existing contract?

What are the interest rate guarantees for the new contract?

Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?

Is this a tax free exchange? (See your tax advisor.)

Is there a benefit from favorable "grandfathered" treatment of the existing policy under the federal tax code?

Will the existing insurer be willing to modify the existing policy?

How does the quality and financial stability of the new insurer compare with your existing insurer?

Ins 2.08 Special policies and provisions; prohibitions, regulations, and disclosure requirements. (1) PURPOSE. The interest of the public and the maintenance of a fair and honest life insurance market must be safeguarded by identifying and prohibiting certain types of policy forms and policy provisions and by requiring certain insurance premiums to be separately stated. This rule implements and interprets applicable statutes including ss. 628.34, 631.20, 632.44 (1) and 632.62, Stats.

(2) SCOPE. This rule shall apply to the kinds of insurance authorized by s. Ins 6.75 (1) (a), and shall also apply to fraternal benefit societies.

(3) DEFINITIONS. For the purpose of this rule certain life insurance policy forms and provisions referred to herein shall have the following meaning:

(a) "Coupon policy" is any policy form which includes a series of coupons prominently and attractively featured in combination with an insurance contract. Such coupons are one-year pure endowments whether or not so identified and whether or not physically attached to the insurance contract. The coupons are devised to give the appearance of the interest coupons that are frequently attached to investment bonds. Although the face amount of the coupon benefit is essentially a refund of premium previously paid by a policyholder, it is frequently represented that is the earnings or return on the investment of the policyholder in life insurance.

(b) "Charter policy" is a term or name assigned by an insurance company to a policy form. Such a policy is usually issued by a newly organized company and it is sold on the basis that its availability will be limited to a specific predetermined number of units of a fixed dollar amount. Such policies generally provide that the policyholder shall participate in the earnings resulting from either or both participating policies and non-participating policies. It is characteristic of such a policy that in its presentation to the public it is represented that the policyholder will receive a special advantage in any future distribution of earnings, profits, dividends or abatement of premium. It is also represented that such advantage will not be made available to the persons holding other types of policies issued by the company. Other names such as *Founders, President, and Executive Special* are frequently used for policies of the type herein described, and for the purpose of this rule when they are so used they shall be considered as *charter policies.*

(c) A "Profit-sharing policy" is any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to the persons holding other types of policies issued by the same company, in any future distribution of general corporate profits. Such policy forms are so drafted that it appears to a prospective policyholder that he or she is purchasing a preferential share of the future profit and earnings of the insurance corporation rather than purchasing a life insurance policy which may be subject to refund of excess premium payments. The provisions of the policy may incorrectly represent the amount and source of surplus that will be available for apportionment and return to policyholders in the form of dividends. Policy forms using such terms as profits, surplus, or surplus-sharing in the manner herein described shall, for the purpose of this rule, be considered as profit-sharing policies.

(4) PROHIBITIONS, REGULATIONS, AND DISCLOSURE REQUIREMENTS. In accordance with the purpose expressed in sub. (1) and in consideration of the apparent intent of the legislature, the use in this state of certain types of policy forms and policy provisions shall be subject to the following prohibitions and regulations:

(a) Coupon policy forms misrepresent, distort, and disguise the true nature of the insurance purchased. Therefore, no coupon policy shall be approved for use and no coupon policy heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(b) Any policy, except a policy which is only used as a funding medium to provide gifts to a corporation without profit, as provided in s. 615.04, Stats., containing a series of one-year pure endowments or a series of guaranteed periodic benefits maturing during the premium-paying period of the policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is less than the total annual policy premium for such year has special characteristics making such policy peculiarly susceptible to misrepresentation and misunderstanding. Such policies are founded on the utmost good faith of the company, and the public interest requires that the premium charged for such benefits shall be fully and fairly disclosed to the policyholder without deception or misrepresentation. Therefore, on or after April 1, 1965, no such policy herein described shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless:

Note: Section 615.04, Stats., was repealed.

1. The policy is nonparticipating.

2. The payment of a pure endowment or guaranteed periodic benefit is not contingent on the payment of premiums falling due on or after the time such pure endowment has matured,

3. The gross premium for the pure endowment or guaranteed periodic benefits is shown prominently and separately in the policy distinct from the regular insurance premium,

4. The gross premium for the pure endowment or guaranteed periodic benefits is based on reasonable assumptions as to interest, mortality, and expense,

5. The number of one-year endowment or guaranteed periodic benefits provided by the policy equals the number of annual premiums for such benefits,

6. All advertisements, sales materials, agent's presentations, and other representations of the policy to the public represent the pure endowment or guaranteed periodic benefits of the policy to be nothing other than insurance benefits for which a premium is being paid,

7. All representations of the total premium for the policy contract also show the gross premium for the pure endowment or guaranteed periodic benefits to an extent such that the prospect or purchaser is fully informed as to the separate costs involved.

(c) Charter policy forms are defined by s. 628.33, 1987 stats., to be an unfair method of competition. They purport to provide a means to an end result that is not authorized by statute and an end result that is without reasonable expectation of achievement. Such policy forms misrepresent the responsibility and obligation of the company for equitable distribution of dividends or abatement of premiums. Therefore, no charter policy shall be approved for use and no charter policy heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(d) Profit-sharing policy forms are contrary to statute and the public interest by representing as an inducement to insurance that the person who purchases such a policy is procuring a preferential interest in the future profits and earnings of the insurance corporation. Any distribution to a policyholder of the company of earnings, profits, or surplus is a refund of the excess premiums paid by that policyholder. Such distribution must be fair and equitable to all policyholders, it must not discriminate unfairly between individuals of the same class and equal expectation of life, and it must be in the best interest of the company and its policyholders. Therefore, no profit-sharing policy shall be approved for use and no profit-sharing policy heretofore approved shall be is-

sued or delivered in this state on or after June 15, 1962. Further, on or after June 15, 1962, no participating policy shall be approved and no participating policy heretofore approved shall be issued or delivered in this state unless the policy provides without deception or misrepresentation that the source of any dividends or abatement of premium is limited to the divisible surplus derived from participating business.

Note: See historical note relating to s. Ins 2.08 as printed with this rule as released in December, 1984.

History: Cr. Register, May, 1962, No. 77, eff. 6-15-62; am. (4) (b), Register, August 1964, No. 104, eff. 12-1-64; am. (4) (b) (intro. par.), Register, March, 1965, No. 111, eff. 4-1-65. emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (b) (intro.), Register, January, 1984, No. 337, eff. 2-1-84; r. (5) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; correction in (4) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1992, No. 436; correction in (2) (c) made under s. 13.93 (2m) (b) 5., Stats., Register, June, 1997, No. 498.

Ins 2.09 Separate and distinct representations of life insurance. (1) PURPOSE. The interests of policyholders and purchasers of life insurance which is sold in connection with any security must be safeguarded by providing them with clear and unambiguous written proposals and statements in which all material relating to life insurance is set forth separately from any other material. This rule implements and interprets s. 628.34, Stats., by establishing minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold in connection with a mutual fund or other security.

(2) SCOPE. This rule shall apply to the solicitation of, negotiation for, procurement of, or joint billing of any insurance specified in s. Ins 6.75 (1) (a), within this state or involving a resident of this state where it is known to the insurer or the insurance agent that the sale of any mutual fund or other security has been, may become, or is a part of any such transaction.

(3) DEFINITIONS. For the purposes of this rule:

(a) "Proposal" includes any estimate, illustration, or statement which involves a representation of any premium charge, dividends, terms, or benefits of any policy of life insurance within sub. (2).

(b) "Life insurance" includes life insurance, annuities, and endowments.

(4) RESPONSIBILITY OF INSURER AND AGENT. No insurer and no insurance agent shall make, in connection with any transaction within sub. (2), a proposal or billing other than in accordance with this rule. Every insurer must inform its agents involved with the solicitation of life insurance on residents of this state of the requirements of this rule.

(5) WRITTEN PROPOSAL. In any solicitation or sale within sub. (2), the prospect or policyholder must be furnished with a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made.

(6) CONTENTS OF PROPOSAL. Any proposal referred to in this rule must:

(a) Be dated and signed by the insurance agent or by the insurer if no agent is involved;

(b) State the name of the company in which the life insurance is to be written;

(c) Be accurate and complete;

(d) Contain no misrepresentations or false, deceptive or misleading statements;

(e) Show the premium charge for life insurance separately from any other charge;

(f) If values which may accrue prior to the death of the insured are involved in the presentation, show the value of the life insurance separately from any other values;

(g) Show, if it is involved in the presentation, the amount of the death benefit for the life insurance separately from any other benefit which may accrue upon the death of the insured;

(h) Set forth all matters pertaining to life insurance separately from any matter not pertaining to life insurance;

(i) Contain only such representations as will accurately reflect the actual conditions applicable to the proposed insured.

(7) STATEMENTS TO BE SEPARATE. Any bill, statement, or representation sent or delivered to any prospect or policyholder must show the premium charge for the life insurance and any other information mentioned concerning life insurance separately from any other charges or values shown in the same billing.

(8) VIOLATION. Any violation of this rule shall be deemed to be a misrepresentation of the nature of the life insurance involved.

History: Cr. Register, October, 1963, No. 94, eff. 11-1-63; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

Ins 2.12 Exceptions to unfair discrimination. The following practices, without being all-inclusive, shall not be considered unfairly discriminatory as considered by s. 628.34, Stats.:

(1) Issuing life insurance policies or life annuity contracts on a salary savings, salary allotment, bank draft, pre-authorized check, or payroll deduction plan or other similar plan at a reduced rate or with special underwriting considerations reasonably related to the savings made by use of such plan.

(2) Issuing life insurance policies or annuity contracts at premiums determined by rating plans which provide for modification of premiums based on the amount of insurance; but any such rating plans shall not result in reduction in premiums in excess of the savings reasonably related to the savings made by use of the plan. All cost factors must be given proper recognition in order to preserve equity between various classes of policyholders.

(3) Issuing so-called "family plan' life insurance policies which include insured, spouse, and their children with the premium calculated on the basis of the family unit. The rating plan must give recognition to all cost factors in order to preserve equity between various classes of policyholders.

(4) Issuing policies under the authority of s. Ins 6.75 (1) (a), with the premium calculated on the basis of the average age of those insured or calculated in some other manner which is appropriate for the coverage offered, provided that the rate must be reasonably related to the coverage provided and to the savings made by use of the rating procedure.

(5) Issuing life insurance policies or life annuity contracts at special rates or with special underwriting considerations, reasonably related to the savings made, in connection with:

(a) Employee benefit trusts or plans conforming to the requirements of s. 815.18 (3) (j), Stats.

(b) Plans used to fund retirement benefits under the Federal Self-Employed Individuals Tax Retirement Act of 1962.

(c) Plans used to fund retirement benefits for employees of certain organizations exempt from Federal income tax and public schools (so-called tax sheltered annuity plans).

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (intro.), (4) and (5) (d), eff. 6-22-76; am. (intro.), (4) and (5) (d), Register, September, 1976, No. 249, eff. 10-1-76; am. (4) and (5) (a), Register, March, 1979, No. 279, eff. 4-1-79; r. (5) (d), Register, June, 1982, No. 318, eff. 7-1-82; reprinted to correct error in (5), Register, August, 1982, No. 320; correction in (5) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1992, No. 436.

Ins 2.13 Separate accounts and variable contracts. (1) PURPOSE. This section creates standards for establishing

separate accounts and for issuing contracts on a variable basis, both as provided by ss. 611.25 and 632.45 (1), Stats.

(2) DEFINITIONS. In this section:

(a) "Agent" means a person who sells or offers to sell any contract on a variable basis.

(b) "Contract on a variable basis" or "variable contract"means a policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account maintained by the insurer as to the policy or contract, as provided for in s. 632.45 (1), Stats., including contracts defined in pars. (e) and (f).

(c) "Interest credits" means all interest that is credited to a policy or contract.

(d) "Issue" means to issue for delivery or deliver.

(e) "Modified guaranteed annuity" means a deferred annuity contract, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods, containing nonforfeiture values based on a market-value adjustment formula if held for shorter periods, which formula may or may not reflect the value of assets held in the separate account.

(f) "Modified guaranteed life insurance policy" means an individual policy of life insurance, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods, containing nonforfeiture values based on a market-value adjustment formula if held for shorter periods, which formula may or may not reflect the value of assets held in the separate account.

(g) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(3) QUALIFICATION OF INSURER TO ISSUE VARIABLE CONTRACTS. (a) No insurer may issue variable contracts in this state unless:

1. It is licensed or organized to do a life insurance or annuity business in this state; and

2. The commissioner is satisfied that its condition or method of operation in connection with the issuance of variable contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting authority to issue variable contracts in this state, the commissioner shall consider among other things:

a. The history and financial condition of the insurer;

b. The character, responsibility and fitness of the officers and directors of the insurer; and

c. The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

(b) If the insurer is a subsidiary of an admitted life insurance company, or affiliated with an admitted life insurance company by common management or ownership, the commissioner may deem it to have satisfied par. (a) 2. if either it or the admitted life insurance company satisfies the provisions of par. (a) 2. The commissioner may deem any licensed insurer which has a satisfactory record of doing business in this state for a period of at least 3 years to have satisfied the provisions of par. (a) 2.

(c) Before any insurer issues variable contracts in this state, it shall submit to the commissioner:

1. A general description of the kinds of variable contracts it intends to issue;

2. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts; and

3. If requested by the commissioner, biographical data with respect to its officers and directors.

(4) SEPARATE ACCOUNTS. (a) A domestic insurer issuing variable contracts shall establish one or more separate accounts pursuant to s. 611.25, Stats., subject to the following provisions:

1. Except as provided in this subsection, an insurer may invest and reinvest amounts allocated to and accumulating in any separate account without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies. This subdivision applies only if the insurer maintains in any separate account its reserve liability with regard to benefits guaranteed as to amount and duration and funds guaranteed as to principal or rate of interest, and a portion of the assets of the separate account at least equal to the reserve liability, or another amount approved by the commissioner, is invested in accordance with the laws of this state governing the investments of life insurance companies. No investments in a separate account may be taken into account in applying the investment limitations applicable to the investments of the insurer.

2. With respect to 75% of the market value of the total assets in a separate account, no insurer may purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States if, immediately after the purchase or acquisition, the market value of the investment, together with prior investments of the separate account in the security taken at market, would exceed 10% of the market value of the assets of the separate account. The commissioner may waive this limitation if he or she believes that the waiver will not render the operation of the separate account hazardous to the public or the insurer's policyholders in this state.

3. No insurer may, either for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount exceeding 10% of the total issued and outstanding voting securities of the issuer. This limitation does not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in the accounts.

4. The limitations provided in subds. 2. and 3. do not apply to the investment with respect to a separate amount in the securities of an investment company registered under the investment company act of 1940, 29 USC 80a-1 to 80a-64, as amended, if the investments of the investment company comply in substance with subds. 2. and 3.

(b) Unless otherwise approved by the commissioner, an insurer shall value assets allocated to a separate account at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to the separate account, except that the insurer shall value the portion of the assets of the separate account equal to the insurer's reserve liability with regard to the benefits and funds described in par. (a) 1., if any, in accordance with the rules otherwise applicable to the insurer's assets.

(c) To the extent provided under any applicable contract, no portion of the assets of any separate account established under this subsection equal to the reserves and other applicable contract liabilities of the account are chargeable with liabilities arising out of any other business the insurer may conduct.

(d) Notwithstanding any other provision of law, an insurer may:

1. With respect to any separate account registered with the securities and exchange commission as a unit investment trust, exercise voting rights in connection with any securities of a regulated investment company registered under the investment com-

pany act of 1940, 15 USC 80a-1 to 80a-64, as amended, which are held in separate accounts in accordance with instructions from persons having interests in the accounts ratably as determined by the insurer; or

2. a. With respect to any separate account registered with the securities and exchange commission as a management investment company, establish for the account a committee, board or other body, the members of which may or may not be otherwise affiliated with the insurer and may be elected to membership by the vote of persons having interests in the account ratably as determined by the insurer.

b. A committee, board or other body established under subd. 2. a. may, alone or in conjunction with others, manage the separate account and the investment of its assets.

c. An insurer or a committee, board or other body established under subd. 2. a. may make other provisions for any separate account established under this subsection in order to facilitate compliance with federal or state law, if the commissioner approves the provisions as not hazardous to the public or the insurer's policyholders in this state.

(e) 1. An insurer may not transfer assets between any of its separate accounts or between any other investment account and a separate account except that an insurer may transfer assets into a separate account solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made.

2. An insurer may transfer assets under subd. 1. only as follows:

a. By a transfer of cash; or

b. By a transfer of securities having a readily determined market value, if the transfer is approved by the commissioner.

3. Notwithstanding subd. 2., the commissioner may authorize other transfers among accounts if he or she believes that the transfers would not be inequitable.

(f) The insurer shall maintain in each separate account established under this subsection assets with a value at least equal to the reserves and other contract liabilities with respect to the account, except as otherwise approved by the commissioner.

(g) Section 611.60, Stats., applies to the members of any separate account's committee, board or other body established under par. (d) 2. a. No officer or director of the insurer nor any member of a committee, board or body of a separate account may receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account.

(5) FILING OF CONTRACT FORMS. (a) No variable contract may be issued in this state until the commissioner has approved the form or until the form and rates have been filed with the commissioner for 30 days.

(b) The filing letter shall be in duplicate and shall contain the following information:

1. An identifying form number and title for each form submitted.

2. A general description of each form.

3. A listing of the types of policies to which rider or endorsement forms will be attached.

4. The form number and date of approval by the commissioner of any form to be superseded.

(c) One copy of all forms or rates submitted or approval shall be submitted with a copy of the application attached if the application is to be a part of the contract. If the application was previously approved, the form number and date of approval will suffice.

(d) Each form shall include hypothetical data showing its use, a correct table of values and an explanation of all variable information.

(e) Each filing shall include an actuarial statement of methods used to calculate values in the contract.

(6) VARIABLE BENEFITS. (a) Any variable contract issued in this state shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the amount of the variable benefits. Each variable contract, including a group contract and any certificate issued under a group contract, shall state that the amount of benefits will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement that the benefits under the contract are on a variable basis and the location in the contract of the details of the variable provisions.

(b) No illustration of benefits payable under any variable contract may include a projection of past investment experience into the future or a prediction of future investment experience. This paragraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits.

(c) No insurer may issue an individual variable annuity contract calling for periodic stipulated payments in this state unless the contract contains in substance all of the following provisions or provisions which in the opinion of the commissioner are more favorable to the holder of the contract:

1. A grace period of 30 days or one month within which the holder may make any stipulated payment, other than the first payment, due the insurer. During the grace period the contract shall continue in force. The contract may include a statement of the basis on which the insurer determines the date that it will apply any stipulated payment received during the grace period to produce the values under the contract arising from the application of the payment.

2. A right to reinstatement of the contract at any time within 3 years from the date of default in making periodic stipulated payments to the insurer during the life of the annuitant, upon payment to the insurer of the overdue payments as required by the contract, and of all indebtedness, including interest, on the contract. The right to reinstatement does not apply if the insurer has paid the cash surrender value of the contract. The contract may include a statement of the basis on which the insurer determines the date that it will apply the amount to cover the overdue payments and indebtedness to produce the values under the contract arising from the application of the payment.

3. The options available in the event of default in a periodic stipulated payment. The options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash. The amount of the paid-up annuity shall be determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(d) Any individual variable annuity contract issued in this state shall stipulate the expense, mortality and investment increment factors to be used in computing the amount of variable benefits or other contractual payments or values, and may guarantee that no expense or mortality results, or both, will adversely affect the amount of benefits. The expense factors may exclude some or all taxes, as stipulated in the contract. In computing the amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. No annual net investment increment assumption may exceed 5%, except with the approval of the commissioner; and

2. To the extent that the level of benefits may be affected by

mortality results, the insurer shall determine the mortality factor from the 1983 Table 'a', as defined in s. Ins 2.30 (2) (b), or any modification of that table not having a higher mortality rate at any age.

(e) The insurer shall establish the reserve liability for variable annuities under s. 623.06, Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) MODIFIED GUARANTEED LIFE INSURANCE. (a) An insurer that issues modified guaranteed life insurance policies in this state shall comply with all of the following requirements:

1. The insurer shall bear mortality and expense risks. The mortality and expense charges shall be subject to the maximum stated in the contract.

2. For scheduled premium policies, the insurer shall provide a minimum death benefit in an amount at least equal to the initial face amount of the policy as long as premiums are paid, subject to par. (d) 2.

3. The insurer shall determine the cash value of each policy at least monthly. Each policy shall describe the method of computing cash values and other nonforfeiture benefits and shall state the market-value adjustment formula the insurer uses to determine nonforfeiture benefits. The formula shall apply to both upward and downward adjustments.

4. With the form filing under s. 631.20, Stats., the insurer shall submit an actuarial statement of the basis for the market-value adjustment formula which states that the formula provides reasonable equity to both the policyholder and the insurer. The form filing shall demonstrate that, if the interest credits at all times during which the policy is in effect equal those guaranteed in the policy, with premiums and benefits determined under the terms of the policy, then, ignoring any market-value adjustment, the resulting cash values and other nonforfeiture benefits shall be at least equal to the minimum values required by s. 632.43, Stats., for a fixed benefit general account policy with the same premiums and benefits.

5. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

6. At the end of any specified guarantee period, the policyholder may select a new guarantee period of not more than 5 years or until the end of the coverage period, whichever is shorter.

(b) Each modified guaranteed life insurance policy form filed for approval shall contain all of the following:

1. A cover page, or pages corresponding to a cover page, which shall include all of the following:

a. A prominent statement that cash values may increase or decrease in accordance with the market-value adjustment formula.

b. A captioned notice that the policyholder may return the policy within 10 days of its receipt, and receive a refund equal to the sum of (i) the difference between premiums paid, including policy fees and other charges, and the amounts allocated to any separate accounts under the policy, and (ii) the value of the amounts allocated to any separate accounts under the policy, on the date the insurer or its agent receives the returned policy, as determined by the market-value adjustment formula.

c. Any other item required by statute or administrative rule for fixed benefit life insurance policies which is not inconsistent with this section.

2. If settlement options are provided, a provision that at least one of the options shall be provided on a fixed basis only.

3. A description of the basis for computing the cash value and the surrender value under the policy.

4. A separate statement of premiums or charges for incidental insurance benefits.

5. Any other policy provision required by this section.

6. Any other item required by statute or administrative rule for fixed benefit life insurance policies which is not inconsistent with this section.

7. A provision for nonforfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any nonforfeiture insurance options will not be available.

(c) Each modified guaranteed life insurance policy issued in this state shall provide that the policyholder may borrow at least 75% of the policy's cash surrender value after the policy has been in force for at least 3 years unless the policy includes a policy loan provision that is no less favorable to the policyholder. Each policy loan provision shall provide all of the following:

1. The amount borrowed shall bear interest as provided under s. 632.475, Stats.

2. The insurer shall deduct any indebtedness from the proceeds payable on death.

3. The insurer shall deduct any indebtedness from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

4. For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date the notice is mailed. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amount available under the policy to pay those charges, the insurer shall mail the policyholder a report containing the information specified in par. (g) 2.

5. If the policy specifies a minimum amount which may be borrowed, the minimum may not apply to any automatic premium loan provision.

6. The policy loan provision does not apply if the policy is under an extended insurance nonforfeiture option.

7. A policyholder who has not exercised the policy loan provision may not be disadvantaged by exercising it.

8. Upon the exercise of any policy loan provision, the insurer shall withdraw from the separate account the amount paid to the policyholder and shall return that amount to the separate account upon repayment, except that a stock insurer may provide the amount for a policy loan from the general account.

(d) A modified guaranteed life insurance policy or related form issued in this state may, in substance, include one or more of the following provisions:

1. An exclusion for suicide within 2 years after the date the policy takes effect, except that, if the policy includes an increased death benefit as a result of the policyholder's application after the date the policy takes effect, the exclusion applies only to the amount of the increased benefit.

2. Incidental insurance benefits on a fixed or variable basis.

3. If the policy is issued on a participating basis, an offer to pay dividends in cash and other dividend options.

4. A provision allowing a policyholder to elect in writing, either in the application or after issuance of the policy, an automatic premium loan on a basis not less favorable than the requirements under par. (c), except that the insurer may restrict this provision to the payment of not more than 2 consecutive premiums.

5. A provision allowing the policyholder to make partial withdrawals.

6. Any other policy provision approved by the commissioner.

(e) 1. An insurer issuing any modified guaranteed life insurance policy in this state shall, before or at the time the application is taken, deliver to the applicant and obtain from the applicant a written acknowledgment of receipt of all of the following information:

a. A non-technical summary of the principal features of the policy, including a description of the manner in which the nonforfeiture benefits will be affected by the market-value adjustment formula and the factors which affect the variation. The summary shall include the notice required by par. (b) 1. b.

b. A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary.

c. Illustrations, prepared by the insurer, of benefits payable under the policy. No illustration may include a projection of past investment experience into the future or a prediction of future investment experience. This subparagraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits if the insurer makes it clear that such assumed rates are hypothetical only.

2. An insurer may satisfy the requirements of subd. 1. by delivering to the policyholder a disclosure containing the information required by subd. 1., either in the form of a prospectus which is part of an effective registration statement under the securities act of 1933, 15 USC 77a to 77aa or, if the policies are exempt from the registration requirements of the securities act of 1933, all information and reports required by the federal employee retirement income security act of 1974, 29 USC 1001 to 1461.

(f) The application for a modified guaranteed life insurance policy shall contain all of the following:

1. Immediately before the signature line, a statement that amounts payable under the policy are subject to a market-value adjustment before a date or dates specified in the policy.

2. A request for information which will enable the insurer to determine the suitability of modified guaranteed life insurance for the applicant.

(g) 1. In this paragraph, "unadjusted cash value" means the cash value before applying any surrender charge or market-value adjustment formula.

2. An insurer shall mail to each holder of a modified guaranteed life insurance policy, at his or her last known address, an annual report showing the unadjusted cash value, the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge and any optional payments allowed under the policy. The report shall also specify the surrender charge and market-value adjustment formula used to determine the cash surrender value. Each report shall state that the cash values may increase or decrease in accordance with the market-value adjustment formula. The report shall prominently identify any stated value that may be recomputed before the next annual report.

3. For flexible premium policies, if the unadjusted cash value and cash surrender value are different, the annual report shall contain a reconciliation of these values based on payments made less deductions for expense charges, withdrawals, investment experience, insurance charges and any other charges made against the cash value. The annual report shall also show the projected unadjusted cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming all of the following:

a. Planned periodic premiums, if any, are paid as scheduled.

b. Guaranteed costs of insurance are deducted.

c. Interest is credited at the guaranteed rate or, in the absence of a guaranteed rate, at a rate not greater than zero. If the projected unadjusted cash value is less than zero, the report shall include a warning stating that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

4. The insurer shall mail each annual report within 30 days after one of the following dates:

a. The policy anniversary date, in which case the amounts reported shall be computed as of the policy anniversary date.

b. Another date specified in the policy, in which case the amounts reported shall be computed as of a date no earlier than 60 days before the mailing date.

(h) For flexible premium policies, the insurer shall also send a report to the policyholder whenever the amount available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next policy processing day. The report shall state the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment.

(8) MODIFIED GUARANTEED ANNUITIES. (a) Each insurer issuing modified guaranteed annuities in this state shall provide each contract holder with an annual report showing both the account value and the cash surrender value. The report shall clearly state that the account value does not include the application of any surrender charge or market-value adjustment formula. The annual report shall also specify the surrender charge and market-value adjustment formula used to determine the cash surrender value.

(b) 1. Each modified guaranteed annuity contract issued in this state shall describe the essential features of the procedures the insurer uses in determining the amount of nonforfeiture benefits.

2. No insurer may issue in this state a modified guaranteed annuity contract calling for periodic stipulated payments unless it contains in substance all of the following provisions:

a. A grace period of 30 days or one month within which the policyholder may make any stipulated payment, other than the first payment, due the insurer. During the grace period the contract shall continue in force. The contract may include a statement of the basis on which the insurer determines the date that it will apply any stipulated payment received during the grace period to produce the values under the contract arising from the application of the payment.

b. A right to reinstatement of the contract at any time within one year from the date of default in making periodic stipulated payments to the insurer during the life of the annuitant, upon payment to the insurer of the overdue payments as required by the contract, and of all indebtedness, including interest, on the contract. The right to reinstatement does not apply if the insurer has paid the cash surrender value of the contract. The contract may include a statement of the basis on which the insurer determines the date that it will apply the amount to cover the overdue payments and indebtedness to produce the values under the contract arising from the application of the payment.

3. Each modified guaranteed annuity contract shall state the market-value adjustment formula the insurer uses to determine nonforfeiture benefits. The formula shall apply to both upward and downward adjustments. With each policy form filed under s. 631.20, Stats., the insurer shall submit an actuarial statement of the basis for the market-value adjustment formula which states that the formula provides reasonable equity to both the contract holder and the insurer.

4. Unless provided under any applicable contract, the portion of the assets of any separate account equal to the reserves and other applicable contract liabilities of the account are not charge-

able with liabilities arising out of any other business of the insurer.

(c) 1. Subdivisions 2. to 10. do not apply to any of the following:

a. Reinsurance.

b. A group annuity contract purchased in connection with a retirement plan or deferred compensation plan established or maintained by or for one or more employers, including partnerships, sole proprietorships, employee organizations or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under 26 USC 408, as amended.

c. A premium deposit fund.

d. An investment annuity.

e. An immediate annuity.

f. A deferred annuity contract after annuity payments have commenced.

g. A reversionary annuity.

h. A contract which will be issued outside this state through an agent or other representative of the insurer.

2. No insurer may issue a modified guaranteed annuity contract in this state unless it contains in substance all of the following provisions:

a. A plan that complies with subd. 4. for granting a paid-up annuity benefit upon cessation of payment of considerations under the contract. The contract shall describe the plan and shall include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

b. If the contract provides for a lump sum settlement at maturity or at any other time, a provision for the payment of a cash surrender benefit that complies with subd. 5. instead of a paid-up annuity benefit, upon surrender of the contract at or before the commencement of annuity payments. The contract shall describe the cash surrender benefit and may provide that the insurer may defer payment of the cash surrender benefit for a period of 6 months after demand.

3. In establishing the minimum value of a paid-up annuity, cash surrender or death benefit available under a modified guaranteed annuity contract, the insurer shall base the value on nonforfeiture amounts meeting the requirements of this subdivision and subd. 4. The unadjusted minimum nonforfeiture amount on any date before the annuity commencement date shall equal the percentages of net considerations, as specified in subd. 4., increased by the interest credits allocated to the percentage of net considerations. The insurer shall reduce this amount to reflect the effect of all of the following:

a. Any partial withdrawals from or partial surrender of the contract.

b. The amount of any indebtedness on the contract, including interest due and accrued.

c. An annual contract charge which shall equal the lesser of $30 or 2% of the end-of-year contract value less the amount of any annual contract charge deducted from any gross considerations credited to the contract during the contract years. The contract charge may not be less than $0.00.

d. A transaction charge of $10 for each transfer to another investment division with the same contract.

4. For purposes of subd. 3.:

a. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

b. The minimum nonforfeiture amount shall be the unadjusted minimum nonforfeiture amount adjusted by the market-value adjustment formula contained in the contract.

c. The annual contract charge of $30 and the transaction charge of $10 shall be adjusted to reflect changes in the consumer price index as provided in subd. 5. c.

5. The percentages of net considerations used to define the minimum nonforfeiture amount under subd. 3. shall meet all of the following requirements:

a. If the contract provides for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall not be less than $0.00 and shall equal the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of $30 and less a collection charge of $1.25 per consideration credited to the contract during that contract year and less any charge for premium taxes. The percentages of net considerations shall be 65% for the first contract year and 87½% for the 2nd and subsequent contract years except that the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds, by not more than 2 times, the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

b. With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of $75 and less any charge for premium taxes. The percentage of the net consideration shall be 90%.

c. The annual contract charge of $30 and the collection charge of $1.25 under subd. 5. a. and the single consideration contract charge of $75 under subd. 5. b., shall be adjusted annually to reflect changes in the consumer price index by multiplying each charge by the ratio of the consumer price index for June of the year preceding the date of filing to the consumer price index for June, 1979. "Consumer price index" means the index for all urban consumers for all items as published by the bureau of labor statistics of the United States department of labor or any successor agency. If publication of the consumer price index ceases, or if the index otherwise becomes unavailable or is altered so as to be unusable for purposes of this paragraph, the commissioner may substitute another suitable index.

6. An insurer shall use any paid-up annuity benefit available under a modified guaranteed annuity contract that has a present value on the annuity commencement date that is at least equal to the minimum nonforfeiture amount on the date. The insurer shall compute the present value using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

7. For modified guaranteed annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time before the annuity commencement date shall be equal to or greater than the minimum nonforfeiture amount next computed after the insurer receives a request for surrender. The death benefit under the contract shall be at least equal to the cash surrender benefit.

8. Any modified guaranteed annuity contract which does not provide either a cash surrender benefit or a death benefit at least equal to the minimum nonforfeiture amount before the annuity commencement date shall include, in a prominent place in the contract, a statement that these benefits are not provided.

9. Notwithstanding any other requirement of this paragraph, a modified guaranteed annuity contract may provide that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount, and that the payment shall release the insurer from any further obligation under

the contract. This option shall apply only under one of the following conditions:

a. At the time the annuity becomes payable, the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount is less than $2,000, or would provide an income the initial amount of which is less than $20 per month.

b. Before the annuity becomes payable under a periodic payment contract, the insurer has not received any considerations under the contract for a period of 2 years and the total consideration paid before the 2-year period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, plus the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount is less than $2,000.

10. For any modified guaranteed annuity contract which provides in the same contract, by rider or supplemental contract provision, both annuity benefits and life insurance benefits that exceed the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall equal the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the insurance portion computed as if each portion were a separate contract. Notwithstanding subd. 2., in determining the minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits required by this paragraph, the insurer shall disregard additional benefits payable in the event of the total and permanent disability of the contract holder, as reversionary annuity or deferred reversionary annuity benefits or as other policy benefits additional to life insurance, endowment and annuity benefits and considerations for all such additional benefits. The inclusion of such additional benefits is not required in any paid-up benefits unless the additional benefits would, if provided separately, require minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits.

(d) The application for a modified guaranteed annuity shall contain, immediately before the signature line, a prominent statement that amounts payable under the contract are subject to a market-value adjustment before a date or dates specified in the contract.

(9) PROVISIONS APPLICABLE TO MODIFIED GUARANTEED LIFE INSURANCE AND ANNUITIES. (a) Before any insurer issues any modified guaranteed life insurance policy or modified guaranteed annuity contract in this state, the commissioner may require the insurer to file a copy of any prospectus or other sales material to be used in connection with the marketing of the modified guaranteed life insurance policy or modified guaranteed annuity contract. The sales material shall clearly illustrate that there can be both upward and downward adjustments due to the application of the market-value adjustment formula in determining nonforfeiture benefits.

(b) An insurer issuing a modified guaranteed life insurance policy or a modified guaranteed annuity in this state shall submit to the commissioner all of the following:

1. A separate account annual statement which shall include the business of these policies or contracts.

2. Any additional information required by the commissioner.

(c) The commissioner may disapprove any material required to be filed if the commissioner finds that the material does not comply with this section.

(d) The statutes and administrative rules governing individual life insurance and individual annuity form filings also apply to modified guaranteed life insurance policies and modified guaranteed annuity contracts. Each filing shall demonstrate in a form satisfactory to the commissioner that the nonforfeiture provisions of the policy or contract comply with this section.

(e) 1. An insurer shall establish reserve liabilities in accordance with actuarial procedures that recognize all of the following:

a. The market-value basis of the assets of the separate account.

b. The variable nature of the benefits provided.

c. Any mortality guarantees.

2. The separate account liability shall equal the surrender value based on the market-value adjustment formula contained in the modified guaranteed life insurance policy or modified guaranteed annuity contract. If that liability is greater than the market value of the assets, the insurer shall transfer assets into the separate account so that the market value of the assets at least equals that of the liabilities. The insurer shall establish any additional reserve that is needed to cover future guaranteed benefits.

3. An insurer shall consider the market-value adjustment formula, the interest guarantees and the degree to which projected cash flow of assets and liabilities are matched. The statement of actuarial opinion accompanying each annual statement shall include an opinion on whether the assets in the separate account are adequate to provide all future guaranteed benefits.

4. An insurer shall maintain in the general account reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits.

(10) REQUIRED REPORTS. (a) Each insurer issuing individual variable contracts shall mail to each contractholder, at least once in each contract year after the first, at his or her last address known to the insurer, a statement reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting either of the following as of a date not more than 4 months before the date of mailing:

1. The number of accumulation units credited to the contract and the dollar value of a unit.

2. The value of the contractholder's account.

(b) The insurer shall submit annually to the commissioner a statement of the business of each of its separate accounts in the form as required by the annual statement form designated as Life and Accident and Health Association Edition-Variable Life Insurance Separate Account.

(11) FOREIGN COMPANIES. If the law or regulation in the place of domicile of a foreign insurer provides protection to the policyholders and the public which is substantially equal to that provided by this section, the commissioner, to the extent he or she considers appropriate, may consider compliance with that law or regulation as compliance with this section.

(12) AGENT QUALIFICATIONS. Prior to April 1, 2010, any person selling or offering for sale a variable contract shall have a valid license under s. Ins 6.59 (4) (an) authorizing the solicitation of variable life insurance and variable annuity products as defined in s. Ins 6.50 (2) (a) 6. or a valid license under s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a), and shall provide verification of required registration by the Financial Industry Regulatory Authority (FINRA) registered for Series 6 or Series 7.

(a) General Securities Registered Representation Examination.

(b) Investment Company Products/Variable Contracts Limited Representative Qualification Examination.

(c) NASD Non-Member General Securities Examination.

(d) General Securities Principal Qualification.

(e) Investment Company Products/Variable Contracts Limited Principal Qualification Examination.

(12m) AGENT QUALIFICATIONS. On or after April 1, 2010, any person selling or offering for sale a variable contract shall have a valid license under s. Ins 6.59 (4) (an), authorizing the solicitation of variable life insurance and variable annuity products as defined in s. Ins 6.50 (2) (a) 6.

(13) NONAPPLICABILITY. To the extent that any provision of sub. (7) or (8) is inconsistent with a provision of sub. (6) or (10), sub. (6) or (10) does not apply to a policy or contract described in sub. (7) or (8).

History: Cr. Register, October, 1968, No. 154, eff. 11-1-68; emerg. am. (1), (2) (a), (4) (a) and (g), eff. 6-22-76; am. (1), (2) (a), (4) (a) and (g), Register, September, 1976, No. 249, eff. 10-1-76; am. (6) (e), Register, March, 1979, No. 279, eff. 4-1-79; r. (2) (d) 5., (9) (g), to (m) and (p), am. (2) (b) to (d) (intro.), (6) (a), (9) (a) to (f), cr. (9) (g) to (i), renum. (9) (n) and (o) to be (9) (j) and (k), Register, May, 1979, No. 281, eff. 6-1-79; r. and recr. (2) and (9), Register, October, 1981, No. 310, eff. 11-1-81; am. (1), (3) (a) (intro.) and 2., (b), (c) (intro.), 2. and 3., (4) (a) to (g), (5) (a), (b) 2., (d), (e) and (6), renum. (2) (a) and (b), (7) to (9) to be (2) (b) and (a), (10) to (12) and am. (2) (a) and (b), (10) (a) (intro.) and 1., (b), (11) and (12), cr. (2) (intro.), (c) to (g), (7) to (9) and (13), Register, April, 1990, No. 412. eff. 5-1-90; CR 09-022: am. (12) (intro.), cr. (12m) Register August 2009 No. 644, eff. 9-1-09; CR 14-076: am. (6) (d) 2. Register August 2015 No. 716, eff. 9-1-15.

Ins 2.14 Life insurance solicitation. (1) PURPOSE. The purpose of this section is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs, improve the buyer's understanding of the basic features of the policy, and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This section does not prohibit the use of additional material which is not in violation of this section or any other Wisconsin statute or rule. This section interprets ss. 628.34 and 628.38, Stats. This section is in addition to and not a substitute for the requirements set forth in ss. Ins 2.16 and 2.17.

(2) SCOPE. (a) Except as stated in par. (b), this section applies to any solicitation, negotiation, or procurement of life insurance occurring within this state. This section applies to any issuer of life insurance contracts including fraternal benefit societies and the state life Insurance fund.

(b) Unless otherwise specifically included, this section does not apply to:

1. Annuities.

2. Credit life insurance.

3. Group life insurance.

4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employee retirement income security act of 1974 (ERISA), 29 U.S.C. sections 1001 to 1461.

5. Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

(3) DEFINITIONS. For the purposes of this section, the following definitions shall apply:

(a) "Cost comparison index" means a number corresponding to the cost of a policy, which can be used to compare similar policies within a company or between companies.

(b) "Equivalent level death benefit" of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years, respectively.

2. Divide each accumulation of subd. 1. by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subd. 1. over the respective periods stipulated in subd. 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(c) "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(d) "Life insurance buyer's guide" means the document published by the national association of insurance commissioners entitled life insurance buyer's guide.

(e) "Net payment cost index" means a cost comparison index calculated in the same manner as the comparable surrender cost index except that the cash surrender value is set at zero.

(f) "Policy summary" means a written statement in substantially the same format for all companies and describing only the guaranteed elements of the policy including but not limited to:

1. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

2. The name and address of the insurance intermediary, or, if no insurance intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

3. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

4. The generic name of the basic policy and each rider.

5. The following amounts, where applicable, for the first 20 policy years and at least one age from 60 through 65 or maturity whichever is earlier:

a. The annual premium for the basic policy.

b. The annual premium for each optional rider.

c. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

d. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

e. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values in subd. 5. d.

6. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest is variable, the policy summary shall include the maximum annual percentage rate.

7. The date on which the policy summary is prepared.

(g) "Surrender cost index" means a cost comparison index calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

2. Divide the result of subd. 1. by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subd. 1. over the respective periods stipulated in subd. 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

3. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider (if the annual premium includes supplemental benefits without a separate identifiable charge, a reasonable adjustment may be made) at 5% interest compounded annually to the end of the period stipulated in subd. 1. and dividing the result by the respective factors stated in subd. 2. This amount is the annual premium payable for a level premium plan.

4. Subtract the result of subd. 2. from subd. 3.

5. Divide the result of subd. 4. by the number of thousands of the equivalent level death benefit to arrive at the surrender cost index.

(4) DISCLOSURE REQUIREMENTS. (a) The insurer shall provide a policy summary upon delivery of the policy, if the policy form was identified by the insurer under s. Ins 2.17 (4) as one to be marketed without an illustration.

(b) The policy summary shall consist of a separate document. All information required to be disclosed shall be set out in a manner that does not minimize any information or make any information obscure. Any amounts which remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

(c) The insurer shall provide to all prospective purchasers of any policy subject to this section a copy of the latest published version of the life insurance buyer's guide, at the time the application is taken, except that insurers which do not market policies through an intermediary may provide the life insurance buyer's guide at the time the policy is delivered provided they guarantee to the policyholder a 30 calendar day right to return the policy for a full refund of premium.

Note: Copies of the life insurance buyer's guide can be obtained from the National Association of Insurance Commissioners, 120 West 12th Street, Suite 1100, Kansas City, MO 64105-1925.

(d) Cost comparison indexes, if illustrated, shall be representative of guaranteed values only.

(e) The surrender cost index and the net payment cost index are the only cost comparison indexes which may be illustrated.

(f) Cost comparison indexes, if illustrated, must be shown for year 10 and year 20. Additionally, separate indexes must be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

(g) If cost comparison indexes are illustrated, the insurer shall provide a statement regarding the use of the cost comparison indexes, including an explanation to the effect that indexes are useful only for the comparison of the relative costs of 2 or more similar policies.

(5) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in ss. Ins 2.16 (30) and 2.17 (8) (d).

(b) An intermediary shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that the intermediary is acting as a life insurance intermediary and inform the prospective purchaser of the full name of the insurance company which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name.

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(d) Any reference to policy dividends shall include a statement that dividends are not guaranteed. If dividends are illustrated, such illustration must comply with the requirements of s. Ins 2.17.

(e) Any sales presentation subject to this section shall comply with the requirements of s. Ins 2.16 (7) (b) and (c).

(f) Recommendations made by a person subject to this section concerning the purchase or replacement of any life insurance policy are subject to the requirements of s. Ins 2.16 (6);

(g) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of 2 or more life insurance policies.

(h) Except for an illustration as defined in s. Ins 2.17 (3) (i) no presentation of benefits may display guaranteed and nonguaranteed benefits as a single sum unless the guaranteed benefits are shown separately in close proximity and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21).

(i) For the purposes of this section, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

(6) UNUSUAL CIRCUMSTANCES. Insurers with unique difficulties in implementing provisions of this section may petition the commissioner for allowance to meet the requirements of the section through alternative approaches.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1978, No. 275, eff. 1-1-79; am. (3) (a) and (6), r. and recr. appendices, Register, January, 1980, No. 289, eff. 2-1-80; r. (3) (a) and (f), (4) (a) and (c), Appendices 1, 2 & 3, renum. (3) (b) to (e) and (g) to be (3) (a) to (e), (4) (b), (d) and (e) to be (4) (a) to (c), Register, May, 1984, No. 341, eff. 6-1-84; r. (10) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; am. (1) and (3) (e) 1. i., cr. (4) (am) and appendix 1, Register, October, 1986, No. 370, eff. 11-1-86; am. (1), (2) (a) and (b) (intro.) and 4., (3) (intro.), (e) 1., (4) (b) and (c), (5) (a), (h) and (k), r. (3) (d) 4., (6), (8) and (9), r. and recr. (5) (e) and (f), renum. (7) to be (6) and am. Register, July, 1989, No. 403, eff. 8-1-89; correction in (3) (e) made under s. 13.93 (2m) (b) 1., Stats., Register, April, 1992, No. 436; correction in (3) (f) and (5) (b) made under s. 13.93 (2m) (b) 5. and 7., Stats., Register, June, 1997, No. 498; r. and recr. Register, March, 1998, No. 507, eff. 4-1-98; CR 14-075: cons. (4) (g) (intro.), 2., renum. to (4) (g) and am., r. (4) (g) 1. Register August 2015 No. 716, eff. 9-1-15.

Ins 2.15 Annuity benefit solicitations. (1) FINDINGS. Information on file in the office of the commissioner of insurance and submitted as Exhibit 4 at the hearing February 28, 1980 shows that some of the brochures, presentations, illustrations and other sales material which have been used by insurers and their representatives to sell annuity contracts to Wisconsin residents are confusing, misleading and incomplete, and that annuity purchasers are not receiving the information needed to make sound purchase decisions. The commissioner of insurance finds that such presentations and sales material are misleading, deceptive and restrain competition unreasonably as considered by s. 628.34 (12), Stats., and that their continued use would constitute an unfair trade practice under s. 628.34 (12), Stats., and would result in misrepresentation as defined and prohibited in s. 628.34 (1), Stats.

(2) (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or annuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to

evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute. This section is in addition to and not a substitute for the requirements set forth in s. Ins 2.16.

(b) This section interprets and implements s. 628.34 (12), Stats.

(3) SCOPE. (a) Except as specified in par. (b), this section shall apply to any solicitation, negotiation or procurement of annuity or deposit fund arrangements occurring within this state. This section shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies.

(b) This section shall not apply to:

1. Non-registered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), or the regulations promulgated under either of those acts, and offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.);

2. Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations;

a. Notwithstanding subdivision 2. above, the delivery of the applicable Buyer's Guide is required in sales of variable annuities and, when appropriate, in sales of other registered products.

b. Nothing in this subdivision will limit the Commissioner's ability to enforce the provisions of this regulation or to require additional disclosures.

3. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or both;

4. Immediate annuity contracts (arrangements under which payments begin within 13 months of the issue date);

5. Policies or contracts issued in connection with employee benefit plans as defined by 29 USC 1002 (3) of the federal employee retirement income security act of 1974 (ERISA), except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 USC 403 (b) of the internal revenue code;

6. Individual retirement accounts and individual retirement annuities as described in 26 USC 408 of the internal revenue code;

7. A single advance payment of specified premiums equal to the discounted value of such premiums;

8. A policyholder's deposit account established solely to facilitate payment of regular premiums;

9. Settlement options under life insurance or annuity contracts.

(4) DEFINITIONS. (a) "Contract Summary"means a written statement to be provided to the buyer at the time of contract delivery describing the elements of the annuity contract or deposit fund in the manner set out in sub. (6).

(b) "Preliminary Contract Summary" means a written statement to be provided to the buyer prior to sale which describes the elements of the annuity contract or deposit fund in the manner set out in sub. (5).

(c) "Buyer's Guide" means one of the following buyer's guides adopted by the National Association of Insurance Commissioners (NAIC):

1. With respect to sales of fixed or fixed indexed annuities, either:

a. The Buyer's Guide for Deferred Annuities (2013); or

b. The Buyer's Guide for Deferred Annuities Fixed (2013).

2. With respect to sales of variable annuities, either:

a. The Buyer's Guide for Deferred Annuities (2013); or

b. The Buyer's Guide for Deferred Annuities Variable (2013).

(d) "Yields" means those effective annual interest rates at which the accumulation of 100% of all gross considerations would be equal to the guaranteed and illustrated cash surrender values at the points specified. For contracts without surrender values the yields shall be figured on the basis of the contract values used to determine annuity payments at the points specified.

(5) PRELIMINARY CONTRACT SUMMARY. The Preliminary Contract Summary shall include:

(a) A prominently placed title, PRELIMINARY CONTRACT SUMMARY, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) A statement as to whether the arrangement provides any guaranteed death benefits during the deferral period;

(e) A prominent statement that the contract does not provide cash surrender values, if such is the case;

(f) For arrangements under which guaranteed cash surrender values at any duration are less than the total scheduled considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years;

(g) Any minimum or maximum premium limitations;

(h) A prominent description of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to, any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees;

(i) In the event any sales promotion literature or oral representation illustrates values or annuity payments which are based on dividends, excess interest credits, or current annuity rates, then the Preliminary Contract Summary shall contain a statement that such dividends, excess interest credits, and current annuity purchase rates are not guaranteed and that any corresponding values and annuity amounts are illustrations only and are not guaranteed;

(j) A statement that the insurer shall provide the prospective customer a Contract Summary upon request.

(6) CONTRACT SUMMARY. The Contract Summary shall include:

(a) A prominently placed title, CONTRACT SUMMARY, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) Any guaranteed death benefits during the deferral period, and the form of annuity payment selected for pars. (f), (g) and (i);

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement thereof, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the arrangement and no indebtedness to the insurer on the contract;

(g) Illustrative annuity payments on a current basis, if shown, must be on the same basis as for par. (f) except for guarantees, and may not be greater in amount than those based on:

1. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements, or the current excess interest rate credited by the insurer, and

2. Current annuity purchase rates;

(h) For arrangements under which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years and showing the number of years such a relationship exists, together with a reference to the schedule of guaranteed cash surrender values required by par. (i) 3.;

(i) The following amounts, where applicable, for the first 5 years and representative years thereafter sufficient to illustrate clearly the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments:

1. The gross consideration for the arrangement;

2. Any minimum or maximum premium limitation;

3. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year;

4. If other than guaranteed cash values are shown, the total illustrative cash value or paid-up annuity at the end of the year may not be greater in amount than that based on:

a. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements or the current excess interest rate credited by the insurer, and

b. Current annuity purchase rates.

(im) If the annuity payments have not yet commenced, the yield on gross considerations at the end of 10 years and at the scheduled commencement of annuity payments. For contracts without surrender values, only the yield at the scheduled commencement of annuity payments need be shown. The yield shall be figured on the basis of the contract value used to determine the annuity payments. These yield figures shall be shown on a guaranteed basis and, if current annuity payments or cash surrender values are shown, on an illustrative basis also.

(in) A statement of the interest rates used in calculating the guaranteed and illustrative contract or fund values.

(j) For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed;

(k) The date on which the Contract Summary is prepared.

(7) PREPARATION OF PRELIMINARY CONTRACT SUMMARY AND CONTRACT SUMMARY. The following must be considered in preparing the Preliminary Contract Summary and the Contract Summary:

(a) The Preliminary Contract Summary and the Contract Summary must be separate documents;

(b) All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure;

(c) Any amounts which remain level for 2 years or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year;

(d) Amounts in sub. (6) (d), (f), (g) and (i) shall, in the case of flexible premium annuity arrangements, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be a specified level amount, such as $100 or $1,000 per year;

(e) If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later;

(f) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or a current excess interest rate.

(8) DISCLOSURE REQUIREMENTS. (a) The insurer and its intermediaries shall provide, to all prospective purchasers of any contract or arrangement subject to this section, a buyer's guide and a properly completed Preliminary Contract Summary or Contract Summary prior to accepting the applicant's initial consideration for the annuity contract, or, in the case of a rider or provision, prior to acceptance of the applicant's initial consideration for the associated insurance policy or annuity contract. Insurers which do not market contracts through an intermediary may provide the Contract Summary, and a buyer's guide at the point of contract delivery provided they:

1. Guarantee to the contractholder the right to return the contract for a full refund of premium any time during a 30 day period commencing on the date such contractholder receives the Contract Summary and a buyer's guide;

2. Alert the prospective contractholder, in advertisements or direct mail solicitations, of his or her right to obtain a buyer's guide and a Preliminary Contract Summary prior to the sale.

(b) The insurer and its intermediaries shall provide a Contract Summary upon delivery of the contract, if it has not been delivered beforehand;

(c) The insurer and its intermediaries shall provide a buyer's guide and a Contract Summary to individual prospective purchasers upon reasonable request;

(d) Any statement provided subsequent to sale to a contractholder which purports to show the then current value of an arrangement subject to this section shall show the then current guaranteed cash surrender value or, if no guaranteed cash surrender value is provided the then current guaranteed paid-up annuity.

(9) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of at least 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30);

(b) An intermediary shall inform the prospective purchaser, prior to commencing a sales presentation, that the intermediary is acting as an insurance intermediary and shall inform the prospective purchaser of the full name of the insurer which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name;

(c) Terms such as financial planner, investment advisor, fi-

nancial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;

(d) Any reference to dividends or to excess interest credits must include a statement that such dividends or credits are not guaranteed;

(f) Recommendations made by any person subject to this section concerning the purchase or replacement of any arrangement subject to this section are subject to the requirements of s. Ins 2.16 (6);

(g) No presentation of benefits may display guaranteed and non-guaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21);

(h) Sales promotion literature and contract forms shall not state or imply that annuity arrangements are the same as savings accounts or deposits in banking or savings institutions. The use of policies or certificates which resemble savings bank passbooks is prohibited. If savings accounts or deposits in banking and savings institutions are utilized in connection with such annuity arrangements, this shall not prohibit the use of an accurate description of the annuity arrangement.

History: Cr. Register, October, 1980, No. 298, eff. 1-1-81; am. (1) and (2) (b) and appendix I, Register, June, 1982, No. 318, eff. 7-1-82; r. (11) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; r. and recr. (4) and appendix 1, am. (5) (intro.), (a), (i) and (j), (6) (intro.), (a), (j) and (k), (7) (intro.), (a), (8) (a), (b) and (c), cr. (6) (im) and (in), r. (9) (e) and (12), Register, July, 1987, No. 379, eff. 8-1-87; reprinted to correct error in appendix I, Register, October, 1987, No. 382; am. (2) (a), (3) (b) 5. and 6., (9) (a) and (g), r. and recr. (9) (f), r. (10), Register, July, 1989, No. 403, eff. 8-1-89; CR 14-075: am. (3) (b) 1., 2., (4) (c), (8) Register August 2015 No. 716, eff. 9-1-15; correction in (3) (b) 2. b., (8) (a) 1., 2. under s. 35.17, Stats. Register August 2015 No. 716.

Ins 2.16 Advertisements of and deceptive practices in life insurance and annuities. (1) PURPOSE. This section safeguards the interests of prospective purchasers of life insurance and annuities by providing the prospective purchasers with clear and unambiguous statements, explanations, advertisements and written proposals concerning the life insurance policies and annuity contracts offered to them. The commissioner may best achieve this purpose by establishing certain minimum standards of and guidelines for conduct in the advertising and sale of life insurance and annuities. These minimum standards and guidelines prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies or contracts of life insurance and annuities. This section interprets and implements, including but not limited to, the following Wisconsin statutes: ss. 601.01 (2) and (3) and 628.34, Stats. The requirements of this section are in addition to and not a substitute for the requirements set forth in ss. Ins 2.14, 2.15, and 2.17.

(2) SCOPE. (a) Unless otherwise provided under a particular provision of this section, the section applies to any person who makes, directly or indirectly on behalf of an insurer, fraternal benefit society, or intermediary, an advertisement, representation, or solicitation in this state of any insurance specified in s. Ins 6.75 (1) (a).

(b) This section does not apply to:

1. Credit life insurance.

2. Group life insurance purchased, established, or maintained by an employer including a corporation, partnership, or sole proprietorship, or by an employee organization, or both, except for group life insurance purchased, established or maintained by these persons in connection with a multiple employer welfare arrangement as defined under 29 USC 1002 (40).

3. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employee retirement income security act of 1974 (ERISA), 29 USC 1001 to 1461.

4. Variable life insurance policies under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

5. Variable annuities.

6. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or both.

7. Immediate annuity contracts, which are arrangements under which payments begin within 13 months of the issue date.

8. Annuity contracts issued in connection with employee benefit plans as defined by 29 USC 1002 (3) of the federal employee retirement income security act of 1974 (ERISA), except annuity contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 USC 403 (b) of the internal revenue code.

9. A policyholder's deposit account established solely to facilitate payment of regular premiums.

10. Settlement options under life insurance or annuity contracts.

(3) DEFINITIONS. In this section:

(a) 1. "Advertisement" means:

a. Printed and published material, audio visual material and descriptive literature of an insurer or intermediary used in direct mail, newspapers, magazines, other periodicals, radio and TV scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employees, intermediaries or agencies;

b. Descriptive literature and sales aids of all kinds authored, issued, distributed or used by an insurer, intermediary or third party for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters. Descriptive literature and sales aids do not include material in house organs of insurers, communications within an insurer's own organization not intended for dissemination to the public, individual communications of a personal nature, and correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket policy, and general announcements from group or blanket policyholders to eligible individuals that a contract has been written;

c. Prepared sales talks, presentations and material for use by intermediaries and representations made by intermediaries in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employees or intermediaries; and

d. Packaging, including but not limited to envelopes, used in connection with subd. 1. a., b., and c.

2. Advertisement does not include a policy summary as defined in s. Ins 2.14 (3) (d), the "buyer's guide to life insurance" as set forth in s. Ins 2.14, an illustration as defined in s. Ins 2.17 (3) (i), a contract summary as defined in s. Ins 2.15 (4) (a), a preliminary contract summary as defined in s. Ins 2.15 (4) (b), and a buyer's guide as defined in s. Ins 2.15 (4) (c).

(b) "Analysis" means the separation of a life insurance policy or annuity contract into constituent parts for comparison, special emphasis, or other purposes.

(c) "Appraisal" means an evaluation or estimate of the quality or other features of a life insurance policy or annuity contract.

Appraisal does not include a statement which is also an endorsement or testimonial.

(d) "Endorsement" means any statement promoting the insurer, its policy, or both, made by an individual, group of individuals, society, association or other organization which makes no reference to the endorser's experience under the policy.

(e) "Guaranteed interest rate" means the lowest rate of interest which an insurer may pay under the terms of a policy during the duration of the policy.

(f) "Illustrated rate" means a rate shown in an advertisement, representation, or solicitation which an insurer may guarantee for a limited period of time, but not guarantee for the duration of the policy.

(g) "Individual policy issued on a group basis" means an individual policy issued for which:

1. Coverage is provided to employees or members or classes of employees or members defined in terms of conditions pertaining to employment or membership in an association or other group which is eligible for franchise or group insurance as defined in s. 600.03 (22) and (23), Stats.;

2. The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the group;

3. The employer, association or other group, or a designated person acting on behalf of one of these persons, pays premiums or subscription charges to the insurer; and

4. The employer, association or other group sponsors the insurance plan.

(h) "Institutional advertisement" means an advertisement which is prepared solely to promote the reader's or listener's interest in the concept of life insurance or annuities, or of promoting the insurer sponsoring the advertisement, or both.

(i) "Intermediary" has the meaning provided in s. 628.02 (1), Stats.

(j) "Policy" means any document, including a policy, plan, contract, agreement, rider or endorsement, used to set forth in writing life insurance or annuity benefits.

(k) "Representation" means any communication, other than an advertisement or solicitation, relating to an insurance policy, the insurance business, any insurer, or any intermediary.

(L) "Solicitation" means an attempt to persuade a person to make an application for an insurance policy.

(m) "Testimonial" means any statement made by a policyholder, certificate holder or other person covered by the insurer which promotes the insurer and its policy or contract by describing the person's benefits, favorable treatment or other experience under the policy or contract.

(4) APPLICATION OF THIS SECTION. (a) The commissioner shall construe this section in a manner which does not unduly restrict, inhibit or retard the promotion, sale and expansion of life insurance policies or annuity contracts. The commissioner shall consider differences in the purposes served by various advertisements and in the insurance product being advertised when interpreting this section. When applying this section to a specific advertisement, the commissioner shall consider the detail, character, purpose, use and entire content of the advertisement.

(b) The extent to which a person subject to this section shall disclose policy provisions in an advertisement will depend on the content, detail, character, purpose and use of the advertisement and the nature of any qualifications involved. The principal criterion is whether the advertisement has the capacity or tendency to mislead or deceive if such a provision is not disclosed.

(c) The commissioner shall determine whether an advertisement has the capacity or tendency to mislead or deceive from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(5) ADVERTISEMENTS, REPRESENTATIONS, AND SOLICITATIONS IN GENERAL. (a) Advertisements, representations, and solicitations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy, the insurance business, any insurer, or any intermediary to which they apply. No advertisement may contain words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology.

(b) Oral representations and solicitations shall conform to the requirements of this section.

(6) SUITABILITY OF POLICIES. No insurer or intermediary may recommend to a prospective buyer the purchase or replacement of any individual life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The insurer or intermediary shall make all necessary inquiries under the circumstances to determine that the purchase of the insurance is not unsuitable for the prospective buyer. This subsection does not apply to an individual policy issued on a group basis.

(7) DECEPTIVE WORDS, PHRASES OR ILLUSTRATIONS. (a) No person subject to this section may use an advertisement that exaggerates a benefit or minimizes cost by overstatement, understatement or incompleteness. No advertisement may omit information or contain words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable or state or federal tax consequences. An advertisement referring to any policy benefit payable, loss covered, premium payable, or state or federal tax consequences shall be sufficiently complete and clear as to avoid deception or the capacity or tendency to mislead or deceive.

(b) No advertisement may state or imply that life insurance arrangements are the same as savings accounts or deposits in banking or savings institutions. No person subject to this section may use policies which resemble savings bank passbooks. If savings accounts or deposits in banking and savings institutions are utilized in connection with life insurance arrangements, this paragraph does not prohibit the use of an accurate description of the life insurance arrangement.

Note: Annuity contracts are subject to the same limitations under s. Ins 2.15 (9) (h).

(c) No advertisement may contain the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of the policy to believe that he or she will receive, or that it is possible that he or she will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(d) An advertisement may refer to immediate coverage or guaranteed issuance of a policy only if suitable administrative procedures exist so that the policy is issued within a reasonable time after the application is received.

(e) No advertisement may refer to a policy or coverage as"special" unless a person subject to this section can show that a reasonable basis exists for the use of this term.

(8) IDENTITY OF INSURER. (a) Each advertisement shall

clearly identify the insurer. If an application is a part of the advertisement, the application shall show the name of the insurer.

(b) No advertisement may contain a trade name, an insurance group designation, the name of the parent company of the insurer, the name of a government agency or program, the name of a department or division of an insurer, the name of an agency, the name of any other organization, a service mark, a slogan, a symbol or any other device which has the capacity or tendency to mislead or deceive as to the identity of the insurer or create the impression that an entity other than the insurer has any responsibility for the financial obligation under any policy.

(c) No advertisement may contain any combination of words, symbols or materials which, by its content, phraseology, shape, color, nature or other characteristics, is so similar to combinations of words, symbols or materials used by federal, state or local government agencies that it tends to confuse or mislead prospective buyers into believing that the solicitation is in some manner connected with such a government agency.

(d) No advertisement may refer to an affiliate of the insurer without disclosing that the 2 organizations are separate legal entities.

(e) No advertisement may indicate an address for an insurer in any manner that may mislead or deceive as to the insurer's identity or licensing status. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify the address other than that of its home office and clearly disclose the actual city and state of domicile of the insurer.

(9) TESTIMONIALS, ENDORSEMENTS, APPRAISALS, ANALYSIS OR COMMENDATIONS BY THIRD PARTIES. (a) No advertisement may contain a testimonial, endorsement or other commendatory statement concerning the insurer, its policies or activities by any person who receives any pay or remuneration, directly or indirectly, from the insurer in connection with the testimonial, endorsement or statement unless the advertisement, testimonial or endorsement includes a full and prominent disclosure therein of the relationship, direct or indirect, including but not limited to the existence of any financial interest, remuneration, or both, between the insurer and the person making the testimonial, endorsement or statement. The provisions of this paragraph do not apply to any person holding a Wisconsin intermediary's license nor to any radio or television announcer or other person employed or compensated on a salaried or union wage scale basis.

(b) A testimonial, endorsement, appraisal, or analysis used in an advertisement shall be genuine, represent the current opinion of the author, apply to the policy advertised and be accurately reproduced.

(c) No person subject to this section may use a testimonial, endorsement, appraisal or analysis:

1. Which is fictional;

2. If the insurer has information indicating a substantial change of view on the part of the author;

3. If a reasonable person would conclude that the views expressed do not correctly reflect the current opinion of the author;

4. For more than 2 years after the date on which it was originally given or 2 years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion;

5. Which does not accurately reflect the present practices of the insurer;

6. To advertise a policy other than the policy for which the author gave the statement, unless the statement clearly has some reasonable application to the second policy;

7. Which effects a change or omission which alters or distorts its meaning or intent as originally written; or

8. Which does not disclose the true nature of the insurance coverage under which the benefits were paid if it contains a description of benefit payments.

(d) No advertisement may state or imply, unless true, that an individual, group of individuals, society, association or other organization approves or endorses an insurer or a policy. An advertisement shall disclose any affiliated relationship between the society, association or other organization and the insurer. If the insurer or the person or persons who own or control the insurer has formed or owns or controls the society, association or other organization, the advertisement shall clearly disclose this fact.

(e) If a testimonial refers to benefits received under a policy, the insurer shall retain a summary of the pertinent claim information including claim number and date of loss with the advertisement in the advertising file required by sub. (30).

(f) No advertisement may state or imply that a government publication commends or recommends the insurer or its policy.

(10) JURISDICTIONAL LICENSING; APPROVAL BY GOVERNMENTAL AGENCY. (a) No advertisement which may be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed may state or imply licensing beyond those limits.

(b) In any advertisement any reference to licensing shall contain an appropriate disclaimer that the viewer, listener, or reader should not construe the reference as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.

(c) No advertisement may state or imply that the insurer, its financial condition or status, the payment of its claims, its policy forms or the merits or desirability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any agency of this state or the federal government.

(d) No advertisement may contain a reproduction of a portion of a state insurance department report of examination.

(11) INTRODUCTORY, INITIAL OR SPECIAL OFFERS AND LIMITED ENROLLMENT PERIODS. (a) No advertisement may state or imply, unless true, that a policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages not available at a later date by accepting the offer, that only a limited number of policies will be sold, that a time is fixed for the discontinuance of the sale of the policy advertised because of special advantages available in the policy, or that an individual will receive special advantages by enrolling within an open enrollment period or by a deadline date.

(b) No advertisement may state or imply that enrollment under a policy is limited to a specific period unless the advertisement discloses the period of time permitted to enroll. This period of time may not be less than 10 days and not more than 40 days from the date of the advertisement.

(c) If the insurer making an introductory, initial or special offer has previously offered the same or similar policy on the same basis or intends to repeat the current offer for the same or similar policy, the advertisement shall disclose this fact.

(d) No insurer may establish for residents of this state a limited enrollment period within which a person may purchase an individual policy less than 6 months after the close of an earlier limited enrollment period for the same or similar policy. The restriction shall apply to all advertisements in newspapers, magazines and other periodicals circulated in this state, all mail advertisements sent to residents of this state and all radio and TV advertisements broadcast in this state. This restriction does not apply to the solicitation of enrollments under individual policies issued on a group basis.

(e) Where an insurer is an affiliate of a group of insurers un-

der common management and control, the word "insurer" for the purposes of this subsection means the insurance group. The requirements and restrictions applicable to an insurer shall apply to the insurance group.

(12) MAIL ORDER REFUSAL FORM. No person subject to this section may use a mail order advertisement which requires the recipient, in order to refuse a policy, to sign a refusal form and return it to a specified person or insurer.

(13) GROUP, QUASI-GROUP OR SPECIAL CLASS IMPLICATIONS. No advertisement may state or imply, unless true, that prospective policyholders or members of a particular class of individuals become group or quasi-group members or are uniquely eligible for a special policy or coverage and will be subject to special rates or underwriting privileges or that a particular coverage or policy is exclusively for preferred risks, a particular segment of people, or a particular age group or groups.

(14) INSPECTION OF POLICY. (a) An offer in an advertisement of free inspection of a policy or an offer of a premium refund shall not be a cure for misleading or deceptive statements contained in such advertisement.

(b) An advertisement which refers to the provision in the policy advertised regarding the right to return the policy shall disclose the time limitation applicable to this right.

(15) IDENTIFICATION OF PLAN OR NUMBER OF POLICIES. (a) When an advertisement refers to a choice regarding benefit amounts, it shall disclose that the benefit amounts provided will depend upon the plan selected and that the premium will vary with the amount of the benefits.

(b) When an advertisement refers to various benefits, all of which can be obtained only by purchasing 2 or more policies, it shall disclose that the benefits are provided only through a combination of such policies.

(16) USE OF STATISTICS. (a) An advertisement which sets out the dollar amounts of claims paid, the number of persons insured or other statistical information shall identify the source of the statistical information. No person subject to this section may use an advertisement unless it accurately reflects all of the relevant facts. No advertisement may contain irrelevant statistical data.

(b) No advertisement may imply that the statistical information given is derived from the insurer's experience under the policy advertised unless true. The advertisement shall specifically so state if the information applies to other policies or plans.

(c) An advertisement which sets out the dollar amounts of claims paid shall also indicate the period during which such claims have been paid.

(17) CLAIMS. No advertisement may:

(a) Contain untrue statements with respect to the time within which claims are paid;

(b) State or imply that claim settlements will be liberal or generous or use words of similar import;

(c) State or imply that claim settlements will be beyond the actual terms of the policy; or

(d) Contain a description of a claim which involves unique or highly unusual circumstances.

(18) STATEMENTS ABOUT AN INSURER. No advertisement may contain untrue statements or statements that by implication mislead with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.

(19) DISPARAGING COMPARISONS AND STATEMENTS. No advertisement may directly or indirectly contain unfair or incomplete comparisons of policies or benefits or falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.

(20) PREMIUMS. (a) An advertisement for a policy with nonlevel premiums shall contain a prominent description of the premium changes.

(b) No person subject to this section may describe in an advertisement a life insurance policy under which the insurer reserves the right to change the amount of the premium during the policy term unless this feature is prominently described in the advertisement.

(c) Except as otherwise allowed under this paragraph, no advertisement may contain a statement or representation that an insured may withdraw under the terms of the policy any premiums paid for a life insurance policy. The advertisement may refer to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. The advertisement may also refer to withdrawal rights under any unconditional premium refund offer.

(d) No advertisement may state or imply that a pure endowment benefit is a "profit" or "return" on the premium paid rather than a policy benefit for which a specified premium is paid.

(21) NONGUARANTEED POLICY ELEMENTS. (a) No advertisement may contain a description of or otherwise refer to nonguaranteed policy elements in a manner which is misleading or has the capacity or tendency to mislead.

(b) No advertisement may state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If an insurance policy's or annuity contract's nonguaranteed policy elements are illustrated, they may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, mortality tables, and other variable components currently used by the insurer for that insurance policy or annuity contract. The illustration shall contain a statement to the effect that the viewer, listener, or reader should not construe the nonguaranteed policy elements as guarantees or estimates of amounts to be paid in the future.

(c) No advertisement may state or imply that illustrated nonguaranteed policy elements will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at the future time and under what conditions this would occur.

(d) 1. No advertisement may refer to dividends as "tax free"or contain words of similar import, unless the tax treatment of dividends is accurately explained and the nature of the dividend as a return of premium is indicated clearly.

2. The requirements of this subsection are in addition to the requirements set forth in ss. Ins 2.14 (5) (h) and 2.15 (9) (g).

(22) POLICIES SOLD TO STUDENTS. (a) A person subject to this section may address an advertisement for policies sold to students to the parents of students. No address on the advertisement may include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless true.

(b) All advertisements, including but not limited to information flyers used in the solicitation of insurance, shall contain clear identification that the advertisement comes from an insurer or intermediary, if this is the case, and these entities shall be clearly identified as insurers or intermediaries.

(c) No return address on the advertisement may state or imply

that the soliciting insurer or insurance intermediary is affiliated with a university, college, school, or other educational or training institution, unless true.

(23) INDIVIDUAL DEFERRED ANNUITY PRODUCTS OR DEPOSIT FUNDS. For individual deferred annuity products or deposit funds, the following shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates for the annuity product or deposit fund shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. No higher interest rate may be greater than those currently being credited by the insurer unless the higher rate has been publicly declared by the insurer with an effective date for new issues not more than 2 months subsequent to the date of declaration.

(b) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and net premiums.

(c) If any policy does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning the policy shall prominently state that cash surrender benefits are not provided.

(24) ADVERTISEMENTS SHOWING A SPECIFIC RATE OF RETURN ON PREMIUMS OR CASH VALUES. All life insurance or annuity solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence, the following:

(a) A general statement describing the existence of first-year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied.

(b) The guaranteed rate of interest paid on the cash value.

(c) The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, an advertisement, representation, or solicitation shall disclose if interest on the first $1,000 of cash value is limited to the guaranteed rate.

(d) An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case.

(e) An indication of any other significant factors which affect the manner in which cash values are computed.

(25) GRADED OR MODIFIED BENEFITS AFTER A POLICY IS ISSUED. (a) An advertisement, representation, or solicitation for a policy containing graded or modified benefits shall prominently disclose this fact. If applicable, an advertisement, representation, or solicitation shall prominently disclose the fact that the premium is level and coverage decreases or increases with age or duration. Graded or modified benefits shall include, but are not limited to, life insurance policies that, within a specified period after the policy is issued, may pay no death benefits or death benefits that are less than premiums paid should the insurer pay the death benefits.

(b) The prominent disclosure required in par. (a) shall mean the following for the specified type of advertisement:

1. For television advertisements, an announcement describing the graded or modified benefits to be displayed during the advertisement for at least 10 seconds.

2. For radio advertisements, an announcement describing the graded or modified benefits.

3. For pre-printed advertisements intended for general distribution, a written description of the graded or modified benefits printed on the first page of the advertisement and in at least 12 point bold type.

(26) MISCELLANEOUS DISCLOSURE REQUIREMENTS. (a) In the event an advertisement uses "Nonmedical," "No Medical Examination Required," or similar terms where issue is not guaranteed, the terms shall be accompanied by a further disclosure in close proximity thereto and with equal prominence to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(b) No advertisement may contain as the name or title of a life insurance policy any phrase which does not include the words"life insurance" unless accompanied by other language clearly indicating it is life insurance.

(c) An advertisement shall prominently describe the type of policy advertised.

(d) No advertisement of an insurance policy marketed by direct response techniques may state or imply, unless the condition is true, that because there is no intermediary or commission involved there will be a cost saving to prospective purchasers.

(e) No advertisement may state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(f) If nonforfeiture values are shown in any advertisement, the advertisement shall show the values either for the entire amount of the basic life policy death benefit or for each $1,000 of initial death benefit.

(g) No advertisement may contain the words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import with respect to any benefit or service being made available with a policy, unless the insured is not charged for any benefit or service. If the insured is not charged, then the advertisement shall prominently disclose the identity of the payor.

(27) METHOD OF DISCLOSURE OF REQUIRED INFORMATION. (a) A person subject to this section shall set out all information required to be disclosed by this section clearly, conspicuously and in close proximity to the statements to which the information relates or under appropriate captions of sufficient prominence that it shall be readily noticed and not minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

(b) No person subject to this section may set out information required by this section under inappropriate captions or headings or under inappropriate questions where a question and answer format is used.

(28) FORM NUMBER. A person subject to this section shall identify by form number an advertisement other than an institutional advertisement defined in sub. (3) (h) which is mass-produced. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

(29) INSURER'S RESPONSIBILITY FOR ADVERTISEMENTS. (a) The insurer whose policy is advertised has responsibility for the content, form and method of dissemination of all advertisements, regardless of by whom designed, created, written, printed or used.

(b) An insurer shall require its intermediaries and all other persons or agencies acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

(30) INSURER'S ADVERTISING FILE. Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its policies hereafter disseminated in the state. With respect to group, blanket and franchise policies, all proposals prepared on the same printed form need not be included in the file; only typical examples of these proposals shall be included. A notation shall be attached to each such advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised. The file shall be subject to regular and periodic inspection by the office of the commissioner of insurance. A person subject to this section shall maintain all of these advertisements in the file while in use and for a period of 3 years after an advertisement's authorized use. If applicable, a person subject to this section shall also maintain files in accordance with ss. Ins 2.14 (5) (a) and 2.15 (9) (a).

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. (5) (b) 1. and 2. and (6) (b), Register, May, 1984, No. 341, eff. 6-1-84; r. (7) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; r. and recr. Register, July, 1989, No. 403, eff. 8-1-89; am. (1) and (3) (a) 2., Register, March, 1998, No. 507, eff. 4-1-98; CR 14-075: am. (3) (a) 2. Register August 2015 No. 716, eff. 9-1-15.

Ins 2.17 Life insurance illustrations. (1) PURPOSE. This section provides rules for life insurance policy illustrations that will protect consumers and foster consumer education. This section provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this rule are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed. The requirements of this section are in addition to and not a substitute for the requirements set forth in ss. Ins 2.14 and 2.16.

(2) SCOPE. This section applies to all group and individual life insurance policies and certificates except:

(a) Variable life insurance.

(b) Individual and group annuity contracts.

(c) Credit life insurance.

(d) Life insurance policies with no illustrated death benefits on any individual exceeding $10,000.

(3) DEFINITIONS. In this section:

(a) "Actuarial standards board" means the board established by the American academy of actuaries to develop and promulgate standards of actuarial practice.

(b) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

(c) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

(d) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

(e) "Disciplined current scale" means a scale of non-guaranteed elements that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer.

(f) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

(g) "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(h) "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

1. The disciplined current scale; or

2. The currently payable scale.

(i) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and is one of the three illustrations described in pars. (b), (k), and (s).

(j) "Illustration actuary" means an actuary meeting the requirements of sub. (10).

(k) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force.

(L) "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this section, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first 5 years and 100% policy persistency thereafter.

(m) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

1. Fully allocated expenses.

2. Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

3. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the commissioner.

(n) "Non-guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

(o) "Non-term group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group under all of the following conditions:

1. Every plan of coverage was selected by the employer or other group representative.

2. Some portion of the premium is paid by the group or through payroll deduction.

3. Group underwriting or simplified underwriting is used.

(p) "Policy owner" means the owner named in an individual policy or the certificate holder in the case of a group policy.

(q) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

(r) "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value includes cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

(s) "Supplemental illustration" means an illustration furnished in addition to a basic illustration.

(4) POLICIES TO BE ILLUSTRATED. (a) Each insurer marketing policies to which this section is applicable shall notify the commissioner whether a policy form is to be marketed with or

without an illustration. For all policy forms being actively marketed on January 1, 1998, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after January 1, 1998, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

(b) If an insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first anniversary is prohibited.

(c) If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this section is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(d) Potential enrollees of non-term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this section, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

(5) GENERAL RULES AND PROHIBITIONS. (a) An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this section, be clearly labeled "life insurance illustration" and contain all of the following basic information:

1. Name of insurer.

2. Name and business address of agent or insurer's authorized representative, if any.

3. Name, age and sex of proposed insured, except where a composite illustration is permitted under this section.

4. Underwriting or rating classification upon which the illustration is based.

5. Generic name of policy, the insurer's product name, if different, and form number.

6. Initial death benefit.

7. Dividend option election or application of non-guaranteed elements, if applicable.

(b) When using an illustration in the sale of a life insurance policy, an insurer or its agent or other authorized representatives shall not:

1. Represent the policy as anything other than a life insurance policy.

2. Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead.

3. State or imply that the payment or amount of non-guaranteed elements is guaranteed.

4. Use an illustration that does not comply with the requirements of this section.

5. Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated.

6. Provide an applicant with an incomplete illustration.

7. Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

8. Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums.

9. Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported".

10. Use an illustration that is not "self-supporting."

(c) If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

(d) In determining the disciplined current scale an insurer may use standards established by the actuarial standards board that meet all of the following criteria:

1. Are consistent with all provisions of this section.

2. Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred.

3. Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date.

4. Do not permit assumed expenses to be less than minimum assumed expenses.

(6) STANDARDS FOR BASIC ILLUSTRATIONS. (a) A basic illustration shall conform with the following requirements:

1. The illustration shall be labeled with the date on which it was prepared.

2. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration.

3. The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.

4. If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

5. The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

6. Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

7. If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.

8. The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements. Any page of an illustration that shows or describes only the non-guaranteed elements shall include a reference to the page where guaranteed elements are shown and a statement that guaranteed elements are found on that page.

9. The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown on the same page in close proximity to the corresponding value available upon surrender.

10. The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

11. Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

12. Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that the benefits and values are not guaranteed, that the assumptions on which they are based are subject to change, and that actual results may be more or less favorable.

13. If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration shall clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

14. If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

(b) A basic illustration shall include the following narrative summary:

1. A brief description of the policy being illustrated, including a statement that it is a life insurance policy.

2. A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code.

3. A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy.

4. Identification and a brief definition of column headings and key terms used in the illustration.

5. A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

(c) A basic illustration shall include the following numeric summary, following the narrative summary:

1. A summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below in subds. 2., 3., and 4. For multiple life policies the summary shall show policy years 5, 10, 20 and 30.

2. Policy guarantees.

3. Insurer's illustrated scale.

4. Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

a. Dividends at 50% of the dividends contained in the illustrated scale used.

b. Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

c. All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

5. If coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases shown above in subds. 2., 3. and 4.

(d) Statements substantially similar to the following shall immediately follow the numeric summary and be signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this section.

1. A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

2. A statement to be signed and dated by the agent or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant or policy owner and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

(e) The following elements shall be shown in tabular detail:

1. A basic illustration shall include the following for at least each policy year from 1 to 10 and for every 5th policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:

a. The premium outlay and mode the applicant plans to pay and the contract premium, as applicable.

b. The corresponding guaranteed death benefit, as provided in the policy.

c. The corresponding guaranteed value available upon surrender, as provided in the policy.

2. For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

3. Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

(7) STANDARDS FOR SUPPLEMENTAL ILLUSTRATIONS. (a) A supplemental illustration may be provided so long as it complies with all of the following:

1. It is appended to, accompanied by or preceded by a basic illustration that complies with this section.

2. The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration.

3. It contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed.

4. For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

(b) The supplemental illustration shall include a statement in-

forming the reader to consult the basic illustration for guaranteed elements and the other important information it contains.

(8) DELIVERY OF ILLUSTRATION AND RECORD RETENTION. (a) If a basic illustration is used by an agent or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant. If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this section, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and agent or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(b) If no illustration is used by an agent or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the agent or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(c) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

(d) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until 3 years after the policy is no longer in force. A copy need not be retained if no policy is issued.

(9) ANNUAL REPORT; NOTICE TO POLICY OWNERS. (a) Except as provided in par. (b), in the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

1. For universal life policies, the report shall include the following:

a. The beginning and end date of the current report period.

b. The policy value at the end of the previous report period and at the end of the current report period.

c. The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders).

d. The current death benefit at the end of the current report period on each life covered by the policy.

e. The net cash surrender value of the policy as of the end of the current report period.

f. The amount of outstanding loans, if any, as of the end of the current report period.

g. For fixed premium policies, in addition to the information described in subd. 1. a. through f. if, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report.

h. For flexible premium policies, in addition to the information described in subd. 1. a. through f. if, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

2. For all other policies, where applicable:

a. Current death benefit.

b. Annual contract premium.

c. Current cash surrender value.

d. Current dividend.

e. Application of current dividend.

f. Amount of outstanding loan.

(b) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(c) If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: "**IMPORTANT POLICY OWNER NOTICE:** You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

(d) Within 25 calendar days of receipt of a request from the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of subs. (5) (a), (5) (b), (6) (a) and (6) (e). No signature or other acknowledgment of receipt of this illustration is required.

(e) If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

(10) ANNUAL CERTIFICATIONS. (a) The board of directors of each insurer shall appoint one or more illustration actuaries.

(b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the actuarial standard of practice for compliance with the national association of insurance commissioners model regulation on life insurance illustrations promulgated by the actuarial standards board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this section.

(c) The illustration actuary shall:

1. Be a member in good standing of the American academy of actuaries.

2. Be familiar with the standard of practice regarding life insurance policy illustrations.

3. Not have been found by the commissioner, following appropriate notice and hearing to have done any of the following:

a. Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of the actuary's dealings as an illustration actuary.

b. Been found guilty of fraudulent or dishonest practices.

c. Demonstrated the actuary's incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary.

d. Resigned or been removed as an illustration actuary within the past 5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards.

4. Not fail within 30 calendar days to notify the commissioner of any action taken by a commissioner of another state similar to that under subd. 3.

5. Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous 5 years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this shall be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the non-guaranteed elements actually being paid, charged or credited to the same or similar forms, this shall be disclosed in the annual certification.

6. Disclose in the annual certification which of the following methods is used to allocate overhead expenses for all illustrations:

a. Fully allocated expenses.

b. Marginal expenses.

c. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the commissioner.

(d) The illustration actuary shall file a certification with the board and with the commissioner annually for all policy forms for which illustrations are used and before a new policy form is illustrated. If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner within 30 calendar days of discovery.

(e) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner of the actuary's inability to certify within 30 calendar days of that determination.

(f) A responsible officer of the insurer, other than the illustration actuary, shall certify annually all of the following:

1. That the illustration formats meet the requirements of this section and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary.

2. That the insurer has provided its agents with information about the expense allocation method used by the insurer in its illustrations and disclosed as required in par. (c) 6.

(g) The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.

(h) If an insurer changes the illustration actuary responsible for all or a portion of the insurer's policy forms, the insurer shall notify the commissioner of that fact within 30 calendar days and disclose the reason for the change.

(11) PENALTIES. In addition to any other penalties provided by the laws of this state, an insurer or agent that violates a requirement of this section is guilty of a violation of s. 628.34, Stats.

History: Cr. Register, September, 1997, No. 501, eff. 1-1-98.

Ins 2.18 Life settlement contracts. (1) PURPOSE. The purpose of this regulation is to interpret and implement s. 632.69, Stats.

(2) DEFINITIONS. In addition to the definitions contained in s. 632.69 (1), Stats., in this section:

(a) "Commissioner" means the commissioner of insurance.

(b) "Firm" means a corporation, partnership or other legal entity.

(c) "Office" means the office of the commissioner of insurance.

(d) "Term life insurance" means life insurance which provides coverage at a fixed rate of payment for a limited period of time and which provides no guaranteed nonforfeiture or endowment benefits.

(3) LICENSING. (a) *Application.* An individual or firm applying for an initial or renewal license as a broker or provider shall submit an application to the office in the form prescribed by the office. With the application, the individual or firm shall submit all of the following:

1. If the applicant is a broker, with the initial application, a professional liability insurance policy in the amount of $1 million total annual aggregate for all claims during the policy period. Proof that the required professional liability insurance policy continues in force shall accompany each renewal application.

2. If the applicant is a provider, applicants shall provide satisfactory evidence of financial responsibility in compliance with s. 632.69 (2) (g) 4. a., Stats.

3. If the applicant is a provider, audited financial statements of the applicant for the most recently completed fiscal year. The financial statements shall be available for public inspection.

4. Electronic confirmation of completion of the training requirements under s. 632.69 (3), Stats., and sub. (4) if electronic confirmation is available. If electronic confirmation is not available the applicant shall provide evidence satisfactory to the commissioner of completion of the training requirements.

5. Any documentation required in answer to questions on the application.

6. If the applicant is an individual, his or her social security number or, if the applicant does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number, and a statement that he or she intends to act as a broker or provider in good faith and in compliance with all applicable laws of this state and rules and orders of the commissioner.

7. If the applicant is a firm applying for a broker's license, the applicant must identify a designated responsible Wisconsin-licensed individual representative on the application.

8. If the applicant is a firm, its federal identification number, the state and year of its incorporation, or year of its formation and a statement that it intends to act as a broker or provider in good faith and in compliance with all applicable laws of this state, and with rules and orders of the commissioner and the courts of this state with respect to all matters pertaining to activities as a licensee.

9. If the applicant is an individual who is not a resident of this state or a firm that is not organized under the laws of this state, a statement that the applicant agrees to be subject to the ju-

risdiction of the commissioner and the courts of this state with respect to all matters pertaining to activities as a licensee and to accept service of process as provided under ss. 601.72 and 601.73, Stats. A firm that is organized under the laws of another state shall provide a certificate of good standing from the state of domicile.

10. Fingerprint identification may be required for individual resident broker applicants and the Wisconsin-licensed individual representative of a broker firm, in a format specified by the commissioner, and an electronic confirmation of criminal history from the Wisconsin department of justice, crime information bureau, and the federal bureau of investigation, to be completed not more than 180 days prior to making application.

11. Any other information requested by the office.

12. The fee specified under s. 601.31 (1) (mm) or (mp), Stats., as appropriate for a provider, or s. 601.31 (1) (mr) or (ms), Stats., as appropriate for a broker, which fee shall be nonrefundable.

(b) *Renewal application deadline.* Applications for license renewal shall be submitted pursuant to par. (a) on or before July 1 of each year.

(c) *Competence and trustworthiness.* The following criteria may be used in assessing trustworthiness and competence:

1. 'Criminal record.' The conviction for crimes which are substantially related to the circumstances of holding a broker or provider license.

2. 'Accuracy of information.' Any material misrepresentation in the information submitted on the application form.

3. 'Regulatory action.' Any regulatory action taken with regard to any occupational license held, including insurance licenses, real estate licenses, and security licenses.

4. 'Other criteria.' Other criteria which the commissioner considers relevant in assessing trustworthiness or competence, including any of the following:

a. Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

b. Violating any insurance laws, or violating any rule, subpoena, or order of the insurance commissioner or of another state's insurance commissioner.

c. Obtaining or attempting to obtain a license through misrepresentation or fraud.

d. Improperly withholding, misappropriating, or converting any monies or properties received in the course of engaging in the business of life settlements.

e. Misrepresenting the terms of an actual or proposed life settlement contract.

f. Having been convicted of any felony or misdemeanor of which criminal fraud is an element or having plead other than not guilty with respect to any felony or misdemeanor of which criminal fraud or moral turpitude is an element, regardless whether a judgment of conviction has been entered by the court.

g. Having admitted or been found to have committed any unfair trade practice or fraud.

h. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

i. Having a life settlement license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

j. Forging another's name to an application or to any document related to a life settlement transaction.

k. Failing to comply with an administrative or court order imposing a child support obligation.

L. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(4) TRAINING. (a) An individual licensed as a broker shall comply with the training requirements set forth in s. 632.69 (3), Stats.

(b) A firm licensed as a broker shall certify to the commissioner on its application for initial and renewal licensing that the firm's designated responsible Wisconsin-licensed individual representative has complied with the training requirements set forth in s. 632.69 (3), Stats.

(c) Each compliance period for recurring training required under s. 632.69 (3), Stats., shall commence on July first immediately following the preceding compliance period and shall end 24 months later on June 30.

(d) Recurring training required under s. 632.69 (3) (e), Stats., shall be completed and reported at a rate of not less than 2 hours each 12 months of each compliance period.

(5) NOTIFICATION OF FORMAL ADMINISTRATIVE ACTIONS, CRIMINAL PROCEEDINGS AND LAWSUITS. A licensed broker or provider shall notify the commissioner in writing of the following within 30 days:

(a) Except for action taken by the Wisconsin office of the commissioner of insurance, any formal administrative action against the broker or provider taken by any state's regulatory agency, commission or board or other regulatory agency which licenses the person for any occupational activity. The notification shall include a description of the basis for the administrative action and any action taken as a result of the proceeding, a copy of the notice of hearing and other documents describing the problem, a copy of the order, consent to order, stipulation, final resolution, and other relevant documents.

(b) Any initial pretrial hearing date related to any criminal prosecution of the broker or provider taken in any jurisdiction, other than a misdemeanor charge related to the use of a motor vehicle or the violation of a fish and game regulation. The notification shall include a copy of the initial criminal complaint filed, the order resulting from the hearing and any other relevant legal documents.

(c) Any felony conviction or misdemeanor conviction of the licensee in any jurisdiction, other than a misdemeanor conviction related to the use of a motor vehicle or the violation of a fish and game regulation. The notification shall include a copy of the initial criminal complaint or criminal charging document filed, the judgment of conviction, the sentencing document, the broker's explanation of what happened to cause criminal proceedings, the licensee's reasons why no action should be taken regarding the life settlement and any other relevant legal documents.

(d) Any lawsuit filed against the licensee in which there are allegations of misrepresentation, fraud, theft or embezzlement involving the licensee. The notification shall include a copy of the initial suit documents, the licensee's explanation of what happened to cause the civil proceedings, why no action should be taken regarding the life settlement broker's license, and any other relevant legal documents.

(6) NOTIFICATION TO OFFICE. A licensee shall notify the office in writing of any of the following within 30 days after the date of the occurrence:

(a) The cessation of business activities as a broker or provider. A notification under this subsection shall include the name and address of the custodian of the licensee's business records and the location of the records.

(b) Any change in the broker's or provider's business mailing address or the location of its business records.

(c) New or revised information about officers, partners, directors, members, designated employees, or stockholders, except stockholders owning fewer than ten percent of the shares of a provider or broker whose shares are publicly traded.

(7) FILING AND APPROVAL OF FORMS. In fulfilling the requirements of s. 632.69 (5), Stats., a licensee shall comply with the provisions of s. 631.20 (1) (a), Stats.

(8) NOTICES. (a) *Purpose.* This subsection interprets and implements s. 632.69, Stats., by specifying the content of certain notices required to be given to policyholders, owners and purchasers.

(b) *Notice format.* An insurer shall use the forms in Appendices I, II, and III to comply with this subsection. Each notice shall be in no less than 10-point type, and shall include the issuer's address, toll free telephone number, if available, and telephone number in no less than 12-point type.

(c) *Notice by insurer to policyholder.* 1. This par. (c) does not apply to term life insurance.

2. For each life insurance policy issued, life insurers shall provide to individual life insurance policyholders at the time the policy is issued the notice prescribed in Appendix I to this section.

3. In addition, life insurers shall provide a statement informing the policyholder that if the policyholder is considering making changes in the status of a policy, the policyholder should consult with a licensed insurance agent or financial advisor to find an alternative best suited to the policyholder's needs. The statement shall advise the policyholder that additional information is available from the office of the commissioner of insurance at its website address: http://oci.wi.gov or by telephone at 1-800-236-8517. The statement shall be sent to the policyholder annually, and may be included in notices or mailings otherwise provided to policyholders.

4. The commissioner shall make information concerning policy alternatives available to the public.

5. Compliance by insurers with the requirements of par. (c) shall commence three months after September 1, 2012.

(d) *Disclosure to owner.* In accordance with s. 632.69 (8) (a) 2., Stats., at the time disclosures required by s. 632.69 (8) (a) 1., Stats., are provided by the broker or provider with each application for a life settlement, the broker or provider shall provide to the owner a brochure entitled "Wisconsin Guide to Understanding Life Settlements" as prescribed in Appendix II to this section.

(e) *Disclosure to purchaser.* In accordance with s. 632.69 (9) (a) 2., Stats., at the time disclosures required by s. 632.69 (9) (a) 1., Stats., are provided by the provider to the purchaser, and prior to the date that a life settlement purchase agreement is signed by all parties, a provider shall provide to the purchaser a brochure entitled "Wisconsin Guide to Purchase of a Life Settlement" as prescribed in Appendix III to this section.

History: CR 10-051: cr. Register August 2012 No. 680, eff. 9-1-12.

Ins 2.18 Appendix I
Important information about your life insurance policy
Keep this information with your insurance papers

Life insurance is a critical part of a broader financial plan. If you are considering making changes in the status of your policy you should consult with a licensed insurance or financial advisor in order to find an alternative best suited to your needs. Available alternatives include but are not limited to:

- Accelerated Death Benefit: Your policy may provide an early or accelerated cash payment if you have a terminal or chronic illness.
- Cash Surrender: Your policy may have a cash surrender value the life insurer will pay you if you surrender your policy.
- Gift: You may be able to give your policy to another person, who would then assume responsibility for paying premiums.
- Life Settlement: You may be able to sell your life insurance policy to a third party for an amount greater than the cash surrender value or accelerated death benefit but less than the expected death benefit under your policy. The third party becomes the policyholder and receives the benefit upon the death of the insured. Upon sale to the third party you would pay no further premium. Wisconsin law requires brokers and providers who arrange life settlements to be licensed.
- Maintain Your Policy: You may be able to maintain your life insurance policy in force by paying the premiums directly or using your current policy value to pay the premiums.
- Policy Changes: You may be able to reduce or eliminate future premium payments by obtaining a paid-up policy, by reducing coverage, or through other options available from your life insurer.
- Policy Loan: You may be able to obtain a loan from your life insurance company using the cash value of your policy as collateral. Loan proceeds may be used to pay premiums or for other purposes.
- Third-Party Loan: You may be able to obtain a loan from another party to pay your premiums using the cash value or a portion of the death benefit as collateral.

The listed alternatives may or may not be available depending on your circumstances and the terms of your life insurance policy.

If you have a specific concern about your life insurance policy, contact your insurance company or agent:

(Insurer name)

(Customer service)

(Address)

(Toll free telephone number, if available)

(Telephone number)

You may also contact your financial advisor, or you may contact the Office of the Commissioner of Insurance at 1-800-236-8517 or 608-266-0103; Email: ociquestions@wisconsin.gov.

Ins 2.18 Appendix II
WISCONSIN GUIDE TO UNDERSTANDING LIFE SETTLEMENTS
Keep this information with your insurance papers

Thinking about selling your life insurance policy? Life insurance is a critical part of a broader financial plan. If you are considering a sale of your life insurance you should consult with a licensed insurance or financial advisor, attorney or accountant to find an option best suited to your needs.

What is a life settlement? A life settlement is the sale of a life insurance policy to a third party for a cash amount that is greater than the cash surrender value or accelerated death benefit but less than the expected full death benefit under the policy. The third party becomes the new owner or beneficiary of the life insurance policy, is responsible for paying all future premiums, and collects the entire death benefit when the insured dies.

Questions to ask before you sell your life insurance policy:

- Do I still need life insurance protection?
- Have I discussed all my choices with a professional advisor?
- If I sell my policy how much cash will I get?
- If I sell my policy will I be able to get additional life insurance in the future?
- Is my life insurance provided by an employer or other group policy? If so do I have the right to sell it?
- If I sell my policy, who will be the legal owner? Will the policy be resold?
- Who will have specific personal or medical information about me? How often can medical information be requested about me? Will I be required to permit others to contact my medical providers or family members concerning my medical information?
- Is the broker or provider I plan to work with licensed to do life settlement business in Wisconsin?
- What are the costs and fees?

If you sell your life insurance it is important to know:

- You may have to pay income taxes on some or all of the settlement money you receive. Consult a tax professional.
- Creditors may be able to make claims against the settlement money you receive.
- A cash settlement may affect your eligibility for certain government assistance programs such as Medicaid or food stamps. Consult with the appropriate government agency, such as the county aging and disability resource service.
- Your policy could be resold and future owners may be able to track your health.

How does a life settlement work?

- You may contact a life settlement company directly or choose a broker to help you shop for the highest cash settlement. A listing of Wisconsin licensed life settlement brokers and providers is available at the OCI web site. A licensed broker represents only the policy owner and owes a fiduciary duty to the owner to act according to the owner's instructions and in the best interest of the owner.
- You will complete an application form and sign a release allowing the potential buyer to use your medical records to evaluate your life expectancy.
- You select the best offer from those submitted to you.
- Once you accept a settlement offer an escrow account will be set up to hold your policy and the purchaser's money until the documents that change ownership of the policy and the beneficiary have been received and processed by the insurance company.
- Within three business days after the life settlement company gets written proof that the changes in policy ownership and beneficiary have been processed by the insurance company, the settlement proceeds will be sent to you.
- You can change your mind about the life settlement within 30 days from the date of the life settlement contract or 15 days after you are paid, whichever is earlier. If you cancel the settlement contract, you must return the cash settlement plus any premiums paid by the buyer, and repay any loan and loan interest paid on account of the life settlement. If you die within the period, the life settlement contract is cancelled and the named beneficiaries will receive the death benefit, but any cash settlement funds received plus any premiums paid by the buyer, and any loan and loan interest paid on account of the life settlement must be returned to the buyer within 60 days of the date of death.
- Your contract may require you to allow future owners of your policy to regularly contact you to check your health status.

Consumer tips.

- Comparison shop. Get quotes from several settlement companies and be sure you have the best offer.
- You do not have to accept any life settlement offer. You should decide what is in your best interests.
- Check all application forms for accuracy, especially your personal information and medical history.
- Be cautious of any offer to loan you money to buy life insurance. Ask what strings are tied to the loan, and what will happen if the loan is not repaid.
- **Stranger-originated life insurance** is prohibited. Contact the Office of the Commissioner of Insurance if you are offered any money or a gift to purchase life insurance, or if you are offered "free" life insurance for a period of time, or if you are asked to purchase life insurance for the purpose of selling it to investors.

Questions or complaints? Contact your insurance company or agent:

(Insurer Name)

(Customer Service)

(Address)

(Toll free telephone number, if available)

(Telephone number)

You may also contact the Wisconsin Office of the Commissioner of Insurance at 1-800-236-8517 or 608-266-0103; Email:ociquestions@wisconsin.gov.

Ins 2.18 Appendix III
WISCONSIN GUIDE TO PURCHASE OF A LIFE SETTLEMENT
Keep this important information

Thinking about buying a life settlement as an investment? Life settlements allow life insurance policyholders to sell their policies for an immediate cash benefit that is less than the face value of the policy. In return, the buyer of the life settlement becomes the new owner or beneficiary of the life insurance policy, is responsible for payment of future premiums, and collects the death benefit when the insured dies. Typically, interests in the settled life insurance policies take the form of securities and are sold to investors. Multiple investors may invest in a single policy, or the investors may own an interest in an underlying pool of settled policies. When the insured dies the investor who has purchased an interest in the settled policy is entitled to collect a portion of the death benefit in accordance with the terms of the purchase contract. From an investor's perspective a life settlement is an investment in the timely death of the insured person. Before you put your money into this type of investment it is critical that you understand the risks involved, know how your investment will be used, and know what the likely return will be. You should consult with a professional financial advisor, review Wisconsin regulations relating to the purchase of a life settlement, and deal with a licensed life settlement provider and registered securities broker dealer.

Questions to ask before you purchase a life settlement:

- Is the principal and return on my investment guaranteed?
- How is the return on my investment determined?
- When will the principal and return on my investment be paid?
- What fees or other costs am I required to pay?
- Will I ever be required to pay the premiums on the insurance policy?
- Will I be an owner of the policy or only a beneficiary?
- What happens if the settlement company becomes insolvent or goes out of business?
- What happens if the life insurance policy is later determined to be null and void?
- What is the experience and qualification of the person who determines the life expectancy of the insured?

It is important to know:

- A life settlement is not a liquid investment. It cannot be "cashed in" if you change your mind. There is no return on your investment until the insured dies and the death benefit is paid by the insurance company.

- There is no guaranteed annual rate of return. The rate of return depends on when the insured dies, which cannot be precisely predicted. You should find out the life expectancy of the insured and how the determination was made.

- Premiums must be paid on the life insurance policy that is the subject of a life settlement until the insured dies. Find out who is responsible for paying the premiums and whether you may ever be responsible for the payment.

- If the life insurance policy is a group policy there is a risk that the employer or insurer may terminate the policy, and there may be no right to convert the original coverage to an individual policy, or there may be limitations in any conversion right. If the policy is converted there may be additional premiums.

- If the life insurance policy is term insurance the policy is issued for a certain number of years. If the insured outlives the term of the policy there will be no death benefit.

- Insurance companies may contest the validity of a life insurance policy for a period of two years from the date of its issue for a variety of reasons, including suicide or false information, which could result in denial of a death benefit claim.

- If the purchaser of a life settlement is the beneficiary only and not also the owner of the life insurance policy, there is a risk that the beneficiary could be changed or that the premium may not be paid.

- You should consult with a tax advisor to determine whether there may be a tax impact, particularly if money from retirement funds is used to purchase a life settlement.

Questions or complaints? Contact your insurance company or agent:

(Insurer name)

(Customer service)

(Address)

(Toll free telephone number, if available)

(Telephone number)

You may also contact the Wisconsin Office of the Commissioner of Insurance at 1-800-236-8517 or 608-266-0103; Email: ociquestions@wisconsin.gov.

Ins 2.19 Military sales practices. (1) PURPOSE. (a) The purpose of this section is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

(b) This section does not create or imply a private cause of action for a violation of this section.

(2) SCOPE. This section shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

(3) AUTHORITY. This section is issued under the authority of ss. 601.41 (3), 628.34 and 628.347, Stats.

(4) EXEMPTIONS. (a) This section does not apply to solicitations or sales involving any of the following:

1. Credit insurance.

2. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund.

3. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates.

4. Individual stand-alone health policies, including disability income policies.

5. Contracts offered by Servicemembers' Group Life Insurance or Veterans' Group Life Insurance, as authorized by 38 U.S.C. section 1965 *et seq*.

6. Life insurance contracts offered through or by a non-profit military association, qualifying under section 501 (c) (23) of the Internal Revenue Code, and which are not underwritten by an insurer.

7. Contracts used to fund any of the following:

a. An employee pension or welfare benefit plan that is covered by 29 U.S.C. chapter 18.

b. A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer.

c. A government or church plan defined in section 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the Internal Revenue Code.

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

f. Prearranged funeral contracts.

(b) Nothing in this section shall be construed to abrogate the ability of nonprofit organizations or other organizations to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 — Personal Commercial Solicitation on DoD Installations or a successor directive.

(c) For purposes of this section, general advertisements, direct mail and internet marketing does not constitute solicitation. Telephone marketing shall not constitute solicitation provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Nothing in this paragraph shall be construed to exempt an insurer or insurance producer from this section in any in-person, face-to-face meeting established as a result of the solicitation exemptions identified in this paragraph.

(5) DEFINITIONS. In this section:

(a) "Active duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

(b) "Department of Defense personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the U.S. Department of Defense.

(c) "Door to door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

(d) "General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

(e) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

(f) "Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

(g) "Known" or "knowingly" means, depending on its use in this section, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited is any of the following:

1. A service member.

2. A pay grade of E-4 or below.

(h) "Life insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and, unless otherwise specifically excluded, includes individually issued annuities.

(i) "Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(j) "MyPay" means a Defense Finance and Accounting Service web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(k) "Service member" means any active duty officer, commissioned and warrant, or enlisted member of the United States Armed Forces.

(L) "Side fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy, excluding individually issued annuities, by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include any of the following:

1. Cumulated value or cash value or secondary guarantees provided by a universal life policy.

2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance.

3. A premium deposit fund which complies with all of the following:

a. Contains only premiums paid in advance which accumulate at interest.

b. Imposes no penalty for withdrawal.

c. Does not permit funding beyond future required premiums.

d. Is not marketed or intended as an investment.

e. Does not carry a commission, either paid or calculated.

(m) "Specific appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

(n) "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(6) PRACTICES DECLARED FALSE, MISLEADING, DECEPTIVE OR UNFAIR ON A MILITARY INSTALLATION OR USING MILITARY PERSONNEL OR PROGRAMS. (a) No insurer or insurance producer may engage in any of the following acts or practices on a military installation with respect to the in-person, face-to-face solicitation of life insurance:

1. Knowingly soliciting the purchase of any life insurance product door to door or without first establishing a specific appointment for each meeting with the prospective purchaser.

2. Soliciting service members in a group or mass audience or in a captive audience where attendance is not voluntary.

3. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

4. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or in other areas where the installation commander has prohibited solicitation.

5. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

6. Posting unauthorized bulletins, notices or advertisements.

7. Fail to present Department of Defense Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a Department of Defense Form 2885.

8. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the Department of Defense or any branch of the United States Armed Forces.

(b) No insurer or insurance producer may do any of the following:

1. Use Department of Defense personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

2. Participate in any United States Armed Forces sponsored education or orientation program for the purpose of solicitation of the sale of life insurance to service members.

(7) PRACTICES DECLARED FALSE, MISLEADING, DECEPTIVE OR UNFAIR REGARDLESS OF LOCATION. No insurer or insurance producer may do any of the following regardless of location:

(a) Submit, process or assist in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. This includes, but is not limited to, using or assisting in using a service member's MyPay account or other similar internet or electronic medium for such purposes. This subdivision does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(b) Knowingly receive funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of subsection, a formal banking relationship is established when the depository institution does all of the following:

1. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by 12 U.S.C. section 4301 *et seq*. and the regulations promulgated thereunder.

2. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(c) Employ any device or method or enter into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's leave and earnings statement or equivalent or successor form as savings or checking and where the service member has no formal banking relationship as defined in par. (b).

(d) Enter into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(e) Use Department of Defense personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

(f) Offer or give anything of value, directly or indirectly, to Department of Defense personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

(g) Knowingly offer or give anything of value to a service member with a pay grade of E-4 or below for his or her attendance at any event where an application for life insurance is solicited.

(h) Advise a service member with a pay grade of E-4 or below to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(i) Make any representation, or use any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity, including, but not limited to, use of any of the following titles: "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing is this subdivision shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning, including, but are not limited to, Chartered Life Underwriter, Chartered Financial Consultant, Certified Financial Planner, Master of Science in Financial Services, and Masters of Science of Financial Planning.

(j) Solicit the purchase of any life insurance product through

the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government or the United States Armed Forces.

(k) Use or describe the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(L) Excluding individually issued annuities, misrepresent the mortality costs of a life insurance product, including stating or implying that the product costs nothing or is free.

(m) Make any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents of a service member by Servicemembers' Group Life Insurance or Veterans' Group Life Insurance, which is false, misleading or deceptive.

(n) Make any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of Servicemembers' Group Life Insurance or Veterans' Group Life Insurance to private insurers which is false, misleading or deceptive.

(o) Suggest, recommend or encourage a service member to cancel or terminate his or her Servicemembers' Group Life Insurance or issue a life insurance policy which replaces an existing Servicemembers' Group Life Insurance policy unless the replacement will take effect upon or after the service member's separation from the United States Armed Forces.

(p) Deploy, use or contract for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(q) Fail to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(r) Excluding individually issued annuities, fail to clearly and conspicuously disclose the fact that the product being sold is life insurance.

(s) Fail to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by 10 U.S.C. 992 note section 10.

(t) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, fail to provide the applicant at the time the application is taken all of the following:

1. An explanation of any free look period with instructions on how to cancel if a policy is issued.

2. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of s. Ins 2.17 shall be deemed sufficient to meet this requirement for a written disclosure.

(u) Excluding individually issued annuities, recommend the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer and insurance producer have reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable. The offer for sale, or sale, of a life insurance product which includes a side fund to a service member in pay grades E-4 or below who is currently enrolled in Servicemembers' Group Life Insurance is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's Servicemembers' Group Life Insurance death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance. For the purpose of this paragraph:

1. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate, survivors or dependents.

2. "Other military survivor benefits" include: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare Benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(v) Excluding individually issued annuities, offer for sale or sell any life insurance contract which includes a side fund to an individual known to be a service member:

1. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return shall consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule shall be provided for at least each policy year from one to ten and for every fifth policy year thereafter ending at the earliest of age 100, policy maturity or final expiration; and

3. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

(w) Excluding individually issued annuities, offer for sale or sell any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(x) Sell any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, including a double indemnity, which may be excluded.

History: CR 07-108: cr. Register March 2009 No. 639, eff. 4-1-09.

Ins 2.20 Unisex nonforfeiture values in certain life insurance policies.

(1) PURPOSE. The purpose of this section is to allow insurers who have elected an operative date under s. 632.43 (6m) (h), Stats., to provide for cash surrender and paid-up nonforfeiture benefits which do not vary with the sex of the life insured. Some life insurance policies are subject to the decision of the United States supreme court in *Arizona Governing Committee v. Norris,*103 Supreme Court Reporter 3492, which makes it illegal for an employer to make contributions after August 1, 1983, to a defined contribution pension plan if the benefits derived from those contributions differ by sex. Separate provisions are set forth in this section for unisex policies that may be subject to that decision and for unisex policies in general.

(2) SCOPE. Except as provided for in sub. (4) (b), this section applies only to those policies issued in this state for which the insurer or employer has determined that the implications of *Norris* would prohibit the use of cash surrender and paid-up nonforfeiture benefits which vary with the sex of the insured.

(3) DEFINITIONS. (a) "lx" means the number of lives surviving to age x.

(b) "1000 qx" means the yearly death rate per thousand at age x.

(c) 1. "Table A" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for male lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, for these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NA and SA" means the corresponding 1980 nonsmoker and smoker mortality tables for male lives.

(d) 1. "Table G" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for female lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, from these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NG and SG" means the corresponding 1980 nonsmoker and smoker mortality tables for female lives.

(e) 1. "Tables B through F" means the blended 1980 CSO and 1980 CET Mortality Tables for policies issued on an age nearest birthday basis with varying proportions of male lives to total lives. The ratio of male lives to total lives is 80% for Table B, 60% for Table C, 50% for Table D, 40% for Table E and 20% for Table F. These tables are published in the proceedings of the National Association of Insurance Commissioners for the 1983 December meeting, pages 396 last birthday basis, the tables shall be modified by interpolation between values of lx.

2. "Tables NB through NF and SB through SF" means the corresponding 1980 blended nonsmoker and smoker mortality tables.

(f) "1980 CSO and CET Nonsmoker and Smoker Mortality Tables"means the mortality tables with separate rates of mortality for nonsmokers and smokers derived from the 1980 CSO and 1980 CET Mortality Tables and adopted by the NAIC in December 1983. Mortality rates for these tables are published on pp. 406-409, Proceedings of the National Association of Insurance Commissioners, 1984, Vol. 1, and pp. 521-530 Proceedings of the National Association of Insurance Commissioners, 1987, Vol. 1.

(4) CASH VALUE AND PAID-UP NONFORFEITURE BENEFITS. (a) 1. For any policy of life insurance which falls within sub. (2) of this section and is delivered or issued for delivery in this state after the operative date of s. 632.43 (6m) (h), Stats., applicable to the policy, the cash surrender and paid-up nonforfeiture benefits provided under the policy may be calculated using one of the sets of tables designated as Table A through Table G. Tables A and G may not be used for policies issued on or after January 1, 1985 except where the proportion of persons insured is anticipated to be 90% or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986, shall use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered extensions of the *Norris* decision.

2. In place of Tables A through G under sub. (1), corresponding Tables NA through NG and SA through SG may be used in situations where separate rates for nonsmokers and smokers are used.

(b) 1. An insurer may elect one of the Tables B through F in lieu of the 1980 CSO and CET tables for all life insurance policies under which all contractual requirements and guarantees are independent of the sex of the life insured, without regard to any opinion as to the applicability of *Norris*; provided that the Table so elected may not be changed unless the insurer can demonstrate to the satisfaction of the commissioner that a different Blend is more appropriate.

2. In lieu of the above, corresponding Tables NB through NF and SB through SF may be used in situations where separate rates for nonsmokers and smokers are used.

(5) RESERVES. The minimum reserve standards for life insurance policies are set forth in s. 623.06, Stats., and are not affected by this section.

History: Emerg. cr. eff. 5-19-84; cr. Register, August, 1984, No. 344, eff. 9-1-84; r. (6) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; renum. (3)(c), (d), (e), (4)(a) and (b) to be (3)(c)1., (d)1., (e)1., (4)(a)1. and (b)1. and am. (4)(a)1. and (b)1., cr. (3)(c)2., (d)2., (e)2., (f), (4)(a)2. and (b)2., Register, November, 1988, No. 395, eff. 12-1-88.

Ins 2.30 Annuity mortality tables. (1) PURPOSE. The purpose of this section is to adopt, pursuant to s. 623.06 (2a) (b) and (d), Stats., mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

(2) DEFINITIONS. (a) "1983 GAM table" means those male and female group annuity mortality tables adopted for the valuation of group annuity and pure endowment contracts in December of 1983 by the NAIC and published on pages 414-415, NAIC proceedings, vol. I, 1984.

(b) "1983 table 'a'" means that mortality table adopted for the valuation of individual annuity and pure endowment contracts in June of 1982 by the NAIC and published on page 454, NAIC proceedings, vol. II 1982.

(c) "1994 GAR table" means the group annuity reserving table adopted for the valuation of group annuity and pure endowment contracts in December of 1996 by the NAIC as published on pages 866 and 867, vol. XLVII, transactions, society of actuaries, 1995.

(d) "2012 Individual Annuity Mortality Period Life Table" or "2012 IAM Period Table" means the Period Table containing loaded mortality rates for calendar year 2012. This table contains rates, *q*x2012, developed by the society of actuaries committee on life insurance research, and published in the 2012 proceedings of the NAIC, Fall Volume I, pages 149-150.

(e) "2012 IAR Table" means that generational mortality table developed by the society of actuaries committee on life insurance research and containing rates, *q*x2012+n, derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in Section 3m.

(f) "Annuity 2000 mortality table" means those male and female mortality tables adopted for the valuation of individual annuity and pure endowment contracts in December of 1996 by the NAIC as published on page 240, vol. XLVII, transactions, society of actuaries, 1995.

(g) "Generational mortality table" means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period table and a projection scale containing rates of mortality improvement.

(h) "NAIC" means the national association of insurance commissioners.

(i) "Period table" means a table of mortality rates applicable to a given calendar year.

(j) "Projection Scale G2" or "Scale G2" is a table of annual rates, *G2*x, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the society of actuaries committee on life insurance re-

search, and published in the 2012 proceedings of the NAIC, Fall Volume I, pages 151-152.

(3) INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS. (a) The 1983 table 'a' may be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after November 8, 1977 but before January 1, 1986.

(b) Either the 1983 table 'a' or the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1986 but before January 1, 1999.

(c) Except as provided in par. (d) the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999, but before January 1, 2015.

(cm) Except as provided in par. (d) the 2012 IAR Table may be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. For any individual annuity or pure endowment contract issued on or after January 1, 2016, the 2012 IAR Table shall be used.

(d) The 1983 table a without projection shall be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999 when the contract is based on life contingencies and is issued to fund periodic benefits arising from any of one of the following:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions.

2. Settlements involving similar actions such as worker's compensation claims.

3. Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

(3m) APPLICATION OF THE 2012 IAR TABLE. (a) In using the 2012 IAR Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows:

$$q_x^{2012+n} = q_x^{2012} * (1 - G2_x)^n$$

(b) The resulting *q*x 2012+n shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. The rounding shall occur according to the formula in par. (a), starting at the 2012 period table rate.

Note: For example, for a male age 30, qx 2012 = 0.741.
qx 2013 = 0.741 * (1 – 0.010) ^ 1 = 0.73359, which is rounded to 0.734.
qx 2014 = 0.741 * (1 – 0.010) ^ 2 = 0.7262541, which is rounded to 0.726.
Note: A method leading to incorrect rounding would be to calculate qx 2014 as qx 2013 * (1 – 0.010), or 0.734 * 0.99 = 0.727. It is incorrect to use the already rounded qx 2013 to calculate qx 2014.

(4) GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS. (a) Either the 1983 GAM table, the 1983 table 'a', or the 1994 GAR table may be used to value any annuity or pure endowment purchased on or after November 8, 1977 but before January 1, 1986 under a group annuity or pure endowment contract.

(b) Either the 1983 GAM table or the 1994 GAR table shall be used to determine the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1986 but before January 1, 1999 under a group annuity or pure endowment contract.

(c) The 1994 GAR table shall be used for determining the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1999 under a group annuity or pure endowment contract.

(5) APPLICATION OF 1994 GAR TABLE. (a) In using the 1994 GAR table the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1\text{-}AA_x)^n$$

where the q_x^{1994}s and AA_xs are as specified in the 1994 GAR Table.

History: Cr. Register, November, 1985, No. 359, eff. 12-1-85; am. Register, October, 1998, No. 514, eff. 1-1-99; CR 14-076: r. and recr. (2), am. (3) (c), cr. (3) (cm), (3m) Register August 2015 No. 716, eff. 9-1-15.

Ins 2.35 Smoker and nonsmoker mortality tables for minimum reserve liabilities and minimum nonforfeiture benefits. (1) PURPOSE. This section implements ss. 623.06 (2) (am) 3. and 632.43 (6m) (e) 3. f., Stats., by permitting the use of mortality tables that reflect differences in mortality between smokers and nonsmokers. These mortality tables are used in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

(2) DEFINITIONS. In this section:

(a) "1980 CSO table, with or without 10-year select mortality factor" means that mortality table, consisting of separate rates of mortality for male and female lives, incorporated in ss. 623.06 (2) (am) 3 and 632.43 (6m) (e) 3. f., Stats., and referred to in those statutes as the commissioner's 1980 standard ordinary mortality table, with or without 10-year select mortality factors.

(b) "1980 CET table" means that mortality table consisting of separate rates of mortality for male and female lives incorporated in ss. 623.06 (2) (am) 3. and 632.43 (6m) (e) 3. f., Stats., and referred to in those statutes as the commissioner's 1980 extended term insurance table.

(c) "1980 CSO smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in par. (a), and adopted by the National Association of Insurance Commissioners in December 1983.

Note: Mortality rates for these tables are published on pp. 406-413, Proceedings of the National Association of Insurance Commissioners, 1984 Vol. I.

(d) "1980 CET smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in par. (b), and adopted by the National Association of Insurance Commissioners in December 1983.

Note: Mortality rates for these tables are published on pp. 406-413, Proceedings of the National Association of Insurance Commissioners, 1984 Vol. I.

(e) "Composite mortality tables" means the mortality tables defined in pars. (a) and (b), as originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

(3) ALTERNATE TABLES. At the option of the company and subject to the condition that the company use the same select factors for both smoker and nonsmoker tables, and the conditions stated in sub. (4), for any policy of insurance delivered or issued for delivery in this state after the operative date of s. 632.43 (6m) (h), Stats., for that policy form:

(a) The company may substitute the 1980 CSO smoker and nonsmoker mortality tables, with or without 10-year select mortality factors for the 1980 CSO table, with or without 10-year select mortality factors, for use in determining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; and

(b) The company may substitute the 1980 CET smoker and nonsmoker mortality tables for the 1980 CET Table for use in de-

termining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(4) CONDITIONS. For each plan of insurance with separate rates for smokers and nonsmokers the company may:

(a) Use composite mortality tables to determine minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(b) Use 1980 CSO or 1980 CET smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by s. 623.06 (7), Stats., and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(c) Use 1980 CSO or 1980 CET smoker and nonsmoker mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

History: Cr. Register, November, 1988, No. 395, eff. 12-1-88.

Ins 2.40 Annuity contracts without life contingencies. (1) PURPOSE. This section implements and interprets s. 632.66, Stats., by authorizing life insurers to issue annuity contracts without life contingencies and setting forth the conditions under which these annuity contracts may be issued.

(2) SCOPE. This section applies to all annuity contracts without life contingencies and which are classified as life and disability insurance under s. Ins 6.75 (1).

(3) GRANT OF AUTHORITY. A life insurer that holds a valid certificate of authority to transact the business of life insurance and annuities in this state may issue in this state annuity contracts without life contingencies, subject to the following conditions:

(a) No insurer may base the consideration to be paid to the insurer for the annuity contract without a life contingency upon the age or condition of health of the purchaser of the contract or any other person, or on any mortality or morbidity contingencies.

(b) An insurer shall base the amounts guaranteed to be paid under an annuity contract without a life contingency upon reasonable assumptions as to investment income and expenses, determined in a manner which is equitable to all holders of such contracts.

(c) An insurer may offer to the public an annuity contract without a life contingency only through licensed intermediaries or directly by the insurer.

(4) APPLICABLE STATUTES AND ADMINISTRATIVE RULES. An annuity contract without a life contingency is deemed to be an annuity for purposes of chs. 600 to 645, Stats., and all rules adopted thereunder, including, but not limited to, ch. 623, Stats., ss. 631.20 to 631.27, Stats., and ss. Ins 2.07, 2.15, 6.05, and 51.80.

History: Cr. Register, December, 1988, No. 396, eff. 1-1-89; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522.

Ins 2.45 Charitable organizations; insurable interest. (1) PURPOSE. The purpose of this section is to interpret s. 631.07, Stats., with respect to the insurable interest of charitable organizations. This section does not limit or abridge any insurable interest existing at common law or by statute.

(2) SCOPE. This section applies to life insurance policies issued in this state, including, but not limited to, policies in force on March 1, 1994.

(3) DEFINITIONS. In this section:

(a) "Charitable organization" means an organization described in 26 USC 170 (c) or 26 USC 501 (c) (3).

(b) "Life insurance" includes endowment policies and annuities.

(4) INSURABLE INTEREST. A charitable organization may be the applicant, owner or beneficiary of a life insurance policy issued on the life of any individual. A charitable organization is deemed to have an insurable interest in the individual. For insurance applied for on or after March 1, 1994, the charitable organization has an insurable interest only if it obtains the consent of the individual in writing or by other means authorized by common law or by statute.

History: Cr. Register, February, 1994, No. 458, eff. 3-1-94.

Ins 2.80 Valuation of life insurance policies. (1) PURPOSE. (a) This section establishes minimum standards under ch. 623, Stats., for life insurance policy reserves by providing tables of select mortality factors, establishing rules concerning a minimum standard for the valuation of plans with non-level premiums or benefits, and establishing rules concerning a minimum standard for the valuation of plans with secondary guarantees.

(b) The method for calculating basic reserves defined in this section constitutes the commissioner's reserve valuation method for policies to which this section is applicable.

(2) SCOPE. This section applies to all life insurance policies, wherever sold, with or without nonforfeiture values, issued on or after January 1, 2000, subject to the following exceptions and conditions:

(a) This section does not apply to any individual life insurance policy issued on or after January 1, 2000, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount that was issued before January 1, 2000 that guarantees the premium rates of the new policy. This section also does not apply to subsequent policies issued as a result of the exercise of such a provision in the new policy.

(b) This section does not apply to any of the following:

1. Any universal life policy that meets all the following requirements:

a. The secondary guarantee period, if any, is 5 years or less.

b. The specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in sub. (3) (f) and the applicable valuation interest rate.

c. The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.

2. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

3. Any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

4. Group life insurance certificates, unless the certificates provide for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(c) Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, other than universal life policies, or both, shall be in accordance with the provisions of sub. (5).

(d) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of sub. (6).

(e) This section applies to policies that are subject to s. Ins 2.81 in the manner specified in that section.

(3) DEFINITIONS. In this section:

(a) "Basic reserves" means reserves calculated in accordance with the principles of s. 623.06 (3), Stats.

(b) "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment, or from policy inception for the first segment, to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation table and, if elected, the optional minimum mortality standard for deficiency reserves in sub. (4) (b). The length of a particular contract segment shall be set equal to the minimum of the value t for which Gt is greater than Rt. If Gt never exceeds Rt the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy. Gt and Rt are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = the number of years from the beginning of the segment

= 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount, ignoring policy fees only if level for the premium paying period of the policy, for year t of the segment.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$$

however, R_t may be increased or decreased by one percent in any policy year, at the insurer's option, but R_t may not be less than one;

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year k+t but using the mortality of sub. (4) (b) 2. if sub. (4) (b) 3. is elected for deficiency reserves.

Note: The purpose of the one percent tolerance in the R factor is to prevent irrational segment lengths due to such things as premium rounding. For example, consider a plan in which gross premiums are designed at some point to be a ratio times the underlying ultimate mortality rates, where the ratio varies by issue age. The resulting segments may be greater than one year, because the gross premiums are not expressed in fractional cents. The tolerance factor allows the creation of one-year segments for a plan in which premiums parallel the underlying valuation mortality table.

(c) "Deficiency reserves" means the excess, if greater than zero, of minimum reserves calculated in accordance with the principles of s. 623.06 (7), Stats., over basic reserves.

(d) "Guaranteed gross premiums" means the premiums under a policy of life insurance that are guaranteed and determined at issue.

(e) "Maximum valuation interest rates" means the interest rates defined in s. 623.06 (2m), Stats., that are to be used in determining the minimum standard for the valuation of life insurance policies.

(f) "1980 CSO valuation table" means the commissioner's' 1980 standard ordinary mortality table without 10-year select mortality factors, incorporated into the 1980 amendments to the national association of insurance commissioner's standard valuation law, as provided in s. 623.06 (2) (am), Stats., and variations of the 1980 CSO valuation table approved by the national association of insurance commissioners, such as the unisex and smoker and non-smoker versions approved in December 1983 and adopted by ss. Ins 2.20 and 2.35.

Note: This paragraph defines the 1980 CSO valuation table without the existing 10 year select mortality factors to assure that, if select mortality factors are elected, only one set of factors may be applied to the base valuation mortality table.

(g) "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, "scheduled gross premium" means the smallest specified premium described in sub. (6) (c), if any, or else the minimum prescribed in sub. (6) (d).

(h) "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment is calculated in the following manner:

1. The present value of the death benefits within the segment, plus

2. The present value of any unusual guaranteed cash value, as provided in sub. (5) (g), occurring at the end of the segment, less

3. Any usual guaranteed cash value occurring at the start of the segment, plus

4. For the first segment only, the excess of subd. 4. a. over subd. 4. b., as follows:

a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium may not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

b. A net one-year term premium for the benefits provided for in the first policy year.

5. The length of each segment is determined by the contract segmentation method.

6. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the length of all segments of the policy.

7. For both basic reserves and deficiency reserves computed by the contract segmentation method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

Note: The segmentation requirement should not be limited to plans with no cash surrender values; otherwise companies could avoid segmentation entirely by designing policies with minimal (positive) cash values. Segmentation for plans with cash surrender values should be based solely upon gross premium levels. Basing segmentation upon the level of cash surrender values introduces complications because of the interrelationship between minimum cash surrender values and gross premium patterns. The requirements of this section relating to reserves or plans with unusual cash values and to reserves if cash values exceed calculated reserves serve to link required reserves and cash surrender values. The calculation of segmented reserves shall not be linked to the occurrence of a positive unitary terminal reserve at the end

of a segment. The requirement of this section to hold the greater of the segmented reserve or the unitary reserve eliminates the need for any linkage.

(i) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

(j) "Ten-year select factors" means the select factors adopted with the 1980 amendments to the national association of insurance commissioner's standard valuation law as provided in s. 623.06 (2) (am), Stats.

(k) "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where all of the following occur:

1. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy.

2. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of:

a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium may not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy, over

b. A net one-year term premium for the benefits provided for the first policy year.

3. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

Note: The purpose of this paragraph is to define as specifically as possible what has become commonly called the unitary method. The national association of insurance commissioners standard valuation law does not define the term "unitary" for policies with nonlevel premiums or benefits; its requirements for reserves "computed by a method that is consistent with the principles of the national association of insurance commissioners standard valuation law" has not been uniformly interpreted.

(L) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits, other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality or expense charges are made to the policy.

(4) GENERAL CALCULATION REQUIREMENTS FOR BASIC RESERVES AND PREMIUM DEFICIENCY RESERVES. (a) At the election of the insurer for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation table with select mortality factors. If select mortality factors are elected, they may be any of the following:

1. The 10-year select mortality factors incorporated into the 1980 amendments to the national association of insurance commissioners standard valuation law, as provided in s. 623.06 (2) (am), Stats.

2. The select mortality factors in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in april 1999.

Note: The select mortality factors for durations 1 through 15 in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in april 1999 reflect the society of actuaries' data for the years 1983 through 1986 (designated as "83-86 SOA inter-company experience" in the tables), split by sex and smoking status, with fifteen years of select mortality improvement, based on the society of actuaries' projection scale A applied. A 50% margin was added. The factors were then graded to the 1980 CSO valuation table over the next five durations. A 50% margin was deemed appropriate to provide a reasonable margin, with little likelihood that actual experience for significant blocks of business would exceed it.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the insurer for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation table with select mortality factors. If select mortality factors are elected, they may be any of the following:

1. The 10-year select mortality factors incorporated into 1980 amendments to the national association of insurance commissioners standard valuation law.

2. The select mortality factors in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in april 1999.

Note: The select mortality factors in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in April 1999 do not reflect the underwriting risk classes that have evolved since the period of the underlying experience. In light of this consideration, and the recent recognition of the regulatory value of actuarial opinions, this section allows actuarial judgement to be used for deficiency reserves.

3. For durations in the first segment, X % of the select mortality factors in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in April 1999, subject to all of the following:

a. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience.

d. X is such that, when using the valuation interest rate used for basic reserves, the actuarial present value of future death benefits calculated using the mortality rates resulting from the application of X is greater than or equal to the actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date.

e. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5 years after the valuation date.

f. The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of this subdivision.

g. The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of this subdivision.

h. The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

i. If X is less than 100% at any duration for any policy, the appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of s. Ins 50.78; the appointed actuary shall disclose in the regulatory asset adequacy issues summary the impact of any insufficiency of assets to support the payment of benefits and ex-

penses and the establishment of statutory reserves during one or more interim periods; and the appointed actuary shall annually offer an opinion for all policies subject to this section as to whether the mortality rates resulting from the application of X meet the requirements of this subdivision. This opinion shall be supported by an actuarial report, subject to appropriate actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. It shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(c) This paragraph applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10-year select mortality factors incorporated into the 1980 amendments to the national association of insurance commissioners standard valuation law, as provided in s. 623.06 (2) (am), Stats., may be used thereafter through the 10th policy year from the date of issue.

Note: This section does not allow the use of the select mortality factors beyond the first segment. The rationale is that the result of a premium increase that is sufficient to require a new segment will be increased lapsation, leading to mortality deterioration after the increase. However, this section allows the use of the ten-year select mortality factors incorporated into the 1980 amendments to the national association of insurance commissioners standard valuation law, see s. 623.06 (2) (am), Stats., beyond the first segment (but in no case beyond the tenth policy year) in recognition that the mortality deterioration is unlikely to occur to a significant degree within the first 10 years.

(d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums even if not included in the actual calculation of basic reserves.

(e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:

1. Reserves calculated ignoring the guarantee.
2. Reserves assuming the guarantee was made at issue.
3. Reserves assuming that the policy was issued on the date of the guarantee.

(f) The commissioner may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this regulation. This documentation may include a demonstration of the extent to which aggregation with other nonspecified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of s. Ins 50.78.

(5) CALCULATION OF MINIMUM VALUATION STANDARD FOR POLICIES WITH GUARANTEED NONLEVEL GROSS PREMIUMS OR GUARANTEED NONLEVEL BENEFITS, OTHER THAN UNIVERSAL LIFE POLICIES. (a) Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same 1980 CSO valuation table and the same select mortality factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the following adjustments may be made:

1. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(b) The deficiency reserve at any duration shall be calculated as follows:

1. Using unitary reserves if the corresponding basic reserve determined by par. (a) is unitary.

2. Using segmented reserves if the corresponding basic reserve determined by par. (a) is segmented.

3. Using segmented reserves if the corresponding basic reserve determined by par. (a) is equal to both the segmented reserve and the unitary reserve.

(c) Paragraphs (b), (d), and (e) shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality specified in sub. (4) (b) and rate of interest.

(d) Deficiency reserves, if any, shall be calculated for each policy as the excess, if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in sub. (4) (b).

(e) For deficiency reserves determined on a contract segmentation method, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(f) Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten-year select factors incorporated into the 1980 amendments of the national association of insurance commissioners standard valuation law. In no case may total reserves, including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination, be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any) exclusive of any deduction for policy loans, upon termination of the policy.

(g) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value may not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

Note: This requirement is independent of both the segmentation process and the unitary process. After the greater of the segmented or the unitary reserve has been determined, then pars. (g), (h), and (i) impose an additional floor of the ultimate reserve. The purpose of pars. (g), (h) and (i) is to assure adequate funding of significant increases in guaranteed cash surrender values.

(h) The reserves actually held subsequent to any unusual guaranteed cash surrender value may not be less than the reserves calculated by treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed

cash surrender value at the end of the prior segment as a net single premium, where all of the following apply:

1. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of the date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date or the mandatory expiration date of the policy.

2. The net premium for a given year during the n-year period is equal to the product of the net-to-gross ratio and the respective gross premium.

3. The net-to-gross ratio is equal to the present value, at the beginning of the n-year period, of death benefits payable during the n-year period plus the present value, at the beginning of the n-year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n-year period divided by the present value, at the beginning of the n-year period, of the scheduled gross premiums payable during the n-year period.

(i) For purposes of pars. (g) and (h), a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of all of the following:

1. One hundred ten percent of the scheduled gross premium for that year.

2. One hundred ten percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values.

3. Five percent of the first policy year surrender charge, if any.

(j) At the option of the insurer, the following approach for reserves on yearly renewable term reinsurance may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves may not be less than the tabular cost of insurance for the appropriate period, as defined in par. (f).

3. For deficiency reserves for each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium. Deficiency reserves may not be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with this subdivision.

4. For purposes of this paragraph, the calculations use the maximum valuation interest rate and the 1980 CSO valuation table with or without 10-year select mortality factors.

5. A reinsurance agreement shall be considered yearly renewable term reinsurance for purposes of this paragraph if only the mortality risk is reinsured.

6. If the assuming company chooses this optional exemption, The ceding company's reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

Note: Traditional reserves for yearly renewable term reinsurance, the calculations of which par. (j) describes, are already adequate and sufficient. However, without this option, yearly renewable term reinsurance would be subject to the more complex segmentation calculations.

(k) At the option of the insurer, the following approach for reserves for attained-age-based yearly renewable term life insurance policies may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves may not be less than the tabular cost of insurance for the appropriate period, as defined in par. (f).

3. For deficiency reserves for each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium. Deficiency reserves may not be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with this subdivision.

4. For purposes of this paragraph, the calculations use the maximum valuation interest rate and the 1980 CSO valuation table with or without 10-year select mortality factors.

5. A policy shall be considered an attained-age-based yearly renewable term life insurance policy for purposes of this paragraph if both of the following apply:

a. The premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued.

b. The premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

6. For policies that become attained-age-based yearly renewable term policies after an initial period of coverage, the approach of this paragraph may be used after the initial period if both the following apply:

a. The initial period is either constant or runs to a common attained age for all insureds of the same sex, risk class and plan of insurance.

b. After the initial period of coverage, the policy meets the conditions of subd. 5.

7. If the election in this paragraph is made, this approach shall be applied in determining reserves for all attained-age-based yearly renewable term life insurance policies issued on or after the effective date of this section.

Note: Traditional reserves for attained-age-based yearly renewable term policies, the calculations of which this paragraph describes, are already adequate and sufficient. However, without this option, these policies would be subject to the more complex segmentation calculations.

(L) Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if all of the following conditions are met:

1. The policy consists of a series of n-year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than 10 years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level.

2. The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO valuation table with or without the 10-year select mortality factors.

3. There is no cash surrender value in any policy year.

Note: Without this exemption, companies issuing certain n-year renewable term policies could be forced to hold reserves higher than n-year term reserves, even though in many cases gross premiums are well above valuation mortality rates.

(m) Unitary basic reserves and unitary deficiency reserves need not be calculated for a juvenile policy if, based upon the initial current premium scale at issue, all of the following conditions are met:

1. At issue, the insured is age 24 or younger.

2. Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values.

3. After the end of the juvenile period, gross premiums are level for the remainder of the premium-paying period, and death benefits are level for the remainder of the life of the policy.

Note: The jumping juvenile policy described has traditionally been valued in two segments. This exemption will allow that practice to continue without requiring the calculation of reserves on a unitary basis. However, within each segment, both basic and deficiency reserves shall comply with the segmented reserve requirements.

(6) CALCULATION OF MINIMUM VALUATION STANDARD FOR FLEXIBLE PREMIUM AND FIXED PREMIUM UNIVERSAL LIFE INSURANCE POLICIES THAT CONTAIN PROVISIONS RESULTING IN THE ABILITY OF A POLICYOWNER TO KEEP A POLICY IN FORCE OVER A SECONDARY GUARANTEE PERIOD. (a) Policies with a secondary guarantee include any of the following:

1. A policy with a guarantee that the policy will remain in force at the original schedule of benefits subject only to the payment of specified premiums.

2. A policy in which the minimum premium at any duration is less than the corresponding one-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation table with or without 10-year select mortality factors.

3. A policy with any combination of the features described in subds. 1. and 2.

(b) A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in pars. (g) and (h) shall be recalculated from issue to reflect these changes.

(c) Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

(d) For purposes of this subsection, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors, including mortality charges, loads and expense charges, and the interest crediting rate, which are all guaranteed at issue.

(e) The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in sub. (4) (a) 2. and sub. (4) (b) 2. and 3. may not be used to calculate the one-year valuation premiums.

(f) The 1-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(g) Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments shall be determined according to the contract segmentation method.

(h) Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in sub. (5) (b), (c), (d), and (e) with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(i) The minimum reserves during the secondary guarantee period are the greater of the following:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees.

2. The minimum reserves required by other rules governing universal life plans.

Note: The tables at pages 21 through 43 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in April 1999 contains tables of select mortality factors that are the bases to which the respective percentage of sub. (4) (a) 2., (b) 2., and 3. are applied. The 6 tables of select mortality factors include: (1) male aggregate, (2) male nonsmoker, (3) male smoker, (4) female aggregate, (5) female nonsmoker, and (6) female smoker. These tables apply to both age last birthday and age nearest birthday mortality tables.

For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are 80% of the appropriate male table in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in April 1999, plus 20% of the appropriate female table in the tables at pages 18 through 35 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in April 1999.

Section Ins 2.20 allows the use of sex-blended mortality table for the purposes of determining nonforfeiture values, but sex-blended tables are not allowed for the purposes of valuing minimum reserve liabilities under s. Ins 2.80 or s. 623.06, Stats.

Note: Copies of the tables at pages 21 through 43 of the national association of insurance commissioners valuation of life insurance policies model regulation updated and published by the national association of insurance commissioners model regulation service in April 1999 for use with s. Ins 2.80, Wis. Adm. Code, are available from the Office of the Commissioner of Insurance, P.O. Box 1768, Madison WI 53707-7873 or from the OCI website: http://oci.wi.gov, at information for companies, OCI rule-making information.

History: Cr. Register, March, 1998, No. 507, eff. 1-1-99; r. and recr. Register, June, 1999, No. 522, eff. 7-1-99; CR 04-071: cr. (2) (e), am. (4) (b) 3. (intro.), r. Appendix I, Register December 2004 No. 588, eff. 1-1-05; CR 14-008: r. (4) (b) 3. b., c., am. (4) (b) 3. g., i. Register August 2014 No. 704, eff. 9-1-14.

Ins 2.81 Recognition of the 2001 CSO mortality table for use in determining minimum reserve liabilities and nonforfeiture benefits.

(1) AUTHORITY. This section is promulgated by the commissioner of insurance pursuant to s. 623.06 (2) (am) 3, Stats., standard valuation law, and s. 632.43 (6m) (e) 3. f., Stats., standard nonforfeiture law for life insurance.

(2) PURPOSE. The purpose of this section is to recognize, permit and prescribe the use of: the 2001 commissioners' standard ordinary CSO mortality table in accordance with s. 623.06 (2) (am) 3., Stats., standard valuation law, and s. 632.43 (6m) (e) 3. f., Stats., standard nonforfeiture law for life insurance; the 2001 CSO mortality table in s. Ins 2.20 unisex nonforfeiture values in certain life insurance policies, s. Ins 2.35 smoker and nonsmoker mortality tables for minimum reserve liabilities and minimum nonforfeiture benefits, and s. Ins 2.80 valuation of life insurance policies; mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with s. 623.06 (2) (am) 3., Stats., standard valuation law, and s. Ins 2.80 valuation of life insurance policies; and the 1980 commissioners' standard ordinary CSO mortality table for determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for funeral policies.

(3) DEFINITIONS. In this section:

(a) "2001 CSO mortality table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the valuation basic mortality table developed by the Society of Actuaries Individual Life Insurance Valuation

Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO mortality table is included in the Proceedings of the NAIC (2nd Quarter 2002) and is supplemented by the 2001 CSO preferred class structure mortality table and may be obtained from the office. Unless the context indicates otherwise, the "2001 CSO mortality table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

Note: The 2001 CSO mortality table may be obtained from the website of the Office of the Commissioner of Insurance (http://oci.wi.gov) or by writing to the Office.

(b) "2001 CSO mortality table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO mortality table.

(c) "2001 CSO mortality table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO mortality table.

(cm) "2001 CSO preferred class structure mortality table" means mortality tables with separate rates for super preferred nonsmokers, preferred nonsmokers, residual standard nonsmokers, preferred smokers, and residual standard smoker splits of the 2001 CSO nonsmoker and smoker tables as adopted by the NAIC at the September, 2006 national meeting and published in the Proceedings of the NAIC (3rd Quarter 2006). Unless the context indicates otherwise, the "2001 CSO preferred class structure mortality table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

Note: The 2001 CSO preferred class structure mortality table may be obtained from the website of the Office of the Commissioner of Insurance (http://oci.wi.gov) or by writing to the Office.

(d) "Commissioner" means the commissioner of insurance.

(e) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(em) "Funeral policies" means life insurance policies as defined in s. 632.415, Stats.

(f) "NAIC" means the national association of insurance commissioners.

(g) "Office" means the office of the commissioner of insurance.

(h) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

(i) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information, demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers, and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(j) "Ultimate 1980 CSO" means the commissioners 1980 standard ordinary mortality table without 10-year select mortality factors, incorporated into the standard valuation law as provided in s. 623.06 (2) (am) 1., Stats.

Note: The Ultimate 1980 CSO mortality table may be obtained from the website of the Office of the Commissioner of Insurance (http://oci.wi.gov) or by writing to the Office.

(4) 2001 CSO MORTALITY TABLE. (a) Except as provided in sub. (8), at the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this section, the 2001 CSO mortality table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in par. (b) to which s. 623.06 (2) (am) 3. or 632.43 (6m) (e) 3. f., Stats., or s. Ins 2.20, 2.35, or 2.80 are applicable. If the company elects to use the 2001 CSO mortality table, it shall do so for both valuation and nonforfeiture purposes.

(b) Except as provided in sub. (8), and subject to the conditions stated in this section, the 2001 CSO mortality table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which s. 623.06 (2) (am) 3. or 632.43 (6m) (e) 3. f., Stats., or s. Ins 2.20, 2.35, or 2.80 are applicable.

(c) At the election of the insurer, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this paragraph and sub. (5) (e) 1. to 3., the 2001 CSO preferred class structure mortality table may be elected in place of the smoker mortality table found in the 2001 CSO mortality table or the nonsmoker mortality table found in the 2001 CSO mortality table or both as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2005, and prior to January 1, 2007, the 2001 CSO preferred class structure mortality table may be elected in place of the smoker and nonsmoker mortality tables found in the 2001 CSO mortality table with the consent of the commissioner and subject to the conditions of sub. (5) (e) 1. to 4. In considering a request by a foreign insurer for such consent, the commissioner may rely on the consent of the commissioner of the foreign company's state of domicile. No such election may be made until the insurer demonstrates to the commissioner in a form acceptable to the commissioner that at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO preferred class structure mortality table used in place of a 2001 CSO mortality table, pursuant to the requirements of this section, will be treated as part of the 2001 CSO mortality table only for purposes of reserve valuation.

Note: There is no new Commissioners Extended Term (CET) table being proposed to replace the 1980 CET Table. Therefore, the new minimum basis for the computation of values related to extended term benefits will be the 2001 CSO Mortality Table.

(5) CONDITIONS. (a) For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

1. Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

2. Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by s. 623.06 (7), Stats., and composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

3. Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(b) For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

(c) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO mortality table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of sub. (6) and s. Ins 2.80 relative to use of the select and ultimate form.

(d) When the 2001 CSO mortality table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in s. Ins 50.75

(1). The commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

(e) The following conditions are applicable for plans of insurance using the 2001 CSO preferred class structure mortality table:

1. For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO mortality table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that both of the following are true:

a. The present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class, and

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

2. For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO mortality table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that both of the following are true:

a. The present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class, and

b. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

3. Unless exempted by the commissioner under s. 600.13, Stats., every insurer using the 2001 CSO preferred class structure mortality table shall annually file with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner, statistical reports showing mortality and such other information as the commissioner may deem necessary or expedient for the administration of the provisions of this section. The form of the reports shall be established by the commissioner or the commissioner may require the use of a form acceptable to the commissioner established by the NAIC or by a statistical agent designated by the NAIC.

Note: The form for the annual report required under s. Ins 2.81 (5) (e) 3. may be obtained from the website of the Office of the Commissioner of Insurance (http://oci.wi.gov) or by writing to the office.

4. The use of the 2001 CSO preferred class structure mortality table for the valuation of policies issued prior to January 1, 2007 is not permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, as specified under subd. 4. a. or b.:

a. In cases where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this subdivision paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that provides coverage for the period from the next policy premium due date to the end of the policy year or the next reinsurance premium due date whichever is earlier, and that would be refunded to the ceding entity upon the termination of the policy.

b. In cases where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this subdivision paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.

5. For purposes of the condition described in subd. 4., both the reserve credit and the gross reserve before reinsurance for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset, and for the mid-terminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO preferred class structure table.

(6) APPLICABILITY OF THE 2001 CSO MORTALITY TABLE TO S. INS 2.80, VALUATION OF LIFE INSURANCE POLICIES. (a) The 2001 CSO mortality table may be used in applying s. Ins 2.80 in the following manner, subject to the transition dates for use of the 2001 CSO mortality table in sub. (4):

1. Section Ins 2.80 (2) (b) 1. b.: The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO mortality table.

2. Section Ins 2.80 (3) (b): All calculations are made using the 2001 CSO mortality table, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in subd. 4. The value of "qx+k+t–1" is the valuation mortality rate for deficiency reserves in policy year k +t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. Section Ins 2.80 (4) (a): The 2001 CSO mortality table is the minimum standard for basic reserves.

4. Section Ins 2.80 (4) (b): The 2001 CSO mortality table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in subd. 3. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO mortality table with those tests that utilize the 2001 CSO mortality table, unless the combination is explicitly required by law or necessary to be in compliance with relevant actuarial standards of practice.

5. Section Ins 2.80 (5) (f): The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO mortality table.

6. Section Ins 2.80 (5) (j): The calculations specified in s. Ins 2.80 (5) (j) shall use the ultimate mortality rates in the 2001 CSO mortality table.

7. Section Ins 2.80 (5) (k): The calculations specified in s. Ins 2.80 (5) (k) shall use the ultimate mortality rates in the 2001 CSO mortality table.

8. Section Ins 2.80 (5) (L): The calculations specified in s.

Ins 2.80 (5) (L) shall use the ultimate mortality rates in the 2001 CSO mortality table.

9. Section Ins 2.80 (6) (a) 2.: The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO mortality table.

(b) Nothing in this subsection shall be construed to expand the applicability of s. Ins 2.80 to include life insurance policies exempted under s. Ins 2.80 (2) (a) and (b).

(7) GENDER-BLENDED TABLES. (a) For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO mortality table (M) and the 2001 CSO mortality table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO mortality table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the regulation.

(b) The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

Note: The blended tables may be obtained from the website of the Office of the Commissioner of Insurance (http://oci.wi.gov) or by writing to the Office.

(c) It shall not, in and of itself, be a violation of s. 628.34, Stats., for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

(8) FUNERAL POLICIES. (a) For funeral policies, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO, except as provided in par. (b).

(b) For funeral policies issued on or after January 1, 2009, and before January 1, 2012, the 2001 CSO mortality table may be used as the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds.

(c) If an insurer elects to use the 2001 CSO mortality table as a minimum standard for any funeral policy issued on or after January 1, 2009, and before January 1, 2012, the insurer shall provide, as a part of the regulatory asset adequacy issues summary submitted in support of the insurer's asset adequacy testing, an annual written notification to the domiciliary commissioner which shall include all of the following:

1. A complete list of all funeral policy forms that use the 2001 CSO mortality table as a minimum standard.

2. A certification signed by the appointed actuary stating that the reserve methodology employed by the insurer in determining reserves for the funeral policies issued on or after January 1, 2009, and before January 1, 2012, using the 2001 CSO mortality table as a minimum standard, develops adequate reserves. For purposes of the certification, the funeral policies using the 2001 CSO mortality table as a minimum standard may not be aggregated with any other policies.

3. Supporting information regarding the adequacy of reserves for funeral policies issued on or after January 1, 2009, and before January 1, 2012, and using the 2001 CSO mortality table as a minimum standard for reserves.

(d) For funeral policies issued on or after January 1, 2012, the Ultimate 1980 CSO mortality table shall be used as the minimum mortality standard for determining reserve liabilities and nonforfeiture values.

(9) This section may be enforced under s. 601.41 or 601.64, ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

History: CR 04-071: cr. Register December 2004 No. 588, eff. 1-1-05; CR 07-070: am. (2) and (3) (a), cr. (3) (cm), (i), (4) (c) and (5) (e) Register December 2007 No. 624, eff. 1-1-08; corrections in (4) (a) and (b) made under s. 13.92 (4) (b) 7., Stats., Register August 2009 No. 644; CR 09-027: am. (2), (4) (a) and (b), cr. (3) (em), (j) and (8), renum. (8) to be (9) Register September 2009 No. 645, eff. 10-1-09; CR 10-026: am. (4) (c), cr. (5) (e) 4. and 5. Register August 2010 No. 656, eff. 9-1-10; numbering of (5) (e) 5. and corrections in (5) (e) 4. and 5. made under s. 13.92 (4) (b) 1. and 7., Stats., Register August 2010 No. 656.