

Chapter Ins 6

GENERAL

<p>Ins 6.01 Foreign company to operate two years before admission</p> <p>Ins 6.02 Company to transact a kind of insurance two years before admission</p> <p>Ins 6.03 Nonresident casualty and fire insurance agents</p> <p>Ins 6.04 Countersignature requirements</p> <p>Ins 6.05 Filing of insurance forms</p> <p>Ins 6.06 Termination of insurance contracts</p> <p>Ins 6.09 Prohibited acts by captive agents of lending institutions and others</p> <p>Ins 6.10 Insurance agents advisory council</p> <p>Ins 6.11 Insurance claim settlement practices</p> <p>Ins 6.12 Qualification of actuaries</p>	<p>Ins 6.30 Instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers</p> <p>Ins 6.31 Interpretations of the instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers</p> <p>Ins 6.40 Proxies, consents and authorizations of domestic stock insurers</p> <p>Ins 6.41 Insider trading of equity securities of domestic stock insurers</p> <p>Ins 6.42 Initial statement of beneficial ownership of securities</p> <p>Ins 6.43 Statement of changes in beneficial ownership of securities</p> <p>Ins 6.50 Examination and licensing of insurance agents</p>
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Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continuously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

Ins 6.02 Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application; for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided (A) into kinds of insurance according to the provisions of section 201.04, Wis. Stats., each subsection setting forth a separate kind, and (B) into classes of insurance upon the basis of and including the said kinds as follows: (a) Fire insurance includes the kinds in section 201.04 (1), Wis. Stats., (as extended by section 203.28), (2) and (12).

(b) Life insurance includes the kinds in section 201.04 (3), Wis. Stats., but excluding all insurance on the health of persons other than that authorized in section 206.03, Wis. Stats.

(c) Casualty insurance includes the kinds in section 201.04 (4) through (11), and (13) through (18), Wis. Stats.

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in section 201.04 (4), Wis. Stats., if the applicant company has

transacted any of the kinds of insurance in sections 201.04 (3), (5), (13), (15), (16) and (18), Wis. Stats., continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in section 201.04 (4), Wis. Stats.

Ins 6.03 Nonresident casualty and fire insurance agents. (1) Separate licenses are required for the solicitation of casualty insurance business and of fire insurance business.

(2) A separate license is required for each company for which the nonresident agent solicits business in Wisconsin but the provisions of subsections 201.53 (5) and 209.04 (5), Wis. Stats., permit a licensed nonresident agent to interchange business and receive the whole or any part of the commission from a resident agent on business obtained under such nonresident license and exchanged with the resident agent.

(3) A license will be revoked if the nonresident agent brokers insurance, either in Wisconsin, his state of residence, or elsewhere, of the class (casualty or fire) of insurance covered by the license, unless the placing of such business constitutes an exchange between agents as authorized by subsection 209.04 (5), Wis. Stats. One who solicits brokerage business is not eligible to have a nonresident agent's license for the same class (casualty or fire) of business.

(4) The company which a nonresident wishes to represent as an agent must furnish a statement showing that the applicant is appointed to solicit insurance in Wisconsin as its agent and agree that it will be bound by his knowledge and acts to the same extent as it is in connection with authorized resident agents in Wisconsin.

(5) The applicant for a nonresident agent's license must agree that each policy written by him covering property or risks in Wisconsin will be countersigned by a duly licensed resident agent of the company issuing the policy.

(6) A statement by the supervisory head of the insurance department of the state of residence showing that the applicant is a licensed agent in his state of residence for the company which he desires to represent in Wisconsin must be furnished when application is made for a nonresident agent's license.

(7) The applicant will be required to make full disclosure regarding any connection which he may have as an employe or member of any agency partnership, association or corporation, including the full names and residences of all members, officers, directors and stockholders.

(8) Licenses issued on or after November 1, 1949, shall expire on the next succeeding November 1st. The fee for each nonresident agent's license shall be \$10.00.

Ins 6.04 Countersignature requirements. (1) Every policy of insurance issued or delivered in this state shall be countersigned by a licensed resident agent. Except in the case of the standard fire policy, an agent's signature on a copy of an application attached to and forming a part of a policy will be considered as satisfying this requirement.

(2) This rule shall not apply to: (a) Policies issued in accordance with sections 201.44 (6), 201.44 (8), 202.08, or 209.04 (10) (c), (d), (e) and (f), Wis. Stats.;

(b) Policies of life insurance;

(c) Service contracts issued by hospital service corporations authorized under section 182.032, Wis. Stats.;

(d) Contracts issued by state or county medical societies authorized under section 148.01, Wis. Stats.;

(e) Contracts issued under authority of chapter 185, Wis. Stats.

History: Cr. Register, April, 1958, No. 28, eff. 5-1-58; am. (2) (a), Register, April, 1963, No. 88, eff. 5-1-63.

provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

(b) *Restriction on replacement of existing policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent's lending institution in real or personal property of the borrower if such lending institution then imposes or enforces any requirement or condition, whether or not assented thereto by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution then imposes or enforces any requirement or condition, whether or not assented to by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

(5) **NONAPPLICATION.** The provisions of this rule shall not apply to renewal of any policy of insurance where the obligation of the borrower to procure insurance for the security interest of the lending institution accrued prior to the effective date of this rule.

History: Cr. Register, December, 1968, No. 156, eff. 1-1-69.

Ins 6.10 Insurance agents advisory council. (1) PURPOSE. The purpose of this rule is to create an insurance agents advisory council

Register, October, 1971, No. 190

to be appointed by the commissioner of insurance pursuant to sections 15.04 (3) and 601.20, Wis. Stats.

(2) **MEMBERSHIP.** The council shall consist of the commissioner or a member of his staff designated by him and 11 other members, at least 6 of whom are experienced and licensed as resident insurance agents.

(3) **TERM.** Members of the council shall be appointed to serve for a term of 3 years except that the initial appointments under this rule shall be 3 members for a one-year term, 4 members for a 2-year term, and 4 members for a 3-year term.

(4) **DUTIES.** It shall be the duty of the council to:

(a) Advise the commissioner with respect to the carrying out of his functions under sections 206.41, 208.21, and 209.04, Wis. Stats.,

(b) Make recommendations to the commissioner for the preparation and conduct of examinations pursuant to sections 206.41 (4), 208.21, and 209.04 (2) (b), Wis. Stats.,

(c) Advise the commissioner concerning the relevancy of the content of agents' examinations to the types of licenses being sought by applicants, and

(d) Advise the commissioner with respect to developing, in cooperation with various educational institutions in the state, courses of instruction in various fields of insurance for the education of agents and applicants for agents' licenses.

(5) **OFFICERS.** The council shall annually elect a chairman and a vice-chairman. The commissioner or his designee shall act as secretary and keep a record of all proceedings, transactions, communications, and other official acts of the council. The files and records of the council shall be maintained at the office of the commissioner.

(6) **MEETINGS.** The council shall meet at least twice a year when called by the commissioner and at such other times when requested by the commissioner or 3 or more members.

(7) **EXPENSE REIMBURSEMENT.** Members of the council shall receive no salary or compensation for service on the council but shall be reimbursed for their actual and necessary expenses in attending meetings or while performing other duties as directed by the commissioner.

History: Cr. Register, July, 1970, No. 175, eff. 8-1-70.

Ins 6.11 Insurance claim settlement practices. (1) **PURPOSE.** This rule is to promote the fair and equitable treatment of policyholders, claimants and insurers by defining certain claim adjustment practices which are considered to be unfair methods and practices in the business of insurance. This rule implements and interprets applicable statutes including but not limited to sections 201.045 (1), 201.34 (1), 601.01 (3) (b), and 645.41 (3), Wis. Stats.

(2) **SCOPE.** This rule applies to the kinds of insurance identified in section 201.04, Wis. Stats., transacted by insurers as defined in section 601.02 (8), Wis. Stats. and nonprofit service plans subject to section 200.26, Wis. Stats.

(3) **UNFAIR CLAIM SETTLEMENT PRACTICES.** (a) Any of the following acts, if committed by any person without just cause and per-

Register, October, 1971, No. 190

formed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance:

1. Failure to promptly acknowledge pertinent communications with respect to claims arising under insurance policies.
2. Failure to initiate and conclude a claims investigation with all reasonable dispatch.
3. Failure to promptly provide necessary claims forms, instructions and reasonable assistance to insureds and claimants under its insurance policies.
4. Failure to attempt in good faith to effectuate fair and equitable settlement of claims submitted in which liability has become reasonably clear.
5. Failure upon request of a claimant, to promptly provide a reasonable explanation of the basis in the policy contract or applicable law for denial of a claim or for the offer of a compromise settlement.
6. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.
7. Failure to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.
8. Failure to settle a claim under one portion of the policy coverage in order to influence a settlement under another portion of the policy coverage.
9. Except as may be otherwise provided in the policy contract, the failure to offer settlement under applicable first party coverage on the basis that responsibility for payment should be assumed by other persons or insurers.
10. Compelling insureds and claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.
11. Refusing payment of claims solely on the basis of the insured's request to do so without making an independent evaluation of the insured's liability based upon all available information.
12. Failure, where appropriate, to make use of arbitration procedures authorized or permitted under any insurance policy.
13. Adopting or making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(b) Any of the following acts committed by any person shall constitute unfair methods and practices in the business of insurance:

1. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.
2. Failure to make provision for adequate claims handling personnel, systems and procedures to effectively service claims in this state incurred under insurance coverage issued or delivered in this state.
3. Failure to adopt reasonable standards for investigation of claims arising under its insurance policies.

(4) **PROMPT DEFINED.** Except where a different period is specified by statute or rule and except for good cause shown, the terms "prompt" and "promptly" as used in this rule shall mean responsive action within 10 consecutive days from receipt of a communication concerning a claim.

(5) **PENALTY.** The commission of any of the acts listed in subs. (3) (a) or (3) (b) 2., or 3. shall subject the person to revocation of license to transact insurance in this state. Violations of this rule or any order issued thereunder shall subject the person violating the same to section 601.64, Wis. Stats.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71.

Ins 6.12 Qualification of actuaries. (1) **PURPOSE.** (a) The purpose of this rule is to protect the interests of insurers, insureds, insurance beneficiaries, insurance claimants, insurance company stockholders, and trustees, employers, covered employes, retired employes and terminated employes of employe welfare funds by establishing requirements for use of the terms actuary or actuarial. This rule interprets and implements sections 207.04, 211.04, 211.08, 211.09, 601.41, 601.42 and 601.43, Wis. Stats.

(b) It is not the purpose of this rule to require any insurer or rate service organization to employ an actuary except as may be otherwise required by statute or other administrative rule, nor does this rule require that filings under chapter 625, Wis. Stats., be prepared or submitted by a qualified actuary. Further, this rule is not intended to prohibit the strictly internal use by insurers of job titles containing the term actuary.

(2) **SCOPE.** This rule shall apply to all reports or representations subject to supervision by the commissioner of insurance.

(3) **SIGNATURE AS AN ACTUARY.** No document filed with this office which requires the signature of an actuary will be accepted unless the person signing as an actuary is a member of the American Academy of Actuaries or has otherwise demonstrated his actuarial competence to the commissioner.

(4) **ACTUARIAL REPRESENTATION.** No person in any representation made to the public or to this office in respect to any matter subject to this rule shall use the word actuary or actuarial to indicate a degree of professional competence unless that person is a member of the American Academy of Actuaries or has otherwise demonstrated his actuarial competence to the commissioner.

(5) **LEVEL OF COMPETENCY.** No member of the American Academy of Actuaries or a person who has otherwise demonstrated his actuarial competence to the commissioner shall use the word actuary or actuarial in any presentation subject to this rule unless he is qualified to give the actuarial advice required or requested.

(6) **PENALTY.** Violations of this rule or any order issued thereunder shall subject the person to section 601.64, Wis. Stats., or other applicable statute.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71.

Ins 6.30 Instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. For the purpose of establishing uniformity in classifications of expenses of fire and marine and casualty and surety insurers recorded in statements and reports filed with and statistics reported to the commissioner of insurance, all such insurers shall observe the instructions set forth below. These instructions shall not apply to single line accident and health insurance companies, assessment accident and health associations, hospital

Register, October, 1971, No. 190

and medical service or indemnity organizations, single line title insurance companies, or town mutual insurance companies.

(1) PART I. (a) LIST OF OPERATING EXPENSE CLASSIFICATIONS FOR ANNUAL STATEMENT PURPOSES FOR FIRE AND MARINE AND CASUALTY AND SURETY INSURERS.

1. Claim Adjustment Services:
 - a. Direct
 - b. Reinsurance Assumed
 - c. Reinsurance Ceded
2. Commission and Brokerage:
 - a. Direct
 - b. Reinsurance Assumed
 - c. Reinsurance Ceded
 - d. Contingent-Net
 - e. Policy and Membership Fees
3. Allowances to Managers and Agents
4. Advertising
5. Boards, Bureaus and Associations
6. Surveys and Underwriting Reports
7. Audit of Assureds' Records
8. Salaries
9. Employee Relations and Welfare
10. Insurance
11. Directors' Fees
12. Travel and Travel Items
13. Rent and Rent Items
14. Equipment
15. Printing and Stationery
16. Postage, Telephone and Telegraph, Exchange and Express
17. Legal and Auditing
18. Taxes, Licenses and Fees:
 - a. State and Local Insurance Taxes
 - b. Insurance Department Licenses and Fees
 - c. Payroll Taxes
 - d. All Other (excluding Federal and Foreign Income and Real Estate)
19. Real Estate Expenses
20. Real Estate Taxes
21. Miscellaneous

(b) INSTRUCTIONS RELATING TO OPERATING EXPENSE CLASSIFICATIONS.

1. Claim Adjustment Services
 - a. Direct

Include the following expenses when in connection with the investigation and adjustment of policy claims:

Independent Adjusters: Fees and expenses of independent adjusters or settling agents.

Legal: Fees and expenses of lawyers for legal services in the defense, trial, or appeal of suits, or for other legal services.

Bonds: Premium costs of bonds.

Appeal Costs and Expenses: Appeal bond premiums; charges for printing records; charges for printing briefs; court fees incidental to appeals.

General Court Costs and Fees: Entry fees and other court costs, and other fees not includable in Losses. Note: Interest and costs assessed as part of or subsequent to judgment are includable in Losses.

Medical Testimony: Fees and expenses of medical witnesses for attendance or testimony at trials or hearings ("Medical" includes physicians, surgeons, chiropractors, chiropodists, dentists, osteopaths, veterinarians, and hospital representatives).

Expert Witnesses: Fees and expenses of expert witnesses for attendance or testimony at trials or hearings.

Lay Witnesses: Fees and expenses of lay witnesses for attendance or testimony at trials or hearings.

Service of Process: Constables', sheriffs' and other fees and expenses for service of process, including subpoenas.

Transcripts of Testimony: Stenographers' fees and fees for transcripts of testimony.

Medical Examinations: Fees for medical examinations, fees for performing autopsies, fees for impartial examination, x-rays, etc., for the purpose of trial and determining questions of liability. This does not include fees for medical examinations, x-rays, etc., made to determine necessary treatment, or made solely to determine the extent or continuation of disability, or first aid charges, as such fees and charges are includable in Losses.

Next page is numbered 147