

## Chapter Ins 6

## GENERAL

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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.

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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 employees, retired employees and terminated employees of employee 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 6.20 Investments of insurance companies.** (1) **PURPOSE.** The purpose of this rule is to implement and interpret chapter 620, Wis. Stats., for the purpose of establishing procedures and requirements for investments of insurance companies.

(2) **SCOPE.** This rule shall apply to all insurers subject to chapter 620, Wis. Stats.

(3) **DEFINITIONS.** As used in this rule:

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(a) "Fixed charges" includes interest on all debt, and amortization of debt discount.

(b) "Net earnings available for fixed charges" means income after allowance for operating and maintenance expenses, depreciation and depletion, and taxes other than federal and state income taxes, but without allowance for extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing company. If the issuing company has acquired, prior to the date of investment, substantially all the assets of another company by purchase, merger, consolidation or otherwise, the net earnings available for fixed charges of the other company for the portion of the test period that preceded acquisition may be included in accordance with a consolidated earnings statement covering the period.

(c) "Net earnings available for fixed charges and dividends" shall be determined in the same manner as "net earnings available for fixed charges" but after allowance for federal and state income taxes.

(d) "Preferred dividend requirements" include dividends at the maximum prescribed rate on all stock ranking as to dividends on parity with or prior to that being acquired, whether or not the dividends are cumulative.

(e) "Real estate" or "real property" includes leaseholds.

(4) GENERAL LIMITATIONS ON RESTRICTED INSURERS. No insurer restricted under section 620.03, Wis. Stats., may invest thereafter in any of the following classes of assets except by permission of the commissioner:

(a) Any securities of an issuer who has defaulted on any payment on any debt security within the previous 5 years; or

(b) Any asset under section 620.22 (8), Wis. Stats.

(5) SPECIAL LIMITATIONS ON RESTRICTED INSURERS. No insurer restricted under section 620.03, Wis. Stats., shall invest:

(a) *Evidences of indebtedness*. In evidences of indebtedness under section 620.22 (1), Wis. Stats., unless they are lawfully authorized and:

1. They are rated Aaa, Aa, or A in Moody's Bond Ratings, or AAA, AA, or A in Standard and Poor's Service; or

2. They are evidences of indebtedness of a municipally owned public utility of this state created pursuant to section 3 of article XI of the constitution, and the net book value of the property pledged as security for the bonds has been established or approved by the public service commission and the total issue of the bonds does not exceed 50% of the net book value of such property; or

3. They are payable from revenues of a public utility or railroad owned by or held for the benefit of any governmental unit in the United States or Canada, if they are adequately secured by mortgage or lien on property or by specific pledge or revenues, and lawful authorizing resolutions or ordinance of the governing body of the unit require that during the life of the evidence of indebtedness the rates, fees, tolls or charges together with any other revenues pledged shall at all times produce revenues sufficient to pay all expenses of operation and maintenance, interest as promised and the principal sum when due; or

4. They are evidences of indebtedness of public utilities in the

United States or Canada and are either adequately secured by mortgage, pledge or other collateral, or have had net earnings available for fixed charges that for the previous 3 fiscal years have averaged per year not less than  $1\frac{1}{2}$  times the average annual fixed charges; or

5. They are evidences of indebtedness of a United States or Canadian private corporation, and they are either adequately secured by mortgage, pledge or other collateral, or are issued by a corporation which has had net earnings available for fixed charges that have averaged for the previous 5 years and equalled for each of the previous 2 years an annual amount which exceeded average annual fixed charges by at least 50%, or 25% in the case of corporations engaged primarily in wholesale or retail merchandising, installment, commercial and consumer financing, factoring or small loan business.

(b) *Equipment securities.* In equipment securities or in certificates of an equipment trust under subsection (8) (b) of this rule unless the obligor's net earnings have averaged at least 2 times its average annual fixed charges for the previous 3 years.

(c) *Real estate loans.* In real estate loans:

1. On the security of encumbered property, but property shall not be deemed encumbered because of unpaid but not delinquent assessments and taxes, mineral, oil or timber rights, easements for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or profits are reserved to the owner;

2. In excess of  $\frac{1}{2}$  of the fair market value, including buildings covered by the mortgage. If the value of buildings constitute part of the security, the buildings must be insured adequately to protect the insurer's security interest. The  $\frac{1}{2}$  limitation shall not apply to any loan fully insured by a federal insurance corporation; nor

3. On the security of a leasehold interest in real property unless it is unencumbered except by rentals owed to the owner of the fee, has at least 25 years yet to run, and then for no more than 50% of the fair market value of the leasehold less the present value of all rentals due upon it to the owner of the fee.

(d) *Preferred shares.* In preferred shares unless the issuing company has had, disregarding fixed charges on indebtedness and dividend requirements on preferred stock for the retirement of which provision has been made at the date of the investment, net earnings:

1. Available for fixed charges and dividends that during the previous 5 fiscal years have averaged not less than twice the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

2. Available for fixed charges and dividends that for each of the previous 3 fiscal years have been not less than  $1\frac{1}{2}$  times the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

3. Available to meet preferred dividend requirements of the previous 5 years, after allowance for fixed charges and federal and state income taxes, that have averaged not less than 3 times the preferred dividend requirements.

(e) *Common stock.* In common stock except:

1. In accordance with a plan of acquisition proposed by the insurer and approved by the commissioner; and
2. In common stocks which are authorized securities for NASDAQ, the automated quotation system of the National Association of Securities Dealers.

(f) *Real property.* In any investment under section 620.22 (4) or (5), Wis. Stats., except with prior written approval of the commissioner.

(g) *Limitations on amount of investment.* More than 2% of assets in any single issue of a security to which this rule is applicable except with the prior approval of the commissioner.

(6) TOWN MUTUAL INSURANCE COMPANIES. (a) Town mutual insurance companies authorized to operate under the provisions of chapter 202, Wis. Stats., shall be considered restricted insurers and shall be subject to the restrictions of section 620.03 (1), Wis. Stats., except as provided in section 620.03 (2), Wis. Stats., or in subsection (6) (b) of this rule.

(b) A town mutual insurance company may invest up to 50% of its assets in shares in mutual funds provided the assets of such mutual funds are invested only in accordance with subsection (4) and subsection (5) (a) through (f) of this rule and provided that such mutual fund shall:

1. Invest no more than 5% of its aggregate assets and securities in any one issuer, excepting securities of the United States government,
2. Own no more than 10% of the securities of any one issuer,
3. Submit quarterly statements to the commissioner in such detail as he requests,
4. Be audited annually by a certified public accountant acceptable to the commissioner.

(7) BONDS PERMISSIBLE. Bonds permissible under section 620.22 (1), Wis. Stats., include:

- (a) Direct obligations of the United States or Canada, or of other governmental units therein;
- (b) Obligations payable from and adequately secured by specifically pledged revenues of such governmental units or their instrumentalities, including corporations owned by or operated for such units; and
- (c) Evidences of indebtedness of any solvent corporation of the United States or Canada.

(8) ADDITIONAL AUTHORIZED INVESTMENTS. An insurer may, in addition to investments authorized by section 620.22 (1) to (6), Wis. Stats., invest its assets in the following classes of investments, up to the limits stated, and in the case of insurers that are subject to special restrictions under section 620.03, Wis. Stats., in accordance with any other rules made applicable to them:

- (a) Mortgage bonds of farm loan banks authorized under the federal farm loan act, and debentures issued by the banks for cooperatives established pursuant to the farm credit act of 1933, as amended;
- (b) Equipment securities or certificates of any equipment trust evidencing rights to receive partial payments agreed to be made upon

any contract of leasing or conditional sale—not exceeding 10% of assets;

(c) The purchase and ownership of machinery or equipment, which is or will become subject to contracts for sale or use under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property which shall be not less than 5 years—not exceeding 3% of assets;

(d) Loans upon the collateral security of any securities that the insurer could lawfully purchase, but not exceeding 90% of the market value of the securities up to an amount which, together with like securities owned, does not exceed the limits on the purchase of such securities;

(e) Evidences of indebtedness not otherwise authorized of the kind which if held by a bank would be eligible for discount, rediscount, purchase or sale by federal reserve banks or other government agencies having similar powers and functions—not exceeding 1% of assets;

(f) Shares of savings and loan associations to the extent that they are insured or guaranteed by the United States government or any agency thereof;

(g) The cash surrender values of life insurance policies of companies authorized to do business in Wisconsin;

(h) For a company authorized to transact a credit insurance business, the claims and demands that it has guaranteed;

(i) For a company authorized to transact a title insurance business, materials and plant necessary for the convenient transaction of business—not exceeding 50% of minimum capital or 5% of assets, whichever is greater;

(j) Direct obligations of foreign government—not exceeding 1% of assets;

(k) Loans, securities or investments in countries other than the United States and Canada which are of substantially the same kinds, classes and investment grades as those eligible for investment under chapter 620, Wis. Stats., and supplementary rules, but the aggregate of such investments shall not exceed 2% of the company's assets;

(l) Direct obligations of the international bank for reconstruction and development, the inter-American development bank and the Asian development bank—not exceeding 2% of assets;

(m) For an insurer doing business in a foreign country, the assets needed to meet its obligations in the foreign country in the kinds of securities within the foreign country that would be permissible investments if made in this state; and

(n) Shares of investment companies or investment trusts registered under the federal investment company act of 1940, as amended—regarded as part of the common stock portfolio of the insurer.

(9) CHANGES IN QUALIFICATION OF INVESTMENTS. Any investment originally made under section 620.22 (8), Wis. Stats., may thereafter be considered as falling within any other class of investment for which it subsequently qualifies.

(10) VALUATION. (a) *General.* Security valuations contained in Register, July, 1972, No. 199



"Valuations of Securities", issued by the Committee on Valuation of Securities of the National Association of Insurance Commissioners, will be followed in implementing this chapter.

(b) *Insurance policies.* Insurance policies purchased under subsection (8) (g) of this rule will be valued at their cash surrender value.

(c) *Claims and demands guaranteed by insurer.* When an insurer authorized to sell credit insurance purchases, under subsection (8) (h) of this rule, claims and demands it has guaranteed, it shall value them at face value or at cost, whichever is less, and shall set up a separate and adequate "loss reserve for guaranteed claims purchased" in an amount satisfactory to the commissioner.

**History:** Cr. emerg. eff. 5-2-72; cr. Register, July, 1972, No. 199, eff. 8-1-72.

**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 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.

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