

COMMISSIONER OF INSURANCE

(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:

(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

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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 $\frac{2}{3}$ 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 $\frac{2}{3}$ 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

a. The minimum level of benefits to be provided by the succeeding carrier shall be the applicable level of benefits of the prior carrier's plan reduced by any benefits payable by the prior plan.

b. Coverage must be provided by the succeeding carrier until at least the earliest of the following dates:

i) The date the individual becomes eligible under the succeeding carrier's plan as described in subparagraph 1. above.

ii) For each type of coverage, the date the individual's coverage would terminate in accordance with the succeeding carrier's plan provisions applicable to individual termination of coverage (e.g., at termination of employment or ceasing to be an eligible dependent, as the case may be).

iii) In the case of an individual who was totally disabled, and in the case of a type of coverage for which subsection (6) requires an extension or accrued liability, the end of any period of extension or accrued liability which is required of the prior carrier by subsection (6) or, if the prior carrier's policy or contract is not subject to that section, would have been required of that carrier had its policy or contract been subject to subsection (6) at the time the prior plan was discontinued and replaced by the succeeding carrier's plan.

3. In the case of a pre-existing conditions limitation included in the succeeding carrier's plan, the level of benefits applicable to pre-existing conditions of persons becoming covered by the succeeding carrier's plan in accordance with this subsection during the period of time this limitation applies under the new plan shall be the lesser of

a. The benefits of the new plan determined without application of the pre-existing conditions limitation; and

b. The benefits of the prior plan.

4. The succeeding carrier, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior carrier's plan during the 90 days preceding the effective date of the succeeding carrier's plan but only to the extent these expenses are recognized under the terms of the succeeding carrier's plan and are subject to a similar deductible provision.

5. In any situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request the prior carrier shall furnish a statement of the benefits available or pertinent information, sufficient to permit verification of the benefit determination or the determination itself by the succeeding carrier. For the purposes of this section, benefits of the prior plan will be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior plan rather than those of the succeeding plan. The benefit determination will be made as if coverage had not been replaced by the succeeding carrier.

(8) **EFFECTIVE DATE.** This rule shall apply to all insurance policies and subscriber contracts subject to the rule which are issued or renewed on or after January 1, 1973.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72.

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