

Chapter Ins 6

GENERAL

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Ins 6.01 Foreign company to operate two 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 two 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 into kinds of insurance according to the provisions of section 201.04, Wis. Stats., each subsection setting forth a separate kind, and 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) 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.

(7) 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.

History: 1-2-56; r. (6) and renun. (7) and (8) to be (6) and (7), Register, February, 1976, No. 242, eff. 3-1-76.

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), 209.04 (10) (c), (d), (e) and (f), or 612.51, 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; am. (2), Register, May, 1975, No. 233, eff. 6-1-75.

Ins 6.05 Filing of insurance forms. (1) **DEFINITIONS.** In this rule, unless the context otherwise requires, the following words and terms shall have the following meanings:

(a) "Insurance" shall mean any fire, liability, steam boiler, fidelity, title, credit, burglary, plate glass, sprinkler leakage, elevator, livestock, automobile, other casualty, or medical payments and other supplemental insurance provided under subsections (1), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (17), or (18) of section 201.04, Wis. Stats.

(b) "Filing" shall mean: 1. Any matter submitted under this rule. 2. The act of filing such matter.

(c) "Form" shall mean any matter intended to be used by any insurer as any part of an insurance contract including any application which becomes a part of an insurance contract and any policy, endorsement, or rider.

(d) "Reinsurance contract" shall mean a contract wherein a primary insurer cedes all or part of a risk to another insurer.

(2) **GENERAL PROVISIONS.** (a) The date of filing by an insurer shall be the date on which any filing is stamped received by the commissioner of insurance.

(b) Notice of disapproval by the commissioner shall state therein the effective date of disapproval, but any statutory period for contesting such disapproval shall begin upon receipt of such notice of disapproval.

(c) Each filing shall be on file for a period of 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 15 days if he gives written notice within such waiting period to the insurer¹ or rating organization which made the filing that he needs such additional time for consideration of such filing. A filing shall be deemed effective unless disapproved by the commissioner within the waiting period or any extension thereof, provided that if the filing proposes a later effective date such proposed date shall prevail. Upon written application by such insurer or rating organization the commissioner may authorize a filing to become effective before the expiration of the waiting period or any extension thereof.

(3) **INSURANCE FORMS TO BE FILED.** No form shall be used or issued in the state of Wisconsin as part of any contract of insurance unless such form has been filed by the insurer with the commissioner in accordance with (2) (c) above. Forms not now on file shall be filed as herein required. Forms now on file may continue to be used until such time as they may be disapproved. An insurer may satisfy its obligations to make form filings by becoming a member of or a subscriber to a rate service organization licensed under section 625.32, Wis. Stats., which makes such filings, provided that basic policy forms must be filed by the insurer named thereon. Nothing in this rule shall be construed as requiring any insurer to become a member of or subscriber to any rating organization. This rule shall not apply to town mutual insurance companies; reinsurance contracts; or to any surety or guarantee bond required by law or by a court or executive order or by order, rule or regulation of a public body. No filing need be made hereunder of any form prepared to meet special, unusual, peculiar or extraordinary conditions applying to individual risks; nor to the completion of uniform forms to indicate the application of the contract to individual risks.

(4) **FORM OF FILING.** (a) *Letter of transmittal.* The filing shall be in duplicate and accompanied by a letter of transmittal in duplicate. Such letter of transmittal shall set forth:

1. Title and reasonable identification of filing.
2. The proposed effective date.
3. The descriptive title, form number and form edition date, date of approval, if known, of any filing superseded thereby, and shall identify and explain all changes by paragraph and clause.
4. If an endorsement or rider, reference to the policy or forms with which it is to be used.
5. If the nature of the information to be inserted in any blank space of any form cannot be determined from the wording of the form, such blank space shall be filled in with hypothetical data to the extent required to indicate the proposed use or uses of the form. As an alternative, such purpose and use may be explained in the transmittal letter.

(b) *Filing size to be uniform.* All forms, for the purpose of filing under this rule only, shall be printed or superimposed on or attached to a sheet 8½" by 11" in size or folded to 8½" by 11" folded size.

(c) *Form, requirements of.* 1. Every form shall carry a descriptive title and reasonable identification and must show a form number and edition date, or other differentiation to identify the revision of a form and its previous edition or editions.

2. Forms may be submitted in typed or printer's proof format for an advisory opinion prior to filing in accordance with this rule.

3. The style, arrangement, and over-all appearance of any policy form shall give no undue prominence to any portion of the text, and every portion of the text of any form, endorsements or attached

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council to be appointed by the commissioner pursuant to sections 15.04 (3), 227.018, and 601.20, Wis. Stats.

(2) **MEMBERSHIP.** The council shall consist of the commissioner or a member of his staff designated by him and at least 6 but no more than 12 other citizen members. Members will be appointed with due consideration given to representation of all income levels, ethnic and racial groups and without discrimination as to sex. In addition, at least one, and no more than 3 members, shall be appointed who have expertise in the insurance business.

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

(4) **DUTIES.** It shall be the duty of the council to advise the commissioner on matters relating to:

- (a) Consumer education in insurance.
- (b) Insurance advertising, solicitation and deceptive practices.
- (c) Insurance availability, insurance policy exclusions, and other market problems.
- (d) Possible standardization and simplification of insurance contracts.

(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 by 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, June, 1975, No. 234, eff. 7-1-75.

Ins 6.54 Prohibited classification of risks for rating purposes.

(1) **PURPOSE.** This rule interprets and implements sections 207.09 (1), 601.01 (3) (b), 625.02, 625.11, 625.12 (2), 625.13, and 625.21 (2), Wis. Stats., for the purpose of prohibiting certain practices.

(2) **SCOPE.** This rule applies to all contracts issued, renewed or amended in Wisconsin affording automobile insurance coverage and all contracts issued, renewed or amended in Wisconsin affording coverage for loss or damage to real property used for residential purposes for not more than four living units or affording coverage for loss or damage to personal property used for residential purposes.

(3) **PROHIBITED PRACTICES.** (a) No insurance company shall refuse, cancel or deny insurance coverage to a class of risks solely on the basis of any of the following factors (taken individually or in combination),

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nor shall it place a risk in a rating classification on the basis of any of the following factors without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses and expenses and unless such information is filed in accordance with sections 625.12, 625.13 and 625.21 (2), Wis. Stats.:

1. The applicant's or insured's past criminal record;
2. The applicant's or insured's physical or developmental disability as defined in section 51.434 (1), Wis. Stats.;
3. The applicant's or insured's past mental disability;
4. The applicant's or insured's age;
5. The applicant's or insured's marital status;
6. The applicant's or insured's sexual preference;
7. The applicant's or insured's "moral" character.

(b) Nothing in paragraph (a) shall be construed as including within the definition of prohibited practices any of the following:

1. Denying, cancelling or non-renewing the automobile or property insurance of a person convicted of an offense if the offense which resulted in the conviction is directly related to the risk to be insured;
2. Establishing a classification system merely for the purpose of developing statistical data;
3. Underwriting only the class of risks which are specified in the insurer's articles of incorporation;
4. Establishing a rate based on the record of all drivers of an insured automobile;
5. Establishing a rate based on the number of people residing in a household.

(c) Nothing in paragraph (a) or (b) shall be interpreted in any way as limiting the prohibitions contained in sections 631.36 (9) and 942.04 (1) (c), Wis. Stats.

(4) **PENALTY.** Violation of this rule may subject the insurer to the penalties set forth in section 601.64, Wis. Stats.

History: Cr. Register, March, 1976, No. 243, eff. 4-1-76.

Ins 6.55 Discrimination based on sex — unfair trade practice.

(1) **PURPOSE.** The purpose of this rule is to eliminate the act of denying benefits or refusing coverage on the basis of sex, to eliminate unfair discrimination in underwriting criteria based on sex, and to eliminate any differences in rates based on sex which cannot be justified by credible supporting information. This rule interprets and implements sections 207.04 (1) (g), 207.09 (1), and 601.01 (3), Wis. Stats.

(2) **DEFINITIONS.** (a) Insurer has the meaning defined in section 600.03 (27), Wis. Stats., and in addition includes nonprofit service plans or service insurance corporations.

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(b) Contract means any insurance policy, plan, certificate, subscriber agreement, statement of coverage, binder, rider or endorsement offered by an insurer subject to Wisconsin insurance law.

(3) **APPLICABILITY AND SCOPE.** (a) This rule shall apply to all contracts delivered in Wisconsin, or issued for delivery in Wisconsin on or after the effective date of this rule and to all existing group contracts subject to Wisconsin insurance law which are amended or renewed on or after the effective date of this rule.

(b) This rule shall not affect the right of fraternal benefit societies to determine eligibility requirements for membership.

(4) **AVAILABILITY REQUIREMENTS.** (a) It is an unfair trade practice for an insurer to:

1. Refuse or cancel coverage or deny benefits on the basis of the sex of the applicant or insured;

2. Restrict, modify, or reduce the benefits, term, or coverage on the basis of the sex of the applicant or insured.

(b) Examples of unfair trade practices defined by paragraph (a) and prohibited by this rule are:

1. Denying coverage to females gainfully employed at home, employed part-time, or employed by relatives when coverage is offered to males similarly employed;

2. Denying benefits offered by policy riders to females when the riders are available to males;

3. Denying, under group contracts, dependent coverage to husbands of female employees, when dependent coverage is available to wives of male employees;

4. Denying disability income coverage to employed women when coverage is offered to men similarly employed;

5. Treating complications of pregnancy differently from any other illness or sickness under a contract;

6. Restricting, reducing, modifying, or excluding benefits payable for treatment of the genital organs of only one sex;

7. Offering lower maximum monthly benefits to women than to men who are in the same underwriting, earnings or occupational classification under a disability income contract;

8. Offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same underwriting, earnings or occupational classification under a disability income contract;

9. Establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract.

(5) **RATES.** When rates are differentiated on the basis of sex, the insurer must:

(a) File a brief letter of explanation along with a rate filing.

(b) Maintain written substantiation of such rate differentials in its home office.

(c) Justify in writing to the satisfaction of the commissioner the rate differential upon request.

(d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) **PENALTY.** Violation of this rule shall subject the insurer to the penalties set forth in section 601.64, Wis. Stats.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76.