

COMMISSIONER OF INSURANCE

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(3) **ACCOUNTING.** All premiums paid in connection with franchise life insurance on Wisconsin residents shall be reported for annual statement purposes as Wisconsin business and shall be subject to the applicable Wisconsin premium tax.

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, no. 249, eff. 10-1-76; am. (1) (a), Register, March, 1979, No. 279, eff. 4-1-79.

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 section 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 (31) (a), 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).

(d) Franchise life insurance provided under the provisions of s. 600.03 (3m) (d), Stats.

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.

Ins 2.13 Separate accounts and variable contracts. (1) **PURPOSE.** This rule 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) **DEFINITION.** (a) The term "contract on a variable basis" or "variable contract," when used in this rule, shall mean any policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in s. 632.45 (1), Stats.

(b) "Agent," when used in this rule, shall mean any person licensed as a life insurance agent under the laws of this state.

(c) "Variable contract agent," when used in this rule, shall mean an agent who shall sell or offer to sell any contract on a variable basis.

(d) A "satisfactory alternative examination" to part I of the written examination called for by paragraph (c) of subsection (9) of this rule shall include any securities examination which is declared by the commissioner to be an equivalent examination on the basis of content and administration. The following examinations are deemed to be a satisfactory alternative examination:

1. The state securities sales examination;
2. The National Association of Securities Dealers, Inc. examination for principals, or examination for qualification as a registered representative;
3. The various securities examinations required by the New York Stock Exchange, the American Stock Exchange, Pacific Stock Exchange, or any other registered national securities exchange;
4. The securities and exchange commission test given pursuant to section 15 (b) (8) of the Securities Exchange Act of 1934 (15 U.S.C. section 780 (8));
5. The examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners, when adopted by the insurance department of any state or territory of the United States and approved for use by such department by the securities and exchange commission.

(3) **QUALIFICATION OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS.** (a) No company shall deliver or issue for delivery variable contracts within 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 such contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of a company requesting authority to deliver such contracts within this state, the commissioner shall consider among other things:

- a. The history and financial condition of the company;

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

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

(b) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the provisions of subsection (3) (a) 2. of this rule if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period at least 3 years may be deemed to have satisfied the commissioner with respect to subsection (3) (a) 2. of this rule.

(c) Before any company shall deliver or issue for delivery variable contracts within 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 officers and directors of the company.

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

1. Except as hereinafter provided, amounts allocated to any separate account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to a. benefits guaranteed as to dollar amount and duration, and b. funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

2. With respect to 75% of the market value of the total assets in a separate account, no company shall 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 such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10% of the market value of the assets of said separate account; provided, however, that the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state.

3. No company shall, whether for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount in excess of 10% of the total issued and outstanding voting securities of such issuer provided that the foregoing shall 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 such accounts.

4. The limitations provided in subsection (4) (a) 2. and 3. of this rule shall 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, as amended provided that the investments of such investment company comply in substance with subsection (4) (a) 2. and 3. of this rule.

(b) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued 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 such separate account; provided, that the portion of the assets of such separate account equal to the company's reserve liability with regard to the benefits guaranteed and funds guaranteed referred to in subsection (4) (a) 1. a. and b. of this rule, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

(c) If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(d) Notwithstanding any other provision of law, a company 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 Company Act of 1940, as amended, and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

2. With respect to any separate account registered with the securities and exchange commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board, or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets.

A company, committee, board, or other body may make such other provisions in respect to any such separate account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

(e) No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made 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, and unless such transfer, whether into or from a separate account, is made

1. By a transfer of cash, or

2. By a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(f) The company shall maintain in each such separate amount assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the commissioner.

(g) Section 611.60, Stats., shall apply to the members of any separate account's committee, board, or other similar body. No officer or director of such company nor any member of the committee, board, or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

(5) **FILING OF CONTRACT FORMS.** (a) No variable contract may be issued or delivered 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 the form (s).

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) All forms should be completed with hypothetical data to show their use and should include a correct table of values. Variable information in forms should be explained.

(e) An actuarial statement of methods used to calculate values in the contract should be included.

(6) **CONTRACTS PROVIDING FOR VARIABLE BENEFITS.** (a) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential

features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement to the effect that the benefits thereunder are on a variable basis.

(b) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of annuity payments.

(c) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

1. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

2. A provision that, 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 and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;

3. A provision specifying the options available in the event of default in a periodic stipulated payment. Such 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 such paid-up annuity being 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 delivered or issued for delivery in this state shall stipulate the expense, mortality, and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. "Expense," as used in this paragraph, may exclude some or all taxes, as stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. The annual net investment increment assumption shall not exceed 5%, except with the approval of the commissioner;

2. To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age.

(e) The reserve liability for variable annuities shall be established pursuant to the requirements of s. 623.06, Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) **REQUIRED REPORTS.** (a) Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contractholder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date not more than 4 months previous to the date of mailing:

1. The number of accumulation units credited to such contracts and the dollar value of a unit, or
2. The value of the contractholder's account.

(b) The company shall submit annually to the commissioner a statement of the business of its separate account (s) in such form as required by the annual statement form designated as Life and Accident and Health—Separate Account Business (22-46). (See Wis. Adm. Code section Ins 7.01 (5) (e)).

(8) **FOREIGN COMPANIES.** If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this rule.

(9) **EXAMINATION OF AGENTS AND OTHER PERSONS.** (a) 1. No agent shall be eligible to sell or offer for sale a contract on a variable basis unless prior to making any solicitation or sale of such a contract, he also be licensed as a variable contract agent.

2. Any agent who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933, as amended, need not be licensed as a variable contract agent.

(b) Any agent applying for a license as a variable contract agent shall do so by filing with the commissioner:

1. Request for Agent Qualification Examination, Notice to Report for Examination, Notice of Examination Grades (11-4, 11-4A, and 11-4B). (See Wis. Adm. Code section Ins 7.01 (4) (m)).

2. Application for Resident Insurance Agent License (11-1). (See Wis. Adm. Code section Ins 7.01 (4) (c)).

3. Resident Insurance Agent License (11-2). (See Wis. Adm. Code section Ins 7.01 (4) (d)).

(c) The licensing as a variable contract agent of any agent complying with paragraph (b) of this subsection shall not become effective until

such agent shall have satisfactorily passed a written examination upon securities and variable contracts. Such examination shall be divided into 2 parts. Part I shall be on securities generally. Part II shall deal with variable contracts, and shall be composed of at least 15 questions, but not more than 50 questions, concerning the history, purpose, regulation, and sale of contracts on a variable basis.

(d) The examination will be given in such places and at such times as the commissioner shall from time to time designate. Upon application for license as a variable contract agent, the applicant shall be notified of the date of the next examination.

(e) Any applicant for license as a variable contract agent shall not be required to take part I of the NAIC examination if, at the time of application, evidence is presented that the applicant

1. Has previously passed a satisfactory alternative examination as defined in subsection (2) (d) of this rule or

2. Is currently registered with the federal Securities and Exchange Commission as a broker-dealer, or is currently associated with a broker-dealer and has met qualification requirements with respect to such association.

(f) Every applicant applying for license as a variable contract agent shall satisfactorily complete part II of the examination required by paragraph (c) of this subsection, with a grade of at least 70%, or shall present evidence of successful completion, prior to July 1, 1968, of either a variable contract examination given under the supervision of an insurance department of any state or territory of the United States which has adopted part II of the examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners or has been examined and licensed by any such department prior to its adoption of the National Association of Insurance Commissioners model regulation approved by that association at its June, 1968, meeting.

(g) 1. Any applicant who fails to pass part I of the examination required by paragraph (c) of this subsection may not take Part I of the examination again until 30 days after initially taking it. After a second such failure, such applicant may not take the examination again until 60 days after taking the second examination. After a third and any subsequent such failure, such applicant may not take the examination again until 90 days after the third and any subsequent examinations.

2. Any applicant failing to pass part II of the examination may take part II again 20 days after the first and any subsequent examinations.

(h) Every request to take a variable contract examination (see subsection (9) (b) 1. of this rule) shall be accompanied by an examination fee of \$5. A fee of \$5 will be charged for each reexamination administered to an applicant.

(i) Report of the results of any examination given pursuant to this rule shall be made on Notice of Examination Grades form 11-4B. (See Wis. Adm. Code section Ins 7.01 (4) (m)). Notice will also be given to the securities and exchange commission on forms supplied.

(j) Except as modified by this rule, the rules of the commissioner of insurance governing the licensing of life insurance agents, including examinations therefor, shall apply to subsection (9).

(k) Part I of the written examination provided for in paragraph (c) of this subsection shall also be administered to other persons who are not required to be licensed to sell life insurance in this state upon their submission of the forms required in subsection (9) (b) 1. of this rule and payment of the examination fee.

(l) 1. Results of the examination administered pursuant to paragraph (c) of this subsection will be reported by the commissioner to the applicant's company. In addition, examination results will be reported by the commissioner to any other state insurance department requesting confirmation of the examination grade, either upon request of such department or upon request of the applicant or his company.

2. A charge of \$1 shall be made for the second and each subsequent report of examination results.

(m) Records of the examination grade of each applicant upon an examination administered by the office of the commissioner of insurance, or upon an examination deemed to be a satisfactory alternative examination and administered by another agency or authority and reported to the commissioner, will be retained in the file pertaining to said applicant.

(n) Any person licensed in this state as a variable contract agent shall immediately report to the commissioner:

1. Any suspension or revocation of his variable contract agent's license or life insurance agent's license in any other state or territory of the United States,

2. The imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or contracts on a variable basis,

3. Any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(o) The commissioner may reject any application or suspend or revoke or refuse to renew any variable contract agent's license upon any ground that would bar such applicant or such agent from being licensed to sell life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of a life insurance agent's license shall also govern any proceeding for suspension or revocation of a variable contract agent's license.

(p) Renewal of a variable contract agent's license shall follow the same procedure established for renewal of an agent's license to sell life insurance contracts in this state.

Note: Copies of the Securities Act of 1933, May 27, 1933, 48 Stat. 74, Pub. L. 22, ch. 38, Title 15, U.S.C., as amended; Section 15 (b) (8) Securities Exchange Act of 1934, as amended August 20, 1964, Pub. L. 88-467, sec. 6, 78 Stat. 570, 15 U.S.C., sec. 780 (8); and the Investment Company Act of 1940, August 22, 1940, Pub. L. 768, ch. 686, Title 15, U.S.C., as amended, are available for inspection at the Office of the Commissioner of Insurance, or the

enactments may be procured for personal use from the U. S. Government Printing Office, Washington, D. C.

Copies of the Annuity Mortality Table for 1949, Ultimate are available for inspection at the office of the commissioner of insurance, the secretary of state and the revisor of statutes, and may be procured for personal use from the Society of Actuaries, 208 South La Salle Street, Chicago, Illinois 60604.

The examination given to meet the requirements of subsection (9) (c) will be based upon the examination recommended for testing of variable contract agents by the National Association of Insurance Commissioners in its present form or as it may be amended.

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.

Ins 2.14 Life insurance solicitation. (1) PURPOSE. The purpose of this rule 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 his or her needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This rule does not prohibit the use of additional material which is not in violation of this rule or any other Wisconsin statute or rule. This rule interprets and implements, including but not limited to the following Wisconsin Statutes: ss. 601.01 (3) (b), (c), (g) and (j) and 628.34.

(2) **SCOPE.** (a) Except as hereafter exempted, this rule shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This rule shall apply to any issuer of life insurance contracts including fraternal benefit societies and the State Life Insurance Fund.

(b) Unless otherwise specifically included, this rule shall 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).
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 rule, the following definitions shall apply:

(a) *Wisconsin Buyer's Guide to Life Insurance.* The Wisconsin Buyer's Guide to Life Insurance is a document which contains, and is limited to, the language within the current edition of the "The Wisconsin Buyer's Guide to Life Insurance" put out by the insurance commissioner of the state of Wisconsin. This pamphlet shall be reviewed periodically for accuracy and appropriateness. Prior to the publication of a revised pamphlet, it shall be submitted to the Life Subcommittee of the Forms and Classifications Advisory Council for public hearing and review. Insurers may purchase this pamphlet at cost from the office of the commissioner of insurance, or they may reproduce it themselves (subject to reasonable standards of style, size, and layout).

one location and \$500,000 on any other eligible property at one location. If the full insurable value at one location is in excess of applicable limits, the Plan, upon specific application, will seek to place the additional amounts of coverage.

(c) The maximum limits of coverage for the type of basic property insurance defined in subsection (3) (c) 2. which may be placed under this plan are \$5,000 on any habitational risk at one location and \$15,000 on any other eligible property at one location. If the full insurable value at one location is in excess of applicable limits, the Plan, upon specific application, will seek to place the additional amounts of coverage.

(5) **MEMBERSHIP.** (a) Every insurer, as defined in subsection (3) (b), licensed to write one or more components of basic property insurance, as defined in subsection (3) (c), shall be considered a member of this Plan. Any other insurer may, upon application to and approval by the governing committee, become a member.

(b) An insurer's membership terminates when the insurer is no longer authorized to write basic property insurance in Wisconsin, but the effective date of termination shall be the last day of the fiscal year of the Plan in which termination occurs. Any insurer so terminated shall continue to be governed by the provisions of this rule until it completes all of its obligations under the Plan.

(c) Any voluntary insurer member may terminate its membership only as of the last day of the fiscal year of the Plan by giving written notice to the Plan 30 days prior to the last day of the fiscal year of the Plan. The governing committee upon a majority vote may terminate the membership of a voluntary insurer. Any such terminated member shall continue to be governed by the provisions of this rule until it completes all of its obligations under the Plan.

(d) Subject to the approval of the commissioner, the governing committee may charge a reasonable annual membership fee.

(6) **ADMINISTRATION.** (a) This Plan shall be administered by a governing committee, subject to the supervision of the commissioner, and operated by a manager appointed by the governing committee.

(b) The governing committee shall consist of 14 members, each of whom shall serve for a period of one year or until a successor is elected or designated. Each shall have one vote.

1. The following associations shall appoint or elect:

American Insurance Association—one member
 Alliance of American Insurers—one member
 National Association of Independent Insurers—one member
 Wisconsin Insurance Alliance—three members

2. All other insurers not members of the associations in subparagraph 1 shall elect one member by weighted votes based on each insurer's weighted premiums written.

3. The commissioner shall appoint members to represent:

Stock agents—one member
 Mutual agents—one member
 Consumers and other persons not affiliated in any way with the insurance industry—five members

4. Not more than one insurer in a group under the same management or ownership shall serve on the governing committee at the same time. Nominees for individuals to serve as consumer members and as representatives of other persons not affiliated in any way with the insurance industry shall be sought from community groups, local agencies, and from other members of the governing committee.

(7) DUTIES OF THE GOVERNING COMMITTEE. (a) The governing committee shall meet as often as may be required to perform the general duties of the administration of the Plan or on the call of the commissioner. Five insurers of the committee shall constitute a quorum.

(b) The governing committee shall be empowered to appoint a manager, who shall serve at the pleasure of the committee, to budget expenses, levy assessments, disburse funds, and perform all other duties provided herein as necessary or incidental to the proper administration of the Plan. The adoption of or substantive changes in pension plans or employee benefit programs shall be subject to approval of insurers.

(c) The governing committee may designate, with the approval of the commissioner, a rate service organization as defined in s. 625.02 (2), Stats., to make inspections as required under this Plan and to perform such other duties as may be authorized by the governing committee.

(d) The manager shall annually prepare an operating budget which shall be subject to approval of the governing committee. Such budget shall be furnished to the insurers after approval. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the governing committee.

(e) The governing committee shall submit to the commissioner and to the secretary of the U.S. department of housing and urban development periodic reports setting forth the number of requests for inspection, the number of risks inspected, accepted, declined and conditionally declined, the number of reinspections made, and such other information as the commissioner or the secretary may request.

(f) The governing committee shall cause all policies written pursuant to this Plan to be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the Plan.

(g) The governing committee shall determine, subject to the approval of the commissioner, the eligibility of an insurer to act as a servicing company. No insurer which elects to be a non-servicing company shall be required to be one, but if not enough insurers elect to be servicing companies, the governing committee may authorize the manager to perform directly the duties of a servicing company.

(h) The governing committee shall prepare such agreements and contracts as may be necessary for the execution of this rule consistent with its provisions.

(8) ANNUAL AND SPECIAL MEETINGS. (a) There shall be an annual meeting of the insurers on a date fixed by the governing committee at which time members may be chosen under subsection (6) (b).

(b) A special meeting may be called at any time by the governing committee and shall be called within 40 days by the governing committee after receipt of a written request from any 10 insurers, not more than

one of which may be in a group under the same management or ownership.

(c) The time and place of all meetings shall be reasonable. Twenty days' notice of such annual or special meeting shall be given in writing by the governing committee to all insurers under subsection (3) (b). A majority of the insurers present in person or by proxy shall constitute a quorum. Voting by proxy shall be permitted.

(d) Any matter not inconsistent with the law or this rule may be proposed and voted upon by mail by unanimous action of the members of the governing committee present and voting at any meeting of the committee. Notice of any such proposal shall be mailed to each insurer not less than 20 days prior to the final date fixed by the committee for voting thereon.

(e) Any vote of insurers shall be counted on a weighted basis in proportion to each insurer's weighted premiums written. A proposal shall become effective when approved by at least two-thirds of the weighted votes cast.

(9) APPLICATION FOR INSPECTION OR INSURANCE. (a) Any person having an insurable interest in an eligible risk under paragraphs (a) or (b) of subsection (4), may apply for inspection of the property or for insurance by the Plan. The application for inspection need not be in writing.

(b) With regard to property insurance defined in subsection (3) (c) 2. and 3., inspection need not be made if the governing committee determines that insurance can be provided for specified classes of risks on the basis of representations of the applicant or the insurance agent.

(c) The Plan may bind coverage.

(10) INSPECTION PROCEDURE. (a) The inspection by the Plan shall be without cost for the applicant.

(b) The manner and scope of the inspection shall be prescribed by the Plan with the approval of the commissioner.

(c) An inspection report shall be made for each property inspected covering pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. Representative photographs may be taken during the inspection to indicate the pertinent features of building, construction, maintenance, occupancy, and surrounding property.

(d) During the inspection, the inspector shall point out features of structure and occupancy to the applicant or his representative and shall indicate those features which may result in additional charges for deficient physical conditions if the risk is accepted. The inspector shall have no authority to advise whether any insurer will provide the coverage.

(e) After the inspection, a copy of the completed inspection report and any relevant photographs shall be sent to the Plan within 5 business days or, if requested by the applicant, to an insurer of his choice. The report shall include a rate make-up statement, including any deficient physical condition charges proposed by the inspector. A copy of the inspection report shall be made available to the applicant or his agent upon request.

(11) **PROCEDURE AFTER INSPECTION.** (a) The Plan shall, within 3 business days after receipt of the inspection report and application, complete and send to the applicant an action report advising him of one of the following:

1. That the risk is acceptable. If the inspection reveals substandard conditions, appropriate charges may be imposed but the report shall specify the improvements necessary for removal of each such charge.

2. That the risk will be acceptable if reasonable improvements noted in the action report are made by the applicant and confirmed by reinspection.

3. That the risk is not acceptable because it fails to meet reasonable underwriting standards specified in the action report. Reasonable underwriting standards shall not include neighborhood or area location or any environmental hazard beyond the control of the property owner. They may include but are not limited to the following:

a. Serious defects in the physical condition of the property, such as its construction, heating, wiring, evidence of previous losses, general deterioration or lack of protective measures;

b. Serious hazards resulting from its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials.;

c. Violation of law which results in increased exposure to loss;

d. Previous loss history or matters of public record concerning the applicant.

(b) If the risk is accepted by the Plan, the servicing company shall deliver the policy to the applicant upon payment of the premium to the servicing company. The servicing company shall remit the commissions to the licensed agent designated by the applicant; if no licensed agent is so designated, the commissions shall be remitted to the Plan.

(c) If the risk is conditionally declined under paragraph (a) 2. or declined under paragraph (a) 3. but can be improved to meet reasonable standards the Plan shall promptly advise the applicant what improvements noted in the action report should be made to the property. Upon completion of the improvements by the applicant or property owner, the Plan, when so notified, will have the property promptly reinspected under subsection (10) and shall send a new action report to the applicant.

(d) If a risk is conditionally declined under paragraph (a) 2. or declined under paragraph (a) 3., the Plan shall, within 3 business days, send copies of the inspection and action reports to the property owner and to the commissioner and shall advise the property owner of his right to appeal and the procedure therefor.

(12) **DISTRIBUTION OF PLAN INSURANCE.** (a) The Plan shall equitably distribute risks under subsection (11) (a) 1 to servicing companies with consideration of the servicing company experience in servicing such risks in the areas where the risks are located.

(b) Any risk which has been accepted by the Plan and a policy issued by a servicing company may be renewed by the same servicing company

and credit will be given to said servicing company against its share of servicing company assignments.

(13) **ASSESSMENTS.** (a) Participation and assessments by and upon each insurer in the Plan for losses and expenses in connection with Plan business shall be levied and assessed by the governing committee of the Plan on the basis of participation factors determined annually, giving effect to the proportion which such insurer's weighted premiums written bears to the aggregate weighted premiums written by all insurers in the Plan.

(b) All servicing expenses, losses, and loss adjustment expenses of a servicing company will be recoverable from the Plan upon approval of the governing committee.

(c) If any member fails to pay an assessment within 30 days after it is due, the unpaid assessment may be collected from the remaining members. The Plan may then collect the delinquent assessment on behalf of the remaining members in any liquidation proceeding or by the use of any other available remedy and shall have full authority to act in their behalf in any action or proceeding.

(14) **RATES.** (a) The rate and surcharge schedules shall be subject to approval by the commissioner prior to use.

(b) The rates to be charged for coverage shall be determined after an actual inspection of the premises by the Plan.

(c) The renewal rates shall be the rates in effect on the renewal date unless an inspection reveals an indicated increase or decrease in rates.

(15) **VOLUNTARY BUSINESS—CANCELLATION AND NONRENEWAL.** (a) Any insurer cancelling or not renewing voluntarily written basic property insurance covering any risk eligible under this Plan shall inform the policyholder of the availability of insurance under the Plan. Any such notice of cancellation or nonrenewal shall allow ample time for application to the Plan and for the issuance of coverage.

(b) No servicing company shall cancel or refuse to renew a policy issued under this Plan except for:

1. Facts as confirmed by inspection which would have been grounds for nonacceptance of the risk under the Plan had they been known to the Plan at the time of acceptance; or

2. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable under the Plan rules; or

3. Nonpayment of premiums; or

4. Conviction of the policyholder of arson or fraudulent claim.

(c) Notice of cancellation or nonrenewal under paragraph (b), containing a statement of the reasons therefor, shall be sent to the insured with a copy to the Plan. Any cancellation or nonrenewal notice to the insured shall be accompanied by a conspicuous statement that the insured has a right of appeal as provided in subsection (19).

(16) **COMMISSION.** (a) Commission to the licensed agent designated by the applicant shall be 10% of the policy premium. The agent need not be licensed by the servicing company.

(b) In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the agent shall refund ratably to the insurer commissions on the return premium at the same rate at which such commissions were originally paid.

(17) **PUBLIC EDUCATION.** The Plan shall undertake a continuing public education program to assure that the Plan receives adequate public attention. All insurers and agents shall cooperate fully in the public education program.

(18) **COOPERATION OF AGENTS.** Each insurer shall require its licensed insurance agents to cooperate fully in the accomplishment of the intents and purposes of the Plan.

(19) **RIGHT OF APPEAL.** Any affected person may appeal to the governing committee within 30 days after any final ruling, action, or decision of the Plan. The governing committee must consider the appeal and render a decision promptly after receipt of any such appeal. Any decision of the governing committee may be further appealed to the commissioner within 30 days. Orders of the commissioner shall be subject to judicial review.

(20) **REVIEW BY COMMISSIONER.** The governing committee shall report to the commissioner the name of any insurer or agent which fails to comply with the provisions of the Plan or with any rules prescribed thereunder by the governing committee or to pay within 30 days any assessment levied.

(21) **INDEMNIFICATION.** Each person serving on the governing committee or any subcommittee thereof, each member of the Plan, and the manager and each officer and employee of the Plan shall be indemnified by the Plan against all cost, settlement, judgment, and expense actually and necessarily incurred by him or it in connection with the defense of any action, suit, or proceeding in which he or it is made a party by reason of his or its being or having been a member of the governing committee, or a member or manager or officer or employee of the Plan except in relation to matters as to which he or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his or its duties as a member of such governing committee, or a member or manager or officer or employee of the Plan. This indemnification shall not apply to any loss, cost or expense on insurance policy claims under the Plan. Indemnification hereunder shall not be exclusive of other rights to which the member, manager, officer, or employee may be entitled as a matter of law.

(22) **TRANSITION.** The voluntary Wisconsin Insurance Plan shall terminate as of January 1, 1970, and the assets and liabilities of such plan shall be assumed by the Plan established by this rule effective January 1, 1970, in accordance with the procedures established by the governing committee of the respective plans.

(23) **EFFECTIVE DATE.** The changes in the composition of the governing committee authorized by subsection (6) shall become effective January 1, 1979.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (3) (c) and (4) (b), cr. (4) (c), am. (5) (a) and (9) (a), renum. (9) (b) to be (c), and cr. (9) (b), am. (11) (a) 3. a. and c. and cr. 3. d, am. (15) (b) 2. and 4., Register, June, 1971, No. 186, 7-1-71; am. (3) (c) 3., Register, August, 1971, No. 188, eff. 9-1-71; emerg. am. (2), (3) (c) 1, 2, and 3, eff. 6-22-76; am. (2), (3) (c) 1, 2, and 3, Register, September, 1976, No. 249, eff. 10-1-76; am. (3) (c), (4) (b) and (23), Register, April, 1977, No. 256, eff. 5-1-77; am. (3) (h) 2, Register, May, 1978, No. 269, eff. 6-1-78; am. (6) and (23), Register, December, 1978, No. 276, eff. 1-1-79; am. (3) (c) 1., 2. and 3. and (6) (b) 1., Register, March, 1979, No. 279, eff. 4-1-79.