

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 into kinds of insurance according to the provisions of s. Ins 6.75 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 s. Ins 6.75 (2) (a).

(b) Life insurance includes the kinds in s. Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and s. Ins 6.70.

(c) Casualty insurance includes the kinds in s. Ins 6.75 (2) (c) through (n).

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c).

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76; am. Register, March, 1979, No. 279, eff. 4-1-79.

Ins 6.05 Filing of insurance forms. (1) **PURPOSE.** This section interprets and implements ss. 601.42, 631.20, 631.22 and 631.61, Stats.

(2) **SCOPE.** The requirements of this section shall apply to forms subject to s. 631.01, Stats., for the lines of insurance listed in s. Ins 6.75, except sub. (2) (b) and (k).

(3) **DEFINITIONS.** (a) "Affiliated insurer" means an insurer which is a member or subscriber to a rate service organization licensed under s. 625.32, Stats., and which has authorized the rate service organization to file forms on its behalf.

(b) "Certificate of compliance" means a document in substantially identical format to Appendix A which is signed by an officer of the insurer.

(c) "Certificate of readability" means a written statement signed by an officer of the insurer stating that the form is subject to s. Ins 6.07 and that the form meets the minimum standards set forth in that section.

(d) "Insurance policy form transmittal" means a document substantially identical in format to the form included as Appendix B, on which an insurer shall list each form submitted for approval.

(e) "OCI" means the office of the commissioner of insurance.

c. A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(c) Any other reading test may be approved by the commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

(5) EXEMPTIONS. This section does not apply to:

(a) Any policy which is a security subject to federal jurisdiction;

(b) Any group policy; however, this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this state;

(c) Any group annuity contract which serves as a funding vehicle for pension, profit-sharing or deferred compensation plans;

(d) Renewal policies whose terms are not altered in any way. Changes in premium, monetary limits or language required by federal and state laws and regulations adopted after the effective date of this rule are not alterations under this section.

(e) Any form used in exchange, pursuant to a contractual provision, for an individual life policy delivered or issued for delivery on a form approved prior to the date that the form must be approved under this section.

(6) CERTIFICATION. (a) Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score or stating that the score is lower than the minimum required but should be approved in accordance with sub. (7). To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.

(7) POWERS OF THE COMMISSIONER. The commissioner may authorize a lower score than the Flesch reading ease score required in sub. (4) (a) 1, whenever, at the sole discretion of the commissioner, it is found that a lower score: will provide a more accurate reflection of the understandability of a consumer insurance policy; is warranted by the nature of a particular form or type or class of such forms; or is caused by certain language which is drafted to conform to the requirements of any state law, rule or commissioner's interpretation.

(8) EFFECTIVE DATE. (a) This section shall apply to the following consumer insurance policies no later than 6 months after the effective date of this section:

1. Private passenger automobile.
2. Homeowners,
3. Dwelling fire,
4. Individual disability excluding disability income,
5. Medicare supplement,

6. Individual life and annuity.

(b) This section shall apply to the following consumer insurance policies no later than 12 months after the effective date of this section:

1. Renewal policies with altered terms,
2. Group disability certificates,
3. Disability income,
4. All consumer insurance policies not included under pars. (a) and (c) of this subsection.

(c) This section shall apply to all Town Mutual insurers and also other insurers whose written premiums for the most recent calendar year did not exceed \$500,000 statewide, no later than 18 months after the effective date of this section, regardless of the requirements under pars. (a) and (b) of this subsection.

(d) Any consumer insurance policy which has been approved prior to the effective date of this rule and meets the standards set by this rule need not be refiled for approval but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner of a list of the forms and accompanied by a certificate for each form in the manner provided in sub. (6).

(e) The dates in pars. (a), (b), (c) and (d) may be extended at the commissioner's sole discretion, but not beyond May 8th, 1982.

History: Cr. Register, November, 1980, No. 299, eff. 12-1-80.

Ins 6.08 Claimant representatives. (1) **PURPOSE.** This section provides limited regulatory guidelines concerning the activities of claimant representatives. This section also protects insurance consumers from practices that the commissioner finds to be unfair trade practices. The commissioner finds as unfair trade practices those practices in which a claimant representative requires property to be repaired by a specified repair facility or contractor for repairs, receives compensation for the referral of business to a repair facility or contractor for repairs, operates as a repair facility or contractor for repairs, participates in the insurance claim payments to a repair facility or contractor for repairs, fails to disclose to the consumer the method of compensation and fails to provide the consumer with copies of contracts entered into between the claimant representative and consumer. This section requires a claimant representative to disclose his or her method and manner of compensation to the consumer and prohibits a claimant representative from engaging in practices that create potential conflicts of interest. This section implements and interprets s. 628.34 (11) and (12), Stats. This section is in addition to, and does not affect, s. 757.30, Stats.

(2) **SCOPE** This section applies to all claimant representatives transacting business in this state.

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

(a) "Contractor for repairs" means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for a building, dwelling or structure.

(b) "Claimant representative" means any person, except an attorney licensed to practice law in the state, who receives compensation from a claimant in exchange for representing or advising the claimant in negotiations for the settlement of a claim against an insurer arising out of the coverage provided by an insurance policy. A claimant representative does not include a person whose sole service to the claimant is to provide to the claimant an estimate or appraisal for repairs.

(c) "Repair facility" means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for tangible personal property other than a building, dwelling or structure.

(4) DISCLOSURE REQUIREMENTS. (a) No claimant representative may accept compensation for performing services for or otherwise assisting a claimant with an insurance claim unless, prior to performing any services and prior to the claimant's assuming any obligation to pay for adjusting services, the claimant representative clearly and conspicuously discloses and explains to the claimant in writing the method and manner of receiving and accounting for compensation for services performed.

(b) A claimant representative shall submit to the claimant a copy of any written contract entered into between the claimant representative and claimant within 5 working days after the contract is signed by the claimant. A claimant representative shall commit to writing any oral agreement entered into between the claimant representative and claimant and shall submit a copy of the writing to the claimant within 10 working days after the agreement is made.

(5) PROHIBITED PRACTICES. (a) No claimant representative may require that repairs of property be performed by a specific repair facility or contractor for repairs.

(b) No claimant representative may receive any compensation from a repair facility or contractor for repairs for referring business to the repair facility or contractor for repairs.

(c) No claimant representative may operate as a repair facility or contractor for repairs or participate in any manner in the insurance claim payments to a repair facility or contractor for repairs.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88.

Ins 6.09 Prohibited acts by captive agents of lending institutions and others. (1) PURPOSE. This rule implements and interprets applicable statutes, including but not limited to ch. 628, Stats., prohibiting concerted acts of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance as unfair methods of competition and as unfair or deceptive acts or practices in the business of insurance.

(2) DEFINITIONS. (a) *Agent*. A natural person, other than a captive agent, holding a valid and current certificate of registration as an insurance agent and one or more valid and current licenses to represent one or more admitted insurers in the solicitation and sale of policies of insurance in this state.

(b) *Borrower*. Any person, firm, association, or corporation which obtains, other than in the regular course of its trade or business, a loan of

Register, October, 1988, No. 394

money or credit from a lending institution on the security of real or personal property in return for a promise to repay the consideration at a time subsequent.

(c) *Captive agent.* An agent who is a director, officer, or employe of the lending institution which, in connection with a loan transaction, holds or acquires a security interest in real or personal property of a borrower.

(d) *Lending institution.* Any person, firm, association, or corporation, whether or not licensed or chartered by any agency of government, which in the regular course of business lends money or credit to a borrower on the security of real or personal property in return for the borrower's promise to repay the consideration at a time subsequent.