

3. Unsafe conditions including inadequate lighting of stairways.
4. Animals known to be vicious or animals which have caused a liability claim.
5. Swimming pools or private ponds not fenced in accordance with local regulations.
6. Unsafe, or the absence of, handrails.
7. Junk cars, empty refrigerators or other potentially dangerous objects in the yard which are an attraction to children.

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

(e) Any other guidelines which have been approved by the commissioner.

(14) CANCELLATION; NONRENEWAL AND LIMITATIONS; REVIEW OF ELIGIBILITY. (a) The Plan shall not cancel or refuse to renew a policy issued by the Plan except for the following:

1. Facts as confirmed by inspection or investigation which would have been grounds for nonacceptance of the risk by the Plan had they been known to the Plan at the time of acceptance.
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 Plan rules.
3. Nonpayment of premiums.
4. At least 65% of the rental units in the building are unoccupied, and the insured has not received prior approval from the Plan of a rehabilitation program which necessitates a high degree of unoccupancy.
5. Fire damage exists and the insured has stated or such time has elapsed as clearly indicates that the damage will not be repaired. Any length of time over 60 days may be considered under this subdivision, unless there are known to be extenuating circumstances.
6. After a fire, permanent repairs following payment of the claim have not commenced within 60 days. The 60-day period starts upon acceptance of payment of the claim.
7. Property has been abandoned for 90 days or more.
8. Utilities such as electric, gas or water services have been disconnected or the insured has failed to pay an account for such services within 120 days;
9. Real estate taxes have not been paid for a 2-year period after the taxes have become delinquent. Real estate taxes shall not be deemed to be delinquent for this purpose if they are due and constitute a lien, so long as a grace period remains under local law under which taxes may be paid without penalty.
10. There is good cause to believe based on reliable information that the building will be burned for the purpose of collecting the insurance on the property. The removal of damaged salvageable items, such as normally permanent fixtures, from the building shall be considered under

this item when the insured can give no reasonable explanation of such removal.

11. A named insured or loss payee or other person having a financial interest in the property being convicted of the crime of arson or a crime involving a purpose to defraud an insurance company. The fact that an appeal has been entered shall not negate the use of this subdivision.

12. The building has been subject to more than 2 fires, each loss amounting to at least \$500 or 1% of the insurance in force, whichever is greater, in the immediately preceding 12-month period; or more than 3 such fires in the immediately preceding 24-month period, provided that the cause of such fires is due to the conditions which are the responsibility of the owner named insured.

13. Theft frequency in which there have been more than 2 thefts, each loss amounting to at least \$500 in a 12-month period.

14. Material misrepresentation in any statement to the Plan.

15. On homeowners policies, excessive theft or liability losses. If on a given property there have been 2 or more losses within a 2-year period or 3 or more losses within a 5-year period, with theft and liability evaluated separately, the Plan may convert the homeowners policy to a dwelling policy.

16. On homeowner policies, excessive vandalism and malicious mischief losses. In the event that a given property has been subject to 2 vandalism and malicious mischief losses, each loss amounting to at least \$500.00, in the immediately preceding 12-month period or 3 or more such losses in the immediately preceding 24-month period, the Plan may convert the homeowners policy to a dwelling policy without vandalism and malicious mischief coverage.

(b) The Plan may limit liability insurance on homeowner policies as follows:

1. Liability insurance shall only be provided as contained in the Wisconsin Insurance Plan homeowners policy.

2. Coverage may not be considered until an inspection has been completed.

3. Liability insurance shall not be provided for risks with any of the following deficiencies, as disclosed by the application or inspection, until they have been corrected.

a. Broken, cracked, uneven or otherwise faulty steps, porches, decks, sidewalks, patios and similar areas.

b. Downspouts or drains which discharge onto sidewalks or driveways.

c. Unsafe conditions including inadequate lighting of stairways.

d. Animals known to be vicious or animals which have caused a liability claim.

e. Swimming pools or private ponds not fenced in accordance with local regulations.

f. Unsafe, or the absence of, handrails.

g. Junk cars, empty refrigerators or other potentially dangerous objects in the yard which are an attraction to children.

(c) The Plan will not write vandalism and malicious mischief coverage on a dwelling or commercial property where the property has been subject to 2 vandalism and malicious mischief losses, each loss amounting to at least \$500.00, in any 12-month period or 3 or more such losses in any 24-month period.

(d) The Plan shall terminate all insurance contracts in accordance with ch. 631.36, Stats.

(e) At the completion of 36 months of coverage and prior to 48 months, each risk shall be reviewed for its eligibility for coverage in the voluntary market. The risk shall be submitted by the Plan to the agent of record, if any, for a search of the voluntary market. If the agent resubmits the risk to the Plan, it must be resubmitted by a new application and accompanied by a current rejection notice. The Plan shall reinspect the risk before coverage is provided.

(15) 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) 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.

(16) RIGHT TO HEARING. (a) Each notice by the plan to an insured or applicant of cancellation, nonrenewal, reduction in coverage or declination shall include notice of the right to a hearing under ch. Ins 5, if the person files a petition for a hearing with the commissioner of insurance not later than 30 days after the notice is mailed. The notice shall describe the requirements of s. Ins 5.11 (1).

(b) The office of the commissioner of insurance shall hold a hearing within 30 days after receipt of a complete petition under par. (a), except under either of the following circumstances:

1. The issue is the plan's intent to cancel, nonrenew or reduce the petitioner's coverage, and the plan waives the right to a hearing within 30 days.

2. The issue is the plan's declination of the petitioner's application for coverage and the petitioner waives the right to a hearing within 30 days.

(c) At the hearing the petitioner has the burden of proving by a preponderance of the evidence that the plan's decision is erroneous under this chapter or the policy terms.

(d) Filing a petition under par. (a) stays the action of the plan with respect to cancellation, nonrenewal or reduction in coverage. The petitioner's coverage shall remain in effect during the pendency of the proceedings as long as the petitioner continues to pay the plan premium.

(e) The plan shall comply with the final decision and order in the contested case proceeding. A final decision and order affirming the plan's decision to cancel, nonrenew or reduce the petitioner's coverage shall take effect 30 days after the date of the final decision and order. Upon receipt of the final decision and order, the plan shall notify the petitioner of the action it intends to take to implement the order.

(17) COMMISSION. (a) Commission to the licensed agent designated by the applicant shall be 10% of all policy premiums. The Plan shall not license agents.

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

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

(19) 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.

(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 of its subcommittees, each member of the Plan, and the manager and each officer and employe of the Plan shall be indemnified by the Plan against all cost, settlement, judgment, and expense actually and necessarily incurred by that person in connection with the defense of any action, suit, or proceeding in which that person is made a party by reason of that person being or having been a member of the governing committee, or a member or manager or officer or employe of the Plan except in relation to matters as to which that person has been judged in an action, suit, or proceeding to be liable by reason of willful misconduct in the performance of that person's duties as a member of the governing committee, as a member, manager, officer or employe of the Plan. This indemnification shall not apply to any loss, cost or expense on insurance policy claims under the Plan. Indemnification under this section shall not be exclusive of other rights to which the member, manager, officer, or employe may be entitled as a matter of law.

(22) EFFECTIVE DATE. This rule shall take effect as provided by s. 227.22, Stats., on the first day of the month following its publication in the register.

Note: A petition under sub. (16) shall be filed as provided in s. Ins 5.17.

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. Register, March, 1996, No. 483

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and (6) (b) 1., Register, March, 1979, No. 279, eff. 4-1-79; am. (6) (b) 1., (7) (a) and (b), Register, May, 1979, No. 281, eff. 6-1-79; am. (6) (b) (intro.), Register, December, 1979, No. 288, eff. 1-1-80; am. (1), (2), (7) (e) and (g) and (19), r. (22) and (23), Register, April, 1981, No. 304, eff. 5-1-81; r. and recr., Register, August, 1983, No. 332, eff. 9-1-83; corrections in (10), (11) (14) and (22) made under 13.93 (2m) (b) 5 and 7, Stats., Register, April, 1992, No. 436; r. and recr. (16) (a) to (c), renum. (16) (d) to be (14) (e), Register, March, 1996, No. 483, eff. 4-1-96.

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