

Chapter Ins 2

LIFE INSURANCE

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Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

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

Ins 2.02 Stock life insurance corporations writing participating policies. (1) **PURPOSE.** The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including ss. 601.04, 601.42, 601.43, 628.34, 632.62, Stats., and chs. 611 and 618, Stats.

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by s. Ins 6.75 (1) (a) in the form of participating policies.

(3) **LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS.** The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of a) 10% of such profits or b) 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) **LICENSE REQUIREMENTS.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

(a) No profits on participating policies and contracts in excess of the larger of 10% of such profits or 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(b) The profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company.

(c) Such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually.

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) **EXCEPTIONS.** In accordance with s. 632.62, Stats., the agreement required by sub. (4) (e) may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) **ANNUAL FILING.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by s. 601.42, Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by ss. 201.045 and 201.34, Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, s. 206.36, Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. SS. 206.51 (1) and 207.04 (1) (a), Stats., prohibit the misrepresentation of the dividends or share in surplus to be received on any policy.

It is evident that a stock insurance corporation should not have complete freedom in determining the amounts that are to be removed from the funds accumulated or belonging to the participating class of policyholders and used for the benefit of stockholders. A reasonable limitation in the amounts that shall inure to the benefit of stockholders is necessary for the fair and equitable treatment of stock life insurance corporations, stockholders, and policyholders. Section 216 (6) of the New York insurance statutes provides for a limitation comparable to that stated in the rule. The record in that state indicates such a limitation to be reasonable and workable and we believe it to be a proper safeguard of the interests of the people of this state. All present tense statutory references herein are to 1973 Stats.

History: 1-2-56; r. and rec. Register, August, 1962, No. 80, eff. 9-1-62; renum. (4) (d) to be (4) (f) cr. (4) (d), (4) (e), (5) and (6), Register, January, 1964, No. 97, eff.

2-1-64; am. (1) and (6), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), (2), (5) and (6), eff. 6-22-76; am. (1), (2), (5) and (6), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79.

Ins 2.03 Policies not dated back to lower insurance age. (1) No company shall issue for delivery in this state any policy or contract of life insurance which purports to be issued or take effect as of a date more than 6 months before the application therefor was made, if thereby the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. The date of application must be considered to be the date on which the application (Part I) or the medical examination (Part II) is completed, whichever is the later.

(2) This ruling does not prohibit the exchange, alteration or conversion of policies of life insurance as of the original date of such policies if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy would have purchased if the new policy had been originally applied for, whichever is greater; nor prohibit the exercise of any conversion privilege contained in any policy or contract.

Ins 2.04 Substandard risk rates. Life insurance companies may charge premiums in excess of the maximum premiums as defined in s. 206.26, 1973 Stats., provided the addition to the maximum premium is made to cover the extra risk owing to the fact that the person is a substandard risk, or is engaged in a hazardous occupation.

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

Ins 2.05 Separate statement of premiums for certain disability insurance benefits included in life or endowment insurance policies. (1) **PURPOSE.** This rule provides guidelines to determine which disability coverages may be included in life or endowment insurance policies without a separate statement of premium charge. This rule interprets and implements the separation of premium requirements stated in s. 632.44 (1), Stats., as they relate to the inclusion of disability insurance by policy provision or rider in life or endowment insurance policies such as authorized by s. Ins 6.70 and s. 627.06, Stats.

(2) **SCOPE.** This rule shall apply to the kinds of disability insurance authorized by s. Ins 6.75 (1) (a) and (c), when such insurance is provided in a life or endowment policy either by specific policy provision or by a rider attached to such policy.

(3) **DEFINITIONS.** (a) *Life or endowment insurance.* The basic life or endowment insurance coverage provided by the policy and additional disability benefits which have been determined by the standards in sub. (4) to be benefits which are life or endowment insurance or an integral part of such coverages.

(b) *Disability insurance benefit.* Insurance coverages written under the authority of s. Ins 6.75 (1) (a) and (c), to indemnify persons in whole or in part for financial loss due to bodily injury, death by accident, or health of persons.

(c) *Separate statement of premium.* Individual statement of the exact gross premium charged for each distinct disability insurance coverage required by this rule to be stated separately from the premium charge for the basic life or endowment insurance coverage.

(4) **STANDARDS AND PROCEDURES FOR DETERMINATION.** The following criteria or standards in pars. (a) through (e) shall be used to determine whether a disability benefit, coverage, or clause may be included in the basic life or endowment policy without a separate statement of the premium charged for such disability benefit. Subject to the approval of the commissioner of insurance, a disability benefit, coverage, or clause which satisfies the standards listed below may be included in the basic life or endowment coverage without a separate statement of cost. Disability coverages

not meeting these standards may be included in or attached to the policy only with a separate statement of the premium if they otherwise meet the statutory requirements in respect to combination of coverages. The rule in no way requires that a disability benefit, coverage, or clause be included in the premium charge for the basic life or endowment coverage if the company desires to show the premium separately.

(a) Small or very nominal cost for the disability coverage when compared with the cost of the basic life or endowment coverage.

(b) Logical reason for including the disability benefit without a separate statement of premium.

(c) There is a demonstrated need for, and the applicant would usually desire, the inclusion of the disability benefit.

(d) Inclusion of the disability coverage could be easily understood by the applicant and is not subject to possible misinterpretation.

(e) Custom of the insurance business has classed the disability coverage as basically a life insurance benefit.

(5) **DISABILITY BENEFITS WHICH REQUIRE A SEPARATE STATEMENT.** The following list constitutes a partial listing of disability coverages considered by the commissioner to be additional benefits which generally require a separate statement of premium charge if they are attached to or included in life or endowment coverage in accordance with other statutory requirements. Any such benefit may be included in a life or endowment insurance policy without a separate statement of premium if it is demonstrated that it meets the requirements listed in sub. (4).

(a) Waiver of premium benefit for death and/or disability of payor.

(b) Loss of sight and/or dismemberment benefit.

(c) Disability income benefit.

(d) Hospital insurance.

(e) Basic or primary medical insurance.

(f) Major medical benefit.

(g) Surgical benefit.

(6) **DISABILITY BENEFITS NOT LISTED.** Disability benefits which are not specifically listed above will be examined at the time of filing to determine whether a separate statement of premium is required.

(7) **RESERVE VALUES.** Reserve values, on account of included provisions, will be based upon the requirements of s. 623.06, Stats., or other applicable statutes or, in the absence of specific requirements, on such additional standards as the commissioner of insurance may prescribe.

(8) **EFFECTIVE DATE.** On or after April 1, 1965, no life insurance policy shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless it meets the requirements of this rule.

Note: See historical note relating to s. Ins 2.05 as printed with this rule as released in December, 1984.

History: 1-2-56; r. and recr., Register, March, 1965, No. 111, eff. 4-1-65; emerg. am. (1), (2) and (3) (b), eff. 6-22-76; am. (1), (2) and (3)(b), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (3) (b), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16., Stats., Register December, 1984, No. 348; corrections made under s. 13.93 (2m) (b) 6., Stats., Register, June, 1997, No. 498.

Ins 2.07 Replacement of life insurance or annuity contracts; disclosure requirements. (1) **PURPOSE.** The interest of life insurance and annuity policyholders must be protected by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of such policies, by reducing the opportunity for misrepresentation in replacement or possible replacement situations, and by precluding unfair methods of competition and unfair practices in the business of insurance. This section implements and interprets s. 628.34, Stats., by establishing minimum standards for the replacement of life insurance and annuities.

(2) SCOPE. This section shall apply to the solicitation of life insurance and annuities authorized by s. Ins 6.75 (1) (a) and (b), covering residents of this state, and issued by insurance corporations, fraternal benefit societies, or the State Life Insurance Fund. This section shall not apply to credit life insurance; group life insurance or group annuities; contracts issued in connection with employe benefit or welfare plans as defined by Section 3 (3) of the federal employe retirement income security act of 1974 (ERISA) as amended from time to time, except policies or contracts issued in connection with plans providing for purchase of life insurance policies or annuity contracts solely by reason of salary reduction agreements under section 403 (b) of the Internal Revenue Code; to the purchase, within the same insurer, of insurance under a guaranteed insurability option or conversion option; nor to short-term nonrenewable life insurance policies written for periods of 31 days or less.

(3) DEFINITION. (a) For the purposes of this section, "replacement" is any transaction in which new life insurance or a new annuity is to be purchased and existing individual life insurance or an annuity has been, may possibly be, or is to be lapsed, surrendered, converted into paid-up insurance, become extended insurance, or the cash or loan value (or a portion thereof) is utilized or contemplated for use in the future in connection with the purchase of new insurance or annuities.

(b) For the purpose of this section, the "Notice" means a document completed by the applicant and the agent or insurer prior to completing a new application for a life insurance or annuity contract, which provides necessary information regarding replacement transactions, in substantially the same format for all insurers, as specified by the commissioner. Appendix I to this section contains the "Notice" to be used when an agent is involved in a solicitation, and Appendix II contains the "Notice" to be used when no agent is involved. Appendix III to this section contains the definitions to be printed on the reverse side of the "Notice".

(4) DUTIES OF THE AGENT. (a) The agent shall:

1. Determine prior to completing a new application whether or not replacement is involved.
2. Obtain with or as a part of each application for life insurance or an annuity a statement signed by the applicant as to whether the insurance or annuity will replace existing life insurance or an existing annuity on the same life.
3. Submit to the insurer in connection with each application for life insurance or an annuity the statement obtained under subd. 2. together with a statement as to whether, to the best of the agent's knowledge, replacement is involved in the transaction.

(b) Where replacement is involved or proposed, the agent shall:

1. Before taking an application for life insurance or an annuity furnish the notice contained in Appendix I to the applicant for review and completion of the applicant's portion of the Notice.
2. Complete the certification statement on the Notice, sign and date the Notice, and list the policy number and name of insurer of each policy which there is reason to think may be replaced.
3. Leave a completed copy of the Notice with the applicant for his or her records prior to completing the application for the new policy.
4. Submit a completed copy of the Notice with the application to the proposed insurer.
5. Maintain a copy of the Notice in the agent's file for that applicant for at least 3 years.

(5) DUTIES OF THE INSURER. (a) If agents are involved with the solicitation of life insurance or annuities on residents of this state, every authorized insurer shall inform its agents of the requirements of this section and:

1. Secure with or as part of each application the statements required by sub. (4) (a) as to whether the new insurance or annuity will replace existing insurance or an annuity on the same life.

2. Review the statements prior to commencing any underwriting, but in no event later than 5 days after receipt of the application, to determine if replacement is involved.

3. Keep a copy of the statements on file with the application for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

4. Where a replacement is involved:

- a. Secure with the application a completed Notice.
- b. Within 5 days of receipt of the application, and prior to commencing any underwriting, send a written notification of the replacement or possible replacement to the home office of each replaced insurer. Notification shall include the applicant's name, the insured's name, the policy number of the policy being replaced, the generic name and face amount of the replacing policy and the legal names of all insurers.

c. Maintain copies of the Notice and notifications for at least three years indexed so as to be readily available to the office of the commissioner of insurance.

d. Guarantee to the policyholder at least a 20-day right to return the policy after delivery for a full refund of premium, and provide a written notice attached to, or as part of, the first page of the policy informing the policyholder of this right.

(b) If agents are not involved with the solicitation of life insurance or annuities on residents of this state, every authorized insurer shall:

1. Provide a copy of the Notice contained in Appendix II with any solicitation material that proposes replacement and contains an application for life insurance or an annuity.

2. Prior to approving or issuing a policy, secure with or as part of the application a statement signed by the applicant as to whether the new insurance or annuity will replace existing insurance or an existing annuity, and the name of every company and every policy number which may be replaced.

3. Review the statement prior to commencing any underwriting, in no event later than 5 days after receipt of the application, to determine if replacement is involved.

4. Keep a copy of the statement on file with the application for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

5. Where replacement is involved:

a. Within 5 days of receipt of the application, and prior to commencing any underwriting, send a written notification of the replacement or possible replacement to the home office of each replaced insurer. Notification shall include the applicant's name, the insured's name, the policy number of the policy being replaced, the generic name and face amount of the replacing policy and the legal names of all insurers.

b. Send the applicant a copy of the Notice contained in Appendix II no later than the time the policy is issued.

c. Maintain copies of the Notice and notifications for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

d. Guarantee to the policyholder at least a 20-day right to return the policy after delivery for a full refund of premium, and provide a written notice attached to, or as part of, the first page of the policy informing the policyholder of this right.

(6) CONTENTS OF THE NOTICE. The Notices contained in the Appendices to this section shall be reproduced in their entirety on one side of 8½ by 11" plain paper. The definitions in Appendix III shall be printed on the reverse side of the Notice. References to Appendix I, II or III should not be printed on the Notice or Definitions form. The insurer may print its legal name in the space provided.

(7) VIOLATION. Any violation of this section shall be deemed to be a misrepresentation for the purpose of inducing a prospect to purchase insurance and any person guilty of such violation shall be subject to s. 601.64, Stats. Failure to comply with the require-

ments of this section shall not alter the requirements of any insurer with respect to claims.

(9) EFFECTIVE DATE. This rule shall apply to all solicitations which commence on or after March 1, 1982.

History: Cr. Register, March, 1972, No. 195, eff. 6-1-72; emerg. am. (1) and (2)

eff. 6-22-76; am. (1) and (2); Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; r. and recr. Register, January, 1982, No. 313, eff. 3-1-82; r. (8), under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348.

Ins 2.07 Appendix I
IMPORTANT NOTICE REQUIRED BY WISCONSIN INSURANCE LAW

DEFINITION: REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide Evidence of insurability and

- 1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
2) Your present occupation or activities may not be covered or could require additional premiums.
3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.
4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.
5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies from the insurer or agent from whom you purchased the policy.

(If an annuity is being purchased Items 1, 2 and 3 above would not apply to the new contract).

THE INSURANCE OR ANNUITY(IES) I INTEND TO PURCHASE FROM _____ MAY REPLACE OR ALTER EXISTING LIFE INSURANCE OR ANNUITY POLICY(IES).

The following policy(ies) may be replaced as a result of this transaction:

Table with 3 columns: Insurer as it appears on the policy, Insured as it appears on the policy, Policy Number. Includes four rows of blank lines for entry.

The proposed policy is:

Type of policy-generic name \$ Face amount

Signature of applicant Date

Address of applicant City State

I certify that this form was given to and completed by (Applicant -- please print or type) prior to taking an application and that I am leaving a signed copy for the applicant.

Agent's signature Date

Address

City State

Ins 2.07 Appendix II

IMPORTANT NOTICE REQUIRED BY WISCONSIN INSURANCE LAW

DEFINITION:

REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE

In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide Evidence of insurability and

- 1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
- 2) Your present occupation or activities may not be covered or could require additional premiums.
- 3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.
- 4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.
- 5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies from the insurer or agent from whom you purchased the policy.

(If an annuity is being purchased, Items 1, 2 and 3 above would not apply to the new contract).

CAUTION

If after studying the information made available to you, you decide to replace your existing life insurance or annuity with our contract, you are urged not to take action to terminate or alter your existing coverage until after you have been issued the new policy, examined it and found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or be able to purchase it only at substantially higher rates.

INSURER'S MAILING DATE: _____

Ins 2.07 Appendix III**DEFINITIONS**

- Premiums:** Premiums are the payments you make in exchange for an insurance or annuity contract. They are unlike deposits in a savings or investment program, because if you drop the policy, you might get back less than you paid in.
- Cash Surrender Value:** This is the amount of money you can get in cash if you surrender your life insurance policy or annuity. If there is a policy loan, the cash surrender value is the difference between the cash value printed in the policy and the loan value. Not all policies have cash surrender values.
- Lapse:** A life insurance policy may lapse when you don't pay the premiums within the grace period. If you had a cash surrender value, the insurer might change your policy to as much extended term insurance or paid-up insurance as the cash surrender value will buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the premiums.
- Surrender:** You surrender a life insurance policy when you either let it lapse or tell the company you want to drop it. Whenever a policy has a cash surrender value, you can get it in cash if you return the policy to the company with a written request. Most insurers will also let you exchange the cash value of the policy for paid-up or extended term insurance.
- Convert to Paid-Up Insurance:** This means you use your cash surrender value to change your insurance to a paid-up policy with the same insurer. The death benefit generally will be lower than under the old policy, but you won't have to pay any more premiums.
- Place on Extended Term:** This means you use your cash surrender value to change your insurance to term insurance with the same insurer. In this case, the net death benefit will be the same as before. However, you will only be covered for a specified period of time stated in the policy.
- Borrow Policy Loan Values:** If your life insurance policy has a cash surrender value, you can almost always borrow all or part of it from the insurer. Interest will be charged according to the terms of the policy, and if the loan with unpaid interest ever exceeds the cash surrender value, your policy will be surrendered. If you die, the amount of the loan and any unpaid interest due will be subtracted from the death benefits.
- Evidence of insurability.** This means proof that you are an acceptable risk. You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible for coverage.
- Incontestable Clause:** This says that after one or two years (depending on the policy or insurer) the life insurer will not resist a claim because you made a false or incomplete statement when you applied for the policy. For the early years, though, if there are wrong answers on the application and the insurer finds out about them, it can deny a claim as if the policy had never existed.
- Suicide Clause:** This says that if you commit suicide after being insured for less than one or two years (depending on the policy and insurer), your beneficiaries will receive only a refund of the premiums that were paid.

Ins 2.08 Special policies and provisions; prohibitions, regulations, and disclosure requirements.

(1) **PURPOSE.** The interest of the public and the maintenance of a fair and honest life insurance market must be safeguarded by identifying and prohibiting certain types of policy forms and policy provisions and by requiring certain insurance premiums to be separately stated. This rule implements and interprets applicable statutes including ss. 628.34, 631.20, 632.44 (1) and 632.62, Stats.

(2) **SCOPE.** This rule shall apply to the kinds of insurance authorized by s. Ins 6.75 (1) (a), and shall also apply to fraternal benefit societies.

(3) **DEFINITIONS.** For the purpose of this rule certain life insurance policy forms and provisions referred to herein shall have the following meaning:

(a) "Coupon policy" is any policy form which includes a series of coupons prominently and attractively featured in combination with an insurance contract. Such coupons are one-year pure endowments whether or not so identified and whether or not physically attached to the insurance contract. The coupons are devised to give the appearance of the interest coupons that are frequently attached to investment bonds. Although the face amount of the coupon benefit is essentially a refund of premium previously paid by a policyholder, it is frequently represented that is the earnings or return on the investment of the policyholder in life insurance.

(b) "Charter policy" is a term or name assigned by an insurance company to a policy form. Such a policy is usually issued by a newly organized company and it is sold on the basis that its availability will be limited to a specific predetermined number of units of a fixed dollar amount. Such policies generally provide that the policyholder shall participate in the earnings resulting from either or both participating policies and non-participating policies. It is characteristic of such a policy that in its presentation to the public it is represented that the policyholder will receive a special advantage in any future distribution of earnings, profits, dividends or abatement of premium. It is also represented that such advantage will not be made available to the persons holding other types of policies issued by the company. Other names such as *Founders, President, and Executive Special* are frequently used for policies of the type herein described, and for the purpose of this rule when they are so used they shall be considered as *charter policies*.

(c) A "Profit-sharing policy" is any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to the persons holding other types of policies issued by the same company, in any future distribution of general corporate profits. Such policy forms are so drafted that it appears to a prospective policyholder that he or she is purchasing a preferential share of the future profit and earnings of the insurance corporation rather than purchasing a life insurance policy which may be subject to refund of excess premium payments. The provisions of the policy may incorrectly represent the amount and source of surplus that will be available for apportionment and return to policyholders in the form of dividends. Policy forms using such terms as profits, surplus, or surplus-sharing in the manner herein described shall, for the purpose of this rule, be considered as profit-sharing policies.

(4) **PROHIBITIONS, REGULATIONS, AND DISCLOSURE REQUIREMENTS.** In accordance with the purpose expressed in sub. (1) and in consideration of the apparent intent of the legislature, the use in this state of certain types of policy forms and policy provisions shall be subject to the following prohibitions and regulations:

(a) Coupon policy forms misrepresent, distort, and disguise the true nature of the insurance purchased. Therefore, no coupon policy shall be approved for use and no coupon policy heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(b) Any policy, except a policy which is only used as a funding medium to provide gifts to a corporation without profit, as provided in s. 615.04, Stats., containing a series of one-year pure endowments or a series of guaranteed periodic benefits maturing during the premium-paying period of the policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is less than the total annual policy premium for such year has special characteristics making such policy peculiarly susceptible to misrepresentation and misunderstanding. Such policies are founded on the utmost good faith of the company, and the public interest requires that the premium charged for such benefits shall be fully and fairly disclosed to the policyholder without deception or misrepresentation. Therefore, on or after April 1, 1965, no such policy herein described shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless:

1. The policy is nonparticipating.
2. The payment of a pure endowment or guaranteed periodic benefit is not contingent on the payment of premiums falling due on or after the time such pure endowment has matured,
3. The gross premium for the pure endowment or guaranteed periodic benefits is shown prominently and separately in the policy distinct from the regular insurance premium,
4. The gross premium for the pure endowment or guaranteed periodic benefits is based on reasonable assumptions as to interest, mortality, and expense,
5. The number of one-year endowment or guaranteed periodic benefits provided by the policy equals the number of annual premiums for such benefits,
6. All advertisements, sales materials, agent's presentations, and other representations of the policy to the public represent the pure endowment or guaranteed periodic benefits of the policy to be nothing other than insurance benefits for which a premium is being paid,
7. All representations of the total premium for the policy contract also show the gross premium for the pure endowment or guaranteed periodic benefits to an extent such that the prospect or purchaser is fully informed as to the separate costs involved.

(c) Charter policy forms are defined by s. 628.33, Stats., to be an unfair method of competition. They purport to provide a means to an end result that is not authorized by statute and an end result that is without reasonable expectation of achievement. Such policy forms misrepresent the responsibility and obligation of the company for equitable distribution of dividends or abatement of premiums. Therefore, no charter policy shall be approved for use and no charter policy heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(d) Profit-sharing policy forms are contrary to statute and the public interest by representing as an inducement to insurance that the person who purchases such a policy is procuring a preferential interest in the future profits and earnings of the insurance corporation. Any distribution to a policyholder of the company of earnings, profits, or surplus is a refund of the excess premiums paid by that policyholder. Such distribution must be fair and equitable to all policyholders, it must not discriminate unfairly between individuals of the same class and equal expectation of life, and it must be in the best interest of the company and its policyholders. Therefore, no profit-sharing policy shall be approved for use and no profit-sharing policy heretofore approved shall be issued or delivered in this state on or after June 15, 1962. Further, on or after June 15, 1962, no participating policy shall be approved and no participating policy heretofore approved shall be issued or delivered in this state unless the policy provides without deception or misrepresentation that the source of any dividends or abatement of premium is limited to the divisible surplus derived from participating business.

Note: See historical note relating to s. Ins 2.08 as printed with this rule as released in December, 1984.

History: Cr. Register, May, 1962, No. 77, eff. 6-15-62; am. (4) (b), Register, August 1964, No. 104, eff. 12-1-64; am. (4) (b) (intro. par.), Register, March, 1965, No. 111, eff. 4-1-65, emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (b) (intro.), Register, January, 1984, No. 337, eff. 2-1-84; r. (5) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; correction in (4) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1992, No. 436; correction in (2) (c) made under s. 13.93 (2m) (b) 5., Stats., Register, June, 1997, No. 498.

Ins 2.09 Separate and distinct representations of life insurance. (1) **PURPOSE.** The interests of policyholders and purchasers of life insurance which is sold in connection with any security must be safeguarded by providing them with clear and unambiguous written proposals and statements in which all material relating to life insurance is set forth separately from any other material. This rule implements and interprets s. 628.34, Stats., by establishing minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold in connection with a mutual fund or other security.

(2) **SCOPE.** This rule shall apply to the solicitation of, negotiation for, procurement of, or joint billing of any insurance specified in s. Ins 6.75 (1) (a), within this state or involving a resident of this state where it is known to the insurer or the insurance agent that the sale of any mutual fund or other security has been, may become, or is a part of any such transaction.

(3) **DEFINITIONS.** For the purposes of this rule:

(a) "Proposal" includes any estimate, illustration, or statement which involves a representation of any premium charge, dividends, terms, or benefits of any policy of life insurance within sub. (2).

(b) "Life insurance" includes life insurance, annuities, and endowments.

(4) **RESPONSIBILITY OF INSURER AND AGENT.** No insurer and no insurance agent shall make, in connection with any transaction within sub. (2), a proposal or billing other than in accordance with this rule. Every insurer must inform its agents involved with the solicitation of life insurance on residents of this state of the requirements of this rule.

(5) **WRITTEN PROPOSAL.** In any solicitation or sale within sub. (2), the prospect or policyholder must be furnished with a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made.

(6) **CONTENTS OF PROPOSAL.** Any proposal referred to in this rule must:

(a) Be dated and signed by the insurance agent or by the insurer if no agent is involved;

(b) State the name of the company in which the life insurance is to be written;

(c) Be accurate and complete;

(d) Contain no misrepresentations or false, deceptive or misleading statements;

(e) Show the premium charge for life insurance separately from any other charge;

(f) If values which may accrue prior to the death of the insured are involved in the presentation, show the value of the life insurance separately from any other values;

(g) Show, if it is involved in the presentation, the amount of the death benefit for the life insurance separately from any other benefit which may accrue upon the death of the insured;

(h) Set forth all matters pertaining to life insurance separately from any matter not pertaining to life insurance;

(i) Contain only such representations as will accurately reflect the actual conditions applicable to the proposed insured.

(7) **STATEMENTS TO BE SEPARATE.** Any bill, statement, or representation sent or delivered to any prospect or policyholder must show the premium charge for the life insurance and any other

information mentioned concerning life insurance separately from any other charges or values shown in the same billing.

(8) **VIOLATION.** Any violation of this rule shall be deemed to be a misrepresentation of the nature of the life insurance involved.

History: Cr. Register, October, 1963, No. 94, eff. 11-1-63; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

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 s. 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 (3) (j), 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).

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; r. (5) (d), Register, June, 1982, No. 318, eff. 7-1-82; reprinted to correct error in (5), Register, August, 1982, No. 320; correction in (5) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1992, No. 436.

Ins 2.13 Separate accounts and variable contracts.

(1) **PURPOSE.** This section 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) **DEFINITIONS.** In this section:

(a) "Agent" means a person who sells or offers to sell any contract on a variable basis.

(b) "Contract on a variable basis" or "variable contract" means a policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account maintained by the insurer as to the policy or contract, as provided for in s. 632.45 (1), Stats., including contracts defined in pars. (e) and (f).

(c) "Interest credits" means all interest that is credited to a policy or contract.

(d) "Issue" means to issue for delivery or deliver.

(e) "Modified guaranteed annuity" means a deferred annuity contract, the underlying assets of which are held in a separate

account and the values of which are guaranteed if held for specified periods, containing nonforfeiture values based on a market-value adjustment formula if held for shorter periods, which formula may or may not reflect the value of assets held in the separate account.

(f) "Modified guaranteed life insurance policy" means an individual policy of life insurance, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods, containing nonforfeiture values based on a market-value adjustment formula if held for shorter periods, which formula may or may not reflect the value of assets held in the separate account.

(g) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(3) QUALIFICATION OF INSURER TO ISSUE VARIABLE CONTRACTS.

(a) No insurer may issue variable contracts in 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 variable contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting authority to issue variable contracts in this state, the commissioner shall consider among other things:

- a. The history and financial condition of the insurer;
- b. The character, responsibility and fitness of the officers and directors of the insurer; and
- c. The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

(b) If the insurer is a subsidiary of an admitted life insurance company, or affiliated with an admitted life insurance company by common management or ownership, the commissioner may deem it to have satisfied par. (a) 2 if either it or the admitted life insurance company satisfies the provisions of par. (a) 2. The commissioner may deem any licensed insurer which has a satisfactory record of doing business in this state for a period of at least 3 years to have satisfied the provisions of par. (a) 2.

(c) Before any insurer issues variable contracts in 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 its officers and directors.

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

1. Except as provided in this subsection, an insurer may invest and reinvest amounts allocated to and accumulating in any separate account without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies. This subdivision applies only if the insurer maintains in any separate account its reserve liability with regard to benefits guaranteed as to amount and duration and funds guaranteed as to principal or rate of interest, and a portion of the assets of the separate account at least equal to the reserve liability, or another amount approved by the commissioner, is invested in accordance with the laws of this state governing the investments of life insurance companies. No investments in a separate account may be taken into account in applying the investment limitations applicable to the investments of the insurer.

2. With respect to 75% of the market value of the total assets in a separate account, no insurer may 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 the purchase or acquisition, the market value of the investment, together with prior investments of the separate account in the security taken at market, would exceed 10% of the market value of the assets of the separate account. The commissioner may waive this limitation if he or she believes that the waiver will not render the operation of the separate account hazardous to the public or the insurer's policyholders in this state.

3. No insurer may, either for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount exceeding 10% of the total issued and outstanding voting securities of the issuer. This limitation does 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 the accounts.

4. The limitations provided in subs. 2. and 3. do 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, 29 USC 80a-1 to 80a-64, as amended, if the investments of the investment company comply in substance with subs. 2. and 3.

(b) Unless otherwise approved by the commissioner, an insurer shall value assets allocated to a separate account 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 the separate account, except that the insurer shall value the portion of the assets of the separate account equal to the insurer's reserve liability with regard to the benefits and funds described in par. (a) 1., if any, in accordance with the rules otherwise applicable to the insurer's assets.

(c) To the extent provided under any applicable contract, no portion of the assets of any separate account established under this subsection equal to the reserves and other applicable contract liabilities of the account are chargeable with liabilities arising out of any other business the insurer may conduct.

(d) Notwithstanding any other provision of law, an insurer 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, 15 USC 80a-1 to 80a-64, as amended, which are held in separate accounts in accordance with instructions from persons having interests in the accounts ratably as determined by the insurer; or

2. a. With respect to any separate account registered with the securities and exchange commission as a management investment company, establish for the account a committee, board or other body, the members of which may or may not be otherwise affiliated with the insurer and may be elected to membership by the vote of persons having interests in the account ratably as determined by the insurer.

b. A committee, board or other body established under subpar. a. may, alone or in conjunction with others, manage the separate account and the investment of its assets.

c. An insurer or a committee, board or other body established under subpar. a. may make other provisions for any separate account established under this subsection in order to facilitate compliance with federal or state law, if the commissioner approves the provisions as not hazardous to the public or the insurer's policyholders in this state.

(e) 1. An insurer may not transfer assets between any of its separate accounts or between any other investment account and a separate account except that an insurer may transfer assets into a separate account 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.

2. An insurer may transfer assets under subd. 1. only as follows:

- a. By a transfer of cash; or
- b. By a transfer of securities having a readily determined market value, if the transfer is approved by the commissioner.

3. Notwithstanding subd. 2., the commissioner may authorize other transfers among accounts if he or she believes that the transfers would not be inequitable.

(f) The insurer shall maintain in each separate account established under this subsection assets with a value at least equal to the reserves and other contract liabilities with respect to the account, except as otherwise approved by the commissioner.

(g) Section 611.60, Stats., applies to the members of any separate account's committee, board or other body established under par. (d) 2. a. No officer or director of the insurer nor any member of a committee, board or body of a separate account may receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account.

(5) FILING OF CONTRACT FORMS. (a) No variable contract may be issued 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 each form.
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) Each form shall include hypothetical data showing its use, a correct table of values and an explanation of all variable information.

(e) Each filing shall include an actuarial statement of methods used to calculate values in the contract.

(6) VARIABLE BENEFITS. (a) Any variable contract issued in this state shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the amount of the variable benefits. Each variable contract, including a group contract and any certificate issued under a group contract, shall state that the amount of benefits will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement that the benefits under the contract are on a variable basis and the location in the contract of the details of the variable provisions.

(b) No illustration of benefits payable under any variable contract may include a projection of past investment experience into the future or a prediction of future investment experience. This paragraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits.

(c) No insurer may issue an individual variable annuity contract calling for periodic stipulated payments in this state unless the contract contains in substance all of the following provisions or provisions which in the opinion of the commissioner are more favorable to the holder of the contract:

1. A grace period of 30 days or one month within which the holder may make any stipulated payment, other than the first payment, due the insurer. During the grace period the contract shall

continue in force. The contract may include a statement of the basis on which the insurer determines the date that it will apply any stipulated payment received during the grace period to produce the values under the contract arising from the application of the payment.

2. A right to reinstatement of the contract 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, upon payment to the insurer of the overdue payments as required by the contract, and of all indebtedness, including interest, on the contract. The right to reinstatement does not apply if the insurer has paid the cash surrender value of the contract. The contract may include a statement of the basis on which the insurer determines the date that it will apply the amount to cover the overdue payments and indebtedness to produce the values under the contract arising from the application of the payment.

3. The options available in the event of default in a periodic stipulated payment. The 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 the paid-up annuity shall be 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 issued in this state shall stipulate the expense, mortality and investment increment factors to be used in computing the amount of variable benefits or other contractual payments or values, and may guarantee that no expense or mortality results, or both, will adversely affect the amount of benefits. The expense factors may exclude some or all taxes, as stipulated in the contract. In computing the amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. No annual net investment increment assumption may exceed 5%, except with the approval of the commissioner; and

2. To the extent that the level of benefits may be affected by mortality results, the insurer shall determine the mortality factor from the 1983 Table A, as defined in s. Ins 2.30 (2) (a), or any modification of that table not having a higher mortality rate at any age.

(e) The insurer shall establish the reserve liability for variable annuities under s. 623.06, Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) MODIFIED GUARANTEED LIFE INSURANCE. (a) An insurer that issues modified guaranteed life insurance policies in this state shall comply with all of the following requirements:

1. The insurer shall bear mortality and expense risks. The mortality and expense charges shall be subject to the maximum stated in the contract.

2. For scheduled premium policies, the insurer shall provide a minimum death benefit in an amount at least equal to the initial face amount of the policy as long as premiums are paid, subject to par. (d) 2.

3. The insurer shall determine the cash value of each policy at least monthly. Each policy shall describe the method of computing cash values and other nonforfeiture benefits and shall state the market-value adjustment formula the insurer uses to determine nonforfeiture benefits. The formula shall apply to both upward and downward adjustments.

4. With the form filing under s. 631.20, Stats., the insurer shall submit an actuarial statement of the basis for the market-value adjustment formula which states that the formula provides reasonable equity to both the policyholder and the insurer. The form filing shall demonstrate that, if the interest credits at all times during which the policy is in effect equal those guaranteed in the policy, with premiums and benefits determined under the terms of the policy, then, ignoring any market-value adjustment, the resulting cash values and other nonforfeiture benefits shall be at least equal

to the minimum values required by s. 632.43, Stats., for a fixed benefit general account policy with the same premiums and benefits.

5. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

6. At the end of any specified guarantee period, the policyholder may select a new guarantee period of not more than 5 years or until the end of the coverage period, whichever is shorter.

(b) Each modified guaranteed life insurance policy form filed for approval shall contain all of the following:

1. A cover page, or pages corresponding to a cover page, which shall include all of the following:

a. A prominent statement that cash values may increase or decrease in accordance with the market-value adjustment formula.

b. A captioned notice that the policyholder may return the policy within 10 days of its receipt, and receive a refund equal to the sum of (i) the difference between premiums paid, including policy fees and other charges, and the amounts allocated to any separate accounts under the policy, and (ii) the value of the amounts allocated to any separate accounts under the policy, on the date the insurer or its agent receives the returned policy, as determined by the market-value adjustment formula.

c. Any other item required by statute or administrative rule for fixed benefit life insurance policies which is not inconsistent with this section.

2. If settlement options are provided, a provision that at least one of the options shall be provided on a fixed basis only.

3. A description of the basis for computing the cash value and the surrender value under the policy.

4. A separate statement of premiums or charges for incidental insurance benefits.

5. Any other policy provision required by this section.

6. Any other item required by statute or administrative rule for fixed benefit life insurance policies which is not inconsistent with this section.

7. A provision for nonforfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any nonforfeiture insurance options will not be available.

(c) Each modified guaranteed life insurance policy issued in this state shall provide that the policyholder may borrow at least 75% of the policy's cash surrender value after the policy has been in force for at least 3 years unless the policy includes a policy loan provision that is no less favorable to the policyholder. Each policy loan provision shall provide all of the following:

1. The amount borrowed shall bear interest as provided under s. 632.475, Stats.

2. The insurer shall deduct any indebtedness from the proceeds payable on death.

3. The insurer shall deduct any indebtedness from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

4. For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date the notice is mailed. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amount available under the policy to pay those charges, the insurer shall mail the policyholder a report containing the information specified in par. (g) 2.

5. If the policy specifies a minimum amount which may be borrowed, the minimum may not apply to any automatic premium loan provision.

6. The policy loan provision does not apply if the policy is under an extended insurance nonforfeiture option.

7. A policyholder who has not exercised the policy loan provision may not be disadvantaged by exercising it.

8. Upon the exercise of any policy loan provision, the insurer shall withdraw from the separate account the amount paid to the policyholder and shall return that amount to the separate account upon repayment, except that a stock insurer may provide the amount for a policy loan from the general account.

(d) A modified guaranteed life insurance policy or related form issued in this state may, in substance, include one or more of the following provisions:

1. An exclusion for suicide within 2 years after the date the policy takes effect, except that, if the policy includes an increased death benefit as a result of the policyholder's application after the date the policy takes effect, the exclusion applies only to the amount of the increased benefit.

2. Incidental insurance benefits on a fixed or variable basis.

3. If the policy is issued on a participating basis, an offer to pay dividends in cash and other dividend options.

4. A provision allowing a policyholder to elect in writing, either in the application or after issuance of the policy, an automatic premium loan on a basis not less favorable than the requirements under par. (c), except that the insurer may restrict this provision to the payment of not more than 2 consecutive premiums.

5. A provision allowing the policyholder to make partial withdrawals.

6. Any other policy provision approved by the commissioner.

(e) 1. An insurer issuing any modified guaranteed life insurance policy in this state shall, before or at the time the application is taken, deliver to the applicant and obtain from the applicant a written acknowledgment of receipt of all of the following information:

a. A non-technical summary of the principal features of the policy, including a description of the manner in which the nonforfeiture benefits will be affected by the market-value adjustment formula and the factors which affect the variation. The summary shall include the notice required by par. (b) 1. b.

b. A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary.

c. Illustrations, prepared by the insurer, of benefits payable under the policy. No illustration may include a projection of past investment experience into the future or a prediction of future investment experience. This subparagraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits if the insurer makes it clear that such assumed rates are hypothetical only.

2. An insurer may satisfy the requirements of subd. 1. by delivering to the policyholder a disclosure containing the information required by subd. 1., either in the form of a prospectus which is part of an effective registration statement under the securities act of 1933, 15 USC 77a to 77aa or, if the policies are exempt from the registration requirements of the securities act of 1933, all information and reports required by the federal employee retirement income security act of 1974, 29 USC 1001 to 1461.

(f) The application for a modified guaranteed life insurance policy shall contain all of the following:

1. Immediately before the signature line, a statement that amounts payable under the policy are subject to a market-value adjustment before a date or dates specified in the policy.

2. A request for information which will enable the insurer to determine the suitability of modified guaranteed life insurance for the applicant.

(g) 1. In this paragraph, "unadjusted cash value" means the cash value before applying any surrender charge or market-value adjustment formula.

2. An insurer shall mail to each holder of a modified guaranteed life insurance policy, at his or her last known address, an annual report showing the unadjusted cash value, the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge and any optional payments allowed under the policy. The report shall also specify the surrender charge and market-value adjustment formula used to determine the cash surrender value. Each report shall state that the cash values may increase or decrease in accordance with the market-value adjustment formula. The report shall prominently identify any stated value that may be recomputed before the next annual report.

3. For flexible premium policies, if the unadjusted cash value and cash surrender value are different, the annual report shall contain a reconciliation of these values based on payments made less deductions for expense charges, withdrawals, investment experience, insurance charges and any other charges made against the cash value. The annual report shall also show the projected unadjusted cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming all of the following:

- a. Planned periodic premiums, if any, are paid as scheduled.
- b. Guaranteed costs of insurance are deducted.
- c. Interest is credited at the guaranteed rate or, in the absence of a guaranteed rate, at a rate not greater than zero. If the projected unadjusted cash value is less than zero, the report shall include a warning stating that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

4. The insurer shall mail each annual report within 30 days after one of the following dates:

- a. The policy anniversary date, in which case the amounts reported shall be computed as of the policy anniversary date.
- b. Another date specified in the policy, in which case the amounts reported shall be computed as of a date no earlier than 60 days before the mailing date.

(h) For flexible premium policies, the insurer shall also send a report to the policyholder whenever the amount available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next policy processing day. The report shall state the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment.

(8) MODIFIED GUARANTEED ANNUITIES. (a) Each insurer issuing modified guaranteed annuities in this state shall provide each contract holder with an annual report showing both the account value and the cash surrender value. The report shall clearly state that the account value does not include the application of any surrender charge or market-value adjustment formula. The annual report shall also specify the surrender charge and market-value adjustment formula used to determine the cash surrender value.

(b) 1. Each modified guaranteed annuity contract issued in this state shall describe the essential features of the procedures the insurer uses in determining the amount of nonforfeiture benefits.

2. No insurer may issue in this state a modified guaranteed annuity contract calling for periodic stipulated payments unless it contains in substance all of the following provisions:

a. A grace period of 30 days or one month within which the policyholder may make any stipulated payment, other than the first payment, due the insurer. During the grace period the contract shall continue in force. The contract may include a statement of the basis on which the insurer determines the date that it will apply any stipulated payment received during the grace period to produce the values under the contract arising from the application of the payment.

b. A right to reinstatement of the contract at any time within one year from the date of default in making periodic stipulated

payments to the insurer during the life of the annuitant, upon payment to the insurer of the overdue payments as required by the contract, and of all indebtedness, including interest, on the contract. The right to reinstatement does not apply if the insurer has paid the cash surrender value of the contract. The contract may include a statement of the basis on which the insurer determines the date that it will apply the amount to cover the overdue payments and indebtedness to produce the values under the contract arising from the application of the payment.

3. Each modified guaranteed annuity contract shall state the market-value adjustment formula the insurer uses to determine nonforfeiture benefits. The formula shall apply to both upward and downward adjustments. With each policy form filed under s. 631.20, Stats., the insurer shall submit an actuarial statement of the basis for the market-value adjustment formula which states that the formula provides reasonable equity to both the contract holder and the insurer.

4. Unless provided under any applicable contract, the portion of the assets of any separate account equal to the reserves and other applicable contract liabilities of the account are not chargeable with liabilities arising out of any other business of the insurer.

(c) 1. Subdivisions 2. to 10. do not apply to any of the following:

- a. Reinsurance.
- b. A group annuity contract purchased in connection with a retirement plan or deferred compensation plan established or maintained by or for one or more employers, including partnerships, sole proprietorships, employe organizations or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under 26 USC 408, as amended.
- c. A premium deposit fund.
- d. An investment annuity.
- e. An immediate annuity.
- f. A deferred annuity contract after annuity payments have commenced.
- g. A reversionary annuity.
- h. A contract which will be issued outside this state through an agent or other representative of the insurer.

2. No insurer may issue a modified guaranteed annuity contract in this state unless it contains in substance all of the following provisions:

a. A plan that complies with subd. 4. for granting a paid-up annuity benefit upon cessation of payment of considerations under the contract. The contract shall describe the plan and shall include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

b. If the contract provides for a lump sum settlement at maturity or at any other time, a provision for the payment of a cash surrender benefit that complies with subd. 5. instead of a paid-up annuity benefit, upon surrender of the contract at or before the commencement of annuity payments. The contract shall describe the cash surrender benefit and may provide that the insurer may defer payment of the cash surrender benefit for a period of 6 months after demand.

3. In establishing the minimum value of a paid-up annuity, cash surrender or death benefit available under a modified guaranteed annuity contract, the insurer shall base the value on nonforfeiture amounts meeting the requirements of this subdivision and subd. 4. The unadjusted minimum nonforfeiture amount on any date before the annuity commencement date shall equal the percentages of net considerations, as specified in subd. 4., increased by the interest credits allocated to the percentage of net considerations. The insurer shall reduce this amount to reflect the effect of all of the following:

a. Any partial withdrawals from or partial surrender of the contract.

b. The amount of any indebtedness on the contract, including interest due and accrued.

c. An annual contract charge which shall equal the lesser of \$30 or 2% of the end-of-year contract value less the amount of any annual contract charge deducted from any gross considerations credited to the contract during the contract years. The contract charge may not be less than \$0.00.

d. A transaction charge of \$10 for each transfer to another investment division with the same contract.

4. For purposes of subd. 3.:

a. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

b. The minimum nonforfeiture amount shall be the unadjusted minimum nonforfeiture amount adjusted by the market-value adjustment formula contained in the contract.

c. The annual contract charge of \$30 and the transaction charge of \$10 shall be adjusted to reflect changes in the consumer price index as provided in subd. 5. c.

5. The percentages of net considerations used to define the minimum nonforfeiture amount under subd. 3. shall meet all of the following requirements:

a. If the contract provides for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall not be less than \$0.00 and shall equal the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year and less any charge for premium taxes. The percentages of net considerations shall be 65% for the first contract year and 87½% for the 2nd and subsequent contract years except that the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds, by not more than 2 times, the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

b. With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75 and less any charge for premium taxes. The percentage of the net consideration shall be 90%.

c. The annual contract charge of \$30 and the collection charge of \$1.25 under subpar. a and the single consideration contract charge of \$75 under subpar. b, shall be adjusted annually to reflect changes in the consumer price index by multiplying each charge by the ratio of the consumer price index for June of the year preceding the date of filing to the consumer price index for June, 1979. "Consumer price index" means the index for all urban consumers for all items as published by the bureau of labor statistics of the United States department of labor or any successor agency. If publication of the consumer price index ceases, or if the index otherwise becomes unavailable or is altered so as to be unusable for purposes of this paragraph, the commissioner may substitute another suitable index.

6. An insurer shall use any paid-up annuity benefit available under a modified guaranteed annuity contract that has a present value on the annuity commencement date that is at least equal to the minimum nonforfeiture amount on the date. The insurer shall compute the present value using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

7. For modified guaranteed annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time before the annuity commencement date shall be equal to or greater

than the minimum nonforfeiture amount next computed after the insurer receives a request for surrender. The death benefit under the contract shall be at least equal to the cash surrender benefit.

8. Any modified guaranteed annuity contract which does not provide either a cash surrender benefit or a death benefit at least equal to the minimum nonforfeiture amount before the annuity commencement date shall include, in a prominent place in the contract, a statement that these benefits are not provided.

9. Notwithstanding any other requirement of this paragraph, a modified guaranteed annuity contract may provide that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount, and that the payment shall release the insurer from any further obligation under the contract. This option shall apply only under one of the following conditions:

a. At the time the annuity becomes payable, the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount is less than \$2,000, or would provide an income the initial amount of which is less than \$20 per month.

b. Before the annuity becomes payable under a periodic payment contract, the insurer has not received any considerations under the contract for a period of 2 years and the total consideration paid before the 2-year period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, plus the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount is less than \$2,000.

10. For any modified guaranteed annuity contract which provides in the same contract, by rider or supplemental contract provision, both annuity benefits and life insurance benefits that exceed the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall equal the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the insurance portion computed as if each portion were a separate contract. Notwithstanding subd. 2., in determining the minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits required by this paragraph, the insurer shall disregard additional benefits payable in the event of the total and permanent disability of the contract holder, as reversionary annuity or deferred reversionary annuity benefits or as other policy benefits additional to life insurance, endowment and annuity benefits and considerations for all such additional benefits. The inclusion of such additional benefits is not required in any paid-up benefits unless the additional benefits would, if provided separately, require minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits.

(d) The application for a modified guaranteed annuity shall contain, immediately before the signature line, a prominent statement that amounts payable under the contract are subject to a market-value adjustment before a date or dates specified in the contract.

(9) PROVISIONS APPLICABLE TO MODIFIED GUARANTEED LIFE INSURANCE AND ANNUITIES. (a) Before any insurer issues any modified guaranteed life insurance policy or modified guaranteed annuity contract in this state, the commissioner may require the insurer to file a copy of any prospectus or other sales material to be used in connection with the marketing of the modified guaranteed life insurance policy or modified guaranteed annuity contract. The sales material shall clearly illustrate that there can be both upward and downward adjustments due to the application of the market-value adjustment formula in determining nonforfeiture benefits.

(b) An insurer issuing a modified guaranteed life insurance policy or a modified guaranteed annuity in this state shall submit to the commissioner all of the following:

1. A separate account annual statement which shall include the business of these policies or contracts.

2. Any additional information required by the commissioner.

(c) The commissioner may disapprove any material required to be filed if the commissioner finds that the material does not comply with this section.

(d) The statutes and administrative rules governing individual life insurance and individual annuity form filings also apply to modified guaranteed life insurance policies and modified guaranteed annuity contracts. Each filing shall demonstrate in a form satisfactory to the commissioner that the nonforfeiture provisions of the policy or contract comply with this section.

(e) 1. An insurer shall establish reserve liabilities in accordance with actuarial procedures that recognize all of the following:

a. The market-value basis of the assets of the separate account.

b. The variable nature of the benefits provided.

c. Any mortality guarantees.

2. The separate account liability shall equal the surrender value based on the market-value adjustment formula contained in the modified guaranteed life insurance policy or modified guaranteed annuity contract. If that liability is greater than the market value of the assets, the insurer shall transfer assets into the separate account so that the market value of the assets at least equals that of the liabilities. The insurer shall establish any additional reserve that is needed to cover future guaranteed benefits.

3. An insurer shall consider the market-value adjustment formula, the interest guarantees and the degree to which projected cash flow of assets and liabilities are matched. The statement of actuarial opinion accompanying each annual statement shall include an opinion on whether the assets in the separate account are adequate to provide all future guaranteed benefits.

4. An insurer shall maintain in the general account reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits.

(10) REQUIRED REPORTS. (a) Each insurer issuing individual variable contracts shall mail to each contractholder, at least once in each contract year after the first, at his or her last address known to the insurer, a statement reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting either of the following as of a date not more than 4 months before the date of mailing:

1. The number of accumulation units credited to the contract and the dollar value of a unit.

2. The value of the contractholder's account.

(b) The insurer shall submit annually to the commissioner a statement of the business of each of its separate accounts in the form as required by the annual statement form designated as Life and Accident and Health Association Edition-Variable Life Insurance Separate Account.

(11) FOREIGN COMPANIES. If the law or regulation in the place of domicile of a foreign insurer provides protection to the policyholders and the public which is substantially equal to that provided by this section, the commissioner, to the extent he or she considers appropriate, may consider compliance with that law or regulation as compliance with this section.

(12) AGENT QUALIFICATIONS. Any person selling or offering for sale a variable contract shall have a valid license under s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a), and shall have passed any of the following alternative security examinations administered by the national association of securities dealers:

(a) General Securities Registered Representation Examination.

(b) Investment Company Products/Variable Contracts Limited Representative Qualification Examination.

(c) NASD Non-Member General Securities Examination.

(d) General Securities Principal Qualification.

(e) Investment Company Products/Variable Contracts Limited Principal Qualification Examination.

(13) NONAPPLICABILITY. To the extent that any provision of sub. (7) or (8) is inconsistent with a provision of sub. (6) or (10), sub. (6) or (10) does not apply to a policy or contract described in sub. (7) or (8).

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) (c), Register, March, 1979, No. 279, eff. 4-1-79; r. (2) (d) 5., (9) (g), to (m) and (p), am. (2) (b) to (d) (intro.), (6) (a), (9) (a) to (f), cr. (9) (g) to (i), renum. (9) (n) and (o) to be (9) (j) and (k), Register, May, 1979, No. 281, eff. 6-1-79; r. and recr. (2) and (9), Register, October, 1981, No. 310, eff. 11-1-81; am. (1), (3) (a) (intro.) and 2., (b), (c) (intro.), 2. and 3., (4) (a) to (g), (5) (a), (b) 2., (d), (e) and (6), renum. (2) (a) and (b), (7) to (9) to be (2) (b) and (a), (10) to (12) and am. (2) (a) and (b), (10) (a) (intro.) and 1., (b), (11) and (12), cr. (2) (intro.), (c) to (g), (7) to (9) and (13), Register, April, 1990, No. 412, eff. 5-1-90.

Ins 2.14 Life insurance solicitation. (1) PURPOSE. The purpose of this section 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 the buyer's needs, improve the buyer's understanding of the basic features of the policy, and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This section does not prohibit the use of additional material which is not in violation of this section or any other Wisconsin statute or rule. This section interprets ss. 628.34 and 628.38, Stats. This section is in addition to and not a substitute for the requirements set forth in ss. Ins 2.16 and 2.17.

(2) SCOPE. (a) Except as stated in par. (b), this section applies to any solicitation, negotiation, or procurement of life insurance occurring within this state. This section applies to any issuer of life insurance contracts including fraternal benefit societies and the state life insurance fund.

(b) Unless otherwise specifically included, this section does 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), 29 U.S.C. ss. 1001 to 1461.

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 section, the following definitions shall apply:

(a) "Cost comparison index" means a number corresponding to the cost of a policy, which can be used to compare similar policies within a company or between companies.

(b) "Equivalent level death benefit" of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years, respectively.

2. Divide each accumulation of subd. 1. by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subd. 1. over the respective periods stipulated in subd. 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(c) "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(d) "Life insurance buyer's guide" means the document published by the national association of insurance commissioners entitled life insurance buyer's guide.

(e) "Net payment cost index" means a cost comparison index calculated in the same manner as the comparable surrender cost index except that the cash surrender value is set at zero.

(f) "Policy summary" means a written statement in substantially the same format for all companies and describing only the guaranteed elements of the policy including but not limited to:

1. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

2. The name and address of the insurance intermediary, or, if no insurance intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

3. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

4. The generic name of the basic policy and each rider.

5. The following amounts, where applicable, for the first 20 policy years and at least one age from 60 through 65 or maturity whichever is earlier:

a. The annual premium for the basic policy.

b. The annual premium for each optional rider.

c. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

d. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

e. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values in subd. 5. d.

6. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest is variable, the policy summary shall include the maximum annual percentage rate.

7. The date on which the policy summary is prepared.

(g) "Surrender cost index" means a cost comparison index calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

2. Divide the result of subd. 1. by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subd. 1 over the respective periods stipulated in subd. 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

3. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider (if the annual premium includes supplemental benefits without a separate identifiable charge, a reasonable adjustment may be made) at 5% interest compounded annually to the end of the period stipulated in subd. 1. and dividing the result by the respective factors stated in subd. 2. This amount is the annual premium payable for a level premium plan.

4. Subtract the result of subd. 2. from subd. 3.

5. Divide the result of subd. 4. by the number of thousands of the equivalent level death benefit to arrive at the surrender cost index.

(4) DISCLOSURE REQUIREMENTS. (a) The insurer shall provide a policy summary upon delivery of the policy, if the policy form was identified by the insurer under s. Ins 2.17 (4) as one to be marketed without an illustration.

(b) The policy summary shall consist of a separate document. All information required to be disclosed shall be set out in a man-

ner that does not minimize any information or make any information obscure. Any amounts which remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

(c) The insurer shall provide to all prospective purchasers of any policy subject to this section a copy of the latest published version of the life insurance buyer's guide, at the time the application is taken, except that insurers which do not market policies through an intermediary may provide the life insurance buyer's guide at the time the policy is delivered provided they guarantee to the policyholder a 30 calendar day right to return the policy for a full refund of premium.

Note: Copies of the life insurance buyer's guide can be obtained from the National Association of Insurance Commissioners, 120 West 12th Street, Suite 1100, Kansas City, MO 64105-1925.

(d) Cost comparison indexes, if illustrated, shall be representative of guaranteed values only.

(e) The surrender cost index and the net payment cost index are the only cost comparison indexes which may be illustrated.

(f) Cost comparison indexes, if illustrated, must be shown for year 10 and year 20. Additionally, separate indexes must be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

(g) If cost comparison indexes are illustrated, all of the following disclosures shall be provided:

1. A statement, in close proximity to the cost comparison indexes, as follows: Further explanation of the intended use of these indexes is provided in the life insurance buyer's guide.

2. A statement regarding the use of the cost comparison indexes, including an explanation to the effect that indexes are useful only for the comparison of the relative costs of 2 or more similar policies.

(5) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in ss. Ins 2.16 (30) and 2.17 (8) (d).

(b) An intermediary shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that the intermediary is acting as a life insurance intermediary and inform the prospective purchaser of the full name of the insurance company which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name.

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(d) Any reference to policy dividends shall include a statement that dividends are not guaranteed. If dividends are illustrated, such illustration must comply with the requirements of s. Ins 2.17.

(e) Any sales presentation subject to this section shall comply with the requirements of s. Ins 2.16 (7) (b) and (c).

(f) Recommendations made by a person subject to this section concerning the purchase or replacement of any life insurance policy are subject to the requirements of s. Ins 2.16 (6);

(g) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of 2 or more life insurance policies.

(h) Except for an illustration as defined in s. Ins. 2.17 (3) (i) no presentation of benefits may display guaranteed and nonguaranteed benefits as a single sum unless the guaranteed benefits are shown separately in close proximity and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21).

(i) For the purposes of this section, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

(6) UNUSUAL CIRCUMSTANCES. Insurers with unique difficulties in implementing provisions of this section may petition the commissioner for allowance to meet the requirements of the section through alternative approaches.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1978, No. 275, eff. 1-1-79; am. (3) (a) and (6), r. and recr. appendices, Register, January, 1980, No. 289, eff. 2-1-80; r. (3) (a) and (f), (4) (a) and (c), Appendices 1, 2 & 3, renum. (3) (b) to (e) and (g) to be (3) (a) to (c), (4) (b), (d) and (e) to be (4) (a) to (c), Register, May, 1984, No. 341, eff. 6-1-84; r. (10) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; am. (1) and (3) (e) 1. i., cr. (4) (am) and appendix 1, Register, October, 1986, No. 370, eff. 11-1-86; am. (1), (2) (a) and (b) (intro.) and 4., (3) (intro.), (e) 1., (4) (b) and (c), (5) (a), (h) and (k), r. (3) (d) 4., (6), (8) and (9), r. and recr. (5) (c) and (f), renum. (7) to be (6) and am. Register, July, 1989, No. 403, eff. 8-1-89; correction in (3) (e) made under s. 13.93 (2m) (b) 1., Stats., Register, April, 1992, No. 436; correction in (3) (f) and (5) (b) made under s. 13.93 (2m) (b) 5. and 7., Stats., Register, June, 1997, No. 498; r. and recr. Register, March, 1998, No. 507, eff. 4-1-98.

Ins 2.15 Annuity benefit solicitations. (1) FINDINGS. Information on file in the office of the commissioner of insurance and submitted as Exhibit 4 at the hearing February 28, 1980 shows that some of the brochures, presentations, illustrations and other sales material which have been used by insurers and their representatives to sell annuity contracts to Wisconsin residents are confusing, misleading and incomplete, and that annuity purchasers are not receiving the information needed to make sound purchase decisions. The commissioner of insurance finds that such presentations and sales material are misleading, deceptive and restrain competition unreasonably as considered by s. 628.34 (12), Stats., and that their continued use would constitute an unfair trade practice under s. 628.34 (12), Stats., and would result in misrepresentation as defined and prohibited in s. 628.34 (1), Stats.

(2) (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or annuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute. This section is in addition to and not a substitute for the requirements set forth in s. Ins. 2.16.

(b) This section interprets and implements s. 628.34 (12), Stats.

(3) **SCOPE.** (a) Except as specified in par. (b), this section shall apply to any solicitation, negotiation or procurement of annuity or deposit fund arrangements occurring within this state. This section shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies.

(b) This section shall not apply to:

1. Variable annuities;

2. Contracts registered with the federal securities and exchange commission;

3. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or both;

4. Immediate annuity contracts (arrangements under which payments begin within 13 months of the issue date);

5. Policies or contracts issued in connection with employee benefit plans as defined by 29 USC 1002 (3) of the federal employee retirement income security act of 1974 (ERISA), except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 USC 403 (b) of the internal revenue code;

6. Individual retirement accounts and individual retirement annuities as described in 26 USC 408 of the internal revenue code;

7. A single advance payment of specified premiums equal to the discounted value of such premiums;

8. A policyholder's deposit account established solely to facilitate payment of regular premiums;

9. Settlement options under life insurance or annuity contracts.

(4) **DEFINITIONS.** (a) "Contract Summary" means a written statement to be provided to the buyer at the time of contract delivery describing the elements of the annuity contract or deposit fund in the manner set out in sub. (6).

(b) "Preliminary Contract Summary" means a written statement to be provided to the buyer prior to sale which describes the elements of the annuity contract or deposit fund in the manner set out in sub. (5).

(c) "Wisconsin Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in Appendix I to this section.

(d) "Yields" means those effective annual interest rates at which the accumulation of 100% of all gross considerations would be equal to the guaranteed and illustrated cash surrender values at the points specified. For contracts without surrender values the yields shall be figured on the basis of the contract values used to determine annuity payments at the points specified.

(5) **PRELIMINARY CONTRACT SUMMARY.** The Preliminary Contract Summary shall include:

(a) A prominently placed title, **PRELIMINARY CONTRACT SUMMARY**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) A statement as to whether the arrangement provides any guaranteed death benefits during the deferral period;

(e) A prominent statement that the contract does not provide cash surrender values, if such is the case;

(f) For arrangements under which guaranteed cash surrender values at any duration are less than the total scheduled considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years;

(g) Any minimum or maximum premium limitations;

(h) A prominent description of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to, any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees;

(i) In the event any sales promotion literature or oral representation illustrates values or annuity payments which are based on dividends, excess interest credits, or current annuity rates, then the

Preliminary Contract Summary shall contain a statement that such dividends, excess interest credits, and current annuity purchase rates are not guaranteed and that any corresponding values and annuity amounts are illustrations only and are not guaranteed;

(j) A statement that the insurer shall provide the prospective customer a Contract Summary upon request.

(6) **CONTRACT SUMMARY.** The Contract Summary shall include:

(a) A prominently placed title, **CONTRACT SUMMARY**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) Any guaranteed death benefits during the deferral period, and the form of annuity payment selected for pars. (f), (g) and (i);

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement thereof, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the arrangement and no indebtedness to the insurer on the contract;

(g) Illustrative annuity payments on a current basis, if shown, must be on the same basis as for par. (f) except for guarantees, and may not be greater in amount than those based on:

1. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements, or the current excess interest rate credited by the insurer, and

2. Current annuity purchase rates;

(h) For arrangements under which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years and showing the number of years such a relationship exists, together with a reference to the schedule of guaranteed cash surrender values required by par. (i) 3.;

(i) The following amounts, where applicable, for the first 5 years and representative years thereafter sufficient to illustrate clearly the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments:

1. The gross consideration for the arrangement;

2. Any minimum or maximum premium limitation;

3. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year;

4. If other than guaranteed cash values are shown, the total illustrative cash value or paid-up annuity at the end of the year may not be greater in amount than that based on:

a. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements or the current excess interest rate credited by the insurer, and

b. Current annuity purchase rates.

(im) If the annuity payments have not yet commenced, the yield on gross considerations at the end of 10 years and at the scheduled commencement of annuity payments. For contracts without surrender values, only the yield at the scheduled commencement of annuity payments need be shown. The yield shall be figured on the basis of the contract value used to determine the annuity payments. These yield figures shall be shown on a guaranteed basis and, if current annuity payments or cash surrender values are shown, on an illustrative basis also.

(in) A statement of the interest rates used in calculating the guaranteed and illustrative contract or fund values.

(j) For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed;

(k) The date on which the Contract Summary is prepared.

(7) **PREPARATION OF PRELIMINARY CONTRACT SUMMARY AND CONTRACT SUMMARY.** The following must be considered in preparing the Preliminary Contract Summary and the Contract Summary:

(a) The Preliminary Contract Summary and the Contract Summary must be separate documents;

(b) All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure;

(c) Any amounts which remain level for 2 years or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year;

(d) Amounts in sub. (6) (d), (f), (g) and (i) shall, in the case of flexible premium annuity arrangements, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be a specified level amount, such as \$100 or \$1,000 per year;

(e) If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later;

(f) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or a current excess interest rate.

(8) **DISCLOSURE REQUIREMENTS.** (a) The insurer and its intermediaries shall provide, to all prospective purchasers of any contract or arrangement subject to this section, a copy of the current edition of the Wisconsin Buyer's Guide to Annuities and a properly completed Preliminary Contract Summary or Contract Summary prior to accepting the applicant's initial consideration for the annuity contract, or, in the case of a rider or provision, prior to acceptance of the applicant's initial consideration for the associated insurance policy or annuity contract. Insurers which do not market contracts through an intermediary may provide the Contract Summary, and the Wisconsin Buyer's Guide to Annuities at the point of contract delivery provided they:

1. Guarantee to the contractholder the right to return the contract for a full refund of premium any time during a 30 day period commencing on the date such contractholder receives the Contract Summary and the Wisconsin Buyer's Guide to Annuities;

2. Alert the prospective contractholder, in advertisements or direct mail solicitations, of his or her right to obtain a copy of the Wisconsin Buyer's Guide to Annuities and a Preliminary Contract Summary prior to the sale.

(b) The insurer and its intermediaries shall provide a Contract Summary upon delivery of the contract, if it has not been delivered beforehand;

(c) The insurer and its intermediaries shall provide a Wisconsin Buyer's Guide to Annuities and a Contract Summary to individual prospective purchasers upon reasonable request;

(d) Any statement provided subsequent to sale to a contractholder which purports to show the then current value of an arrangement subject to this section shall show the then current guaranteed cash surrender value or, if no guaranteed cash surrender value is provided the then current guaranteed paid-up annuity.

(9) **GENERAL REQUIREMENTS.** (a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized

form for a period of at least 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30);

(b) An intermediary shall inform the prospective purchaser, prior to commencing a sales presentation, that the intermediary is acting as an insurance intermediary and shall inform the prospective purchaser of the full name of the insurer which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name;

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;

(d) Any reference to dividends or to excess interest credits must include a statement that such dividends or credits are not guaranteed;

(f) Recommendations made by any person subject to this section concerning the purchase or replacement of any arrangement

subject to this section are subject to the requirements of s. Ins 2.16 (6);

(g) No presentation of benefits may display guaranteed and non-guaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21);

(h) Sales promotion literature and contract forms shall not state or imply that annuity arrangements are the same as savings accounts or deposits in banking or savings institutions. The use of policies or certificates which resemble savings bank passbooks is prohibited. If savings accounts or deposits in banking and savings institutions are utilized in connection with such annuity arrangements, this shall not prohibit the use of an accurate description of the annuity arrangement.

History: Cr. Register, October, 1980, No. 298, eff. 1-1-81; am. (1) and (2) (b) and appendix I, Register, June, 1982, No. 318, eff. 7-1-82; r. (11) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; r. and rec. (4) and appendix 1, am. (5) (intro.), (a), (i) and (j), (6) (intro.), (a), (j) and (k), (7) (intro.), (a), (8) (a), (b) and (c), cr. (6) (lm) and (in), r. (9) (e) and (12), Register, July, 1987, No. 379, eff. 8-1-87; reprinted to correct error in appendix I, Register, October, 1987, No. 382; am. (2) (a), (3) (b) 5. and 6., (9) (a) and (g), r. and rec. (9) (f), r. (10), Register, July, 1989, No. 403, eff. 8-1-89.

Ins 2.15 Appendix I

WISCONSIN BUYER'S GUIDE TO ANNUITIES

WHAT IS AN ANNUITY?

An annuity is a written contract between you and a life insurance company. In return for your premiums, the company will pay you an annuity which is a series of payments made at regular intervals. An annuity contract is not a life insurance policy or a health insurance policy. It is not a savings account or savings certificate and it should not be bought for short term purposes.

- AN ANNUITY IS NOT "RISK FREE" OR "GUARANTEED SAFE." IT IS ONLY AS SOUND AS THE INSURANCE COMPANY WHICH ISSUES IT.
- IF YOU TAKE YOUR MONEY OUT AFTER A SHORT TIME PENALTY PROVISIONS OF MANY CONTRACTS MEAN THAT YOU MAY GET BACK LESS THAN YOU PUT IN.

TYPES OF ANNUITY CONTRACTS

Annuity contracts vary in a number of ways. The following are some of the more important ways:

WHEN BENEFITS ARE RECEIVED

- Annuities may be either immediate or deferred. Immediate annuities provide income payments that start shortly after you pay the premium. Deferred annuities provide income payments that start at a later date. The main reason for buying an immediate annuity is to obtain an immediate income, most frequently for retirement purposes. The main reason for buying a deferred annuity is to accumulate money on a tax-deferred basis, which can then provide an income at a later date.

HOW PREMIUMS ARE PAID

- Annuities may be either single premium or installment premium. Single premium contracts require you to pay the company only one premium. Installment premium contracts are designed for a series of premiums. Most of these are flexible premium contracts. You pay as much as you wish whenever you wish, within specified limits. Some are scheduled premium contracts that specify the size and frequency of your premiums.

FIXED OR VARIABLE

- Annuities may be fixed, variable, or a combination of both. During the deferred period of a fixed annuity contract, interest is paid on the accumulated premiums (minus charges) at a rate set by the company. The amount of each annuity payment is determined when payments begin. During the deferred period of a variable annuity, interest is paid on the accumulated premiums (minus charges) at a rate that varies with the performance of a specified pool of investments. The amount of each annuity payment also varies with the performance of the pool. Combination annuities allow you to put part of your premium in a fixed annuity and part in a variable annuity.

ANNUITY CONTRACT FEATURES

The value of your annuity consists of the premiums you have paid, less charges, plus interest credited. This value is used to calculate the amount of benefits that you will receive. Charges, interest, surrender rights, and benefits are explained below.

CHARGES

There are many types and amounts of charges. Companies may refer to these charges by different names. Some annuities are "front loaded", which means that most of the costs to the company are charged to you in the beginning. Some are "back loaded", which means that most of these costs are charged to you later on.

Others spread their charges evenly throughout the life of the annuity. Some charges will be fixed by the contract while some may be changed by the company from time to time.

Before buying an annuity you should know all of the charges that you will pay and when you will pay them. Also, you should understand how these charges might affect the actual amount of money that will accumulate from your premium payments. A typical contract might contain one or more of the following types of charges:

- Percentage of Premium Charge. This charge, often called a "load," is deducted from each premium before any interest is added. The percentage may reduce after the contract has been in force for a certain number of years or after the total premiums paid have reached a certain level.
- Contract Fee. This is a flat dollar amount charged either once at the time of issue, or charged once each year.
- Transaction Fee. This is a fixed charge per premium payment or other transaction.
- Surrender Charge. This charge is usually a percentage of the value of the contract or of premiums paid. The percentage may be reduced or eliminated after the contract has been in force for a certain number of years. Sometimes the charge is a reduction in the interest rate credited. Sometimes the charge is eliminated if the interest rate declared by the company falls below a certain level.

INTEREST

The interest rate used to accumulate contract values may never be less than the guaranteed rate stated in the contract. In practice, the interest rate actually used by a company, usually referred to as the "current" rate, is often higher. The company may change the current rate from time to time, but it cannot be lower than the guaranteed rate. Companies differ substantially in their methods of determining the current rate.

SURRENDER RIGHTS

Most annuities allow you to surrender your contract if income payments have not yet started. Upon surrender, the contract terminates. The surrender value is equal to your contract value less the surrender charge, if any. This amount could be less than you paid in.

Many annuities also provide that you may withdraw a portion of your contract value, under certain conditions, without terminating the contract. A charge may be deducted from the amount withdrawn. This charge is usually a percentage of either the accumulated value of the contract, the premiums paid or the portion withdrawn.

There may be certain tax penalties for early surrenders. Be sure you understand any tax implications before surrendering an annuity contract.

BENEFITS

Annuity contracts provide a number of benefits. While the annuity income benefit is the primary one, other benefits are also important. Some of the more important ones are described below:

Annuity Income Benefit

Income payments are usually made monthly, although other frequencies are available. The amount of the annuity payments is based on both the value of the contract and the contract's "benefit rate" when the first payment is made. The benefit rate depends on your age, sex, and the specific features of the annuity you chose.

Annuity contracts contain a table of guaranteed benefit rates. Most companies periodically develop "current" benefit rates as well. These rates are subject to change by the company at any time. When annuity payments begin, the company will determine the amount of each payment according to the current benefit rates then in effect. If the guaranteed benefit rates would provide higher income payments, those rates will be used. Once payments begin, they are unaffected by any future benefit rate changes.

The most commonly available annuity income benefits are:

- **Straight Life.** The annuity is paid as long as you are alive. There are no further payments to anyone after your death.
- **Life With Period Certain.** The annuity is paid as long as you are alive. If you die before the end of the period referred to as the "certain period," the annuity will be paid to your beneficiary for the rest of that period. Typical certain periods are 10 to 20 years.
- **Joint and Survivor.** The annuity is paid as long as either you or another named annuitant is still alive. In some variations, the annuity is decreased after the first death. A period certain may also be available with this form.

Death Benefit

Most contracts provide that, if you die before the annuity payments start, the contract value will be paid to your beneficiary. Some contracts provide that the death benefit will be the total premiums paid if that amount is greater than the value of the contract at death.

Waiver of Premium Benefit

Some companies offer a benefit which will pay premiums for you if you become disabled. A charge is made for this benefit.

HOW MUCH SHOULD I BUY?

Before buying, ask yourself these questions:

1. How much annuity income will I need in addition to social security, pension savings and investments?
2. Will I need an income only for myself or also for someone else?
3. How much can I afford to pay in premiums?
4. How will the annuity contract fit in with my total financial planning?

HOW TO BUY AN ANNUITY

Buying an annuity contract is a major financial decision which should be considered carefully. The prospective purchaser of an annuity contract should consider the offerings of as many different companies and agents as possible.

CONTRACT SUMMARY

In addition to receiving this Buyer's Guide, you must receive either a Preliminary Contract Summary or a Contract Summary prior to the time you pay the initial premium. If you did not receive a Contract Summary with this Buyer's Guide, you must receive one when the contract is delivered or you can ask for one. You should review the contract summary thoroughly.

Accumulated values and surrender values under the contract are illustrated for various years on this summary. During the first few years, these values may be less than premiums paid. This is why an annuity contract should not be purchased for short term purposes.

Also illustrated are the yields on gross premiums at specified times. Yields take into account not only the interest credited under the contract, but also the effect of all charges. The yield on gross premiums is a figure you can use to compare annuity contracts. Be careful in comparing this yield with yields available on other investments. The tax treatment of annuity earnings is usually substantially different from that of earnings from other investments.

One reason for buying an annuity contract is to obtain an income, so you should review the life income figures.

Values and income figures may be shown on both a "guaranteed" and an "illustrated" basis. The guaranteed basis shows the minimum values and income which would be paid under the contract. The "illustrated" basis shows the values and income which would be paid if the current interest and benefit rates were to continue in effect. Since it is impossible to predict future interest and benefit rates, you will have to decide whether to rely on any illustrated basis values when making your purchase decision.

OTHER POINTS TO CONSIDER

Be certain you understand all charges that will be made and how they may reduce the value of the annuity.

Be certain you can afford the premium payments.

Check whether the annuity contract allows you to change the amount and frequency of your premium payments. Find out what happens if you stop paying premiums.

You may want to obtain and compare Contract Summaries for similar contracts from several companies. Comparing these should help you in your selection.

If you are buying an annuity contract for an Individual Retirement Account (IRA) or another tax deferred retirement program, make sure that you are eligible. Make sure that you understand any restrictions and tax implications connected with the program.

If you are shown a presentation which illustrates tax savings, be sure the assumptions, such as the tax bracket, apply in your case.

Some companies offer deposit fund arrangements with their life insurance policies or annuity contracts. These arrangements allow you to pay amounts in addition to your premiums that will be accumulated at interest in much the same way as under a deferred fixed annuity contract.

READ THE CONTRACT

When you receive your new annuity contract read it carefully. Ask the agent or the company for an explanation of anything you do not understand.

If you have a specific complaint or cannot get the answers you need from the agent or company, please contact the

Office of the Commissioner of Insurance
P.O. Box 7873
Madison, WI 53707-7873
Phone: (608) 266-0103
or
1-800-236-8517

This Guide Does Not Endorse Any Company Or Policy

Ins 2.16 Advertisements of and deceptive practices in life insurance and annuities. (1) **PURPOSE.** This section safeguards the interests of prospective purchasers of life insurance and annuities by providing the prospective purchasers with clear and unambiguous statements, explanations, advertisements and written proposals concerning the life insurance policies and annuity contracts offered to them. The commissioner may best achieve this purpose by establishing certain minimum standards of and guidelines for conduct in the advertising and sale of life insurance and annuities. These minimum standards and guidelines prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies or contracts of life insurance and annuities. This section interprets and implements, including but not limited to, the following Wisconsin statutes: ss. 601.01 (2) and (3) and 628.34. The requirements of this section are in addition to and not a substitute for the requirements set forth in ss. Ins 2.14, 2.15, and 2.17.

(2) **SCOPE.** (a) Unless otherwise provided under a particular provision of this section, the section applies to any person who makes, directly or indirectly on behalf of an insurer, fraternal benefit society, or intermediary, an advertisement, representation, or solicitation in this state of any insurance specified in s. Ins 6.75 (1) (a).

(b) This section does not apply to:

1. Credit life insurance.
2. Group life insurance purchased, established, or maintained by an employer including a corporation, partnership, or sole proprietorship, or by an employe organization, or both, except for group life insurance purchased, established or maintained by these persons in connection with a multiple employer welfare arrangement as defined under 29 USC 1002 (40).
3. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employe retirement income security act of 1974 (ERISA), 29 USC ss. 1001 to 1461.
4. Variable life insurance policies under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.
5. Variable annuities.
6. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employe organization, or both.
7. Immediate annuity contracts, which are arrangements under which payments begin within 13 months of the issue date.
8. Annuity contracts issued in connection with employe benefit plans as defined by 29 USC 1002 (3) of the federal employe retirement income security act of 1974 (ERISA), except annuity contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 USC 403 (b) of the internal revenue code.
9. A policyholder's deposit account established solely to facilitate payment of regular premiums.
10. Settlement options under life insurance or annuity contracts.

(3) **DEFINITIONS.** In this section:

- (a) 1. "Advertisement" means:
- a. Printed and published material, audio visual material and descriptive literature of an insurer or intermediary used in direct mail, newspapers, magazines, other periodicals, radio and TV scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employes, intermediaries or agencies;
 - b. Descriptive literature and sales aids of all kinds authored, issued, distributed or used by an insurer, intermediary or third

party for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters. Descriptive literature and sales aids do not include material in house organs of insurers, communications within an insurer's own organization not intended for dissemination to the public, individual communications of a personal nature, and correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket policy, and general announcements from group or blanket policyholders to eligible individuals that a contract has been written;

c. Prepared sales talks, presentations and material for use by intermediaries and representations made by intermediaries in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employes or intermediaries; and

d. Packaging, including but not limited to envelopes, used in connection with subpar. a, b, and c.

2. Advertisement does not include a policy summary as defined in s. Ins 2.14 (3) (d), the "buyer's guide to life insurance" as set forth in s. Ins 2.14, an illustration as defined in s. Ins. 2.17 (3) (i), a contract summary as defined in s. Ins 2.15 (4) (a), a preliminary contract summary as defined in s. Ins 2.15 (4) (b), and the "Wisconsin Buyer's Guide to Annuities" as defined in s. Ins 2.15 (4) (c).

(b) "Analysis" means the separation of a life insurance policy or annuity contract into constituent parts for comparison, special emphasis, or other purposes.

(c) "Appraisal" means an evaluation or estimate of the quality or other features of a life insurance policy or annuity contract. Appraisal does not include a statement which is also an endorsement or testimonial.

(d) "Endorsement" means any statement promoting the insurer, its policy, or both, made by an individual, group of individuals, society, association or other organization which makes no reference to the endorser's experience under the policy.

(e) "Guaranteed interest rate" means the lowest rate of interest which an insurer may pay under the terms of a policy during the duration of the policy.

(f) "Illustrated rate" means a rate shown in an advertisement, representation, or solicitation which an insurer may guarantee for a limited period of time, but not guarantee for the duration of the policy.

(g) "Individual policy issued on a group basis" means an individual policy issued for which:

1. Coverage is provided to employes or members or classes of employes or members defined in terms of conditions pertaining to employment or membership in an association or other group which is eligible for franchise or group insurance as defined in s. 600.03 (22) and (23), Stats.;

2. The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the group;

3. The employer, association or other group, or a designated person acting on behalf of one of these persons, pays premiums or subscription charges to the insurer; and

4. The employer, association or other group sponsors the insurance plan.

(h) "Institutional advertisement" means an advertisement which is prepared solely to promote the reader's or listener's interest in the concept of life insurance or annuities, or of promoting the insurer sponsoring the advertisement, or both.

(i) "Intermediary" has the meaning provided in s. 628.02 (1), Stats.

(j) "Policy" means any document, including a policy, plan, contract, agreement, rider or endorsement, used to set forth in writing life insurance or annuity benefits.

(k) "Representation" means any communication, other than an advertisement or solicitation, relating to an insurance policy, the insurance business, any insurer, or any intermediary.

(L) "Solicitation" means an attempt to persuade a person to make an application for an insurance policy.

(m) "Testimonial" means any statement made by a policyholder, certificate holder or other person covered by the insurer which promotes the insurer and its policy or contract by describing the person's benefits, favorable treatment or other experience under the policy or contract.

(4) APPLICATION OF THIS SECTION. (a) The commissioner shall construe this section in a manner which does not unduly restrict, inhibit or retard the promotion, sale and expansion of life insurance policies or annuity contracts. The commissioner shall consider differences in the purposes served by various advertisements and in the insurance product being advertised when interpreting this section. When applying this section to a specific advertisement, the commissioner shall consider the detail, character, purpose, use and entire content of the advertisement.

(b) The extent to which a person subject to this section shall disclose policy provisions in an advertisement will depend on the content, detail, character, purpose and use of the advertisement and the nature of any qualifications involved. The principal criterion is whether the advertisement has the capacity or tendency to mislead or deceive if such a provision is not disclosed.

(c) The commissioner shall determine whether an advertisement has the capacity or tendency to mislead or deceive from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(5) ADVERTISEMENTS, REPRESENTATIONS, AND SOLICITATIONS IN GENERAL. (a) Advertisements, representations, and solicitations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy, the insurance business, any insurer, or any intermediary to which they apply. No advertisement may contain words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology.

(b) Oral representations and solicitations shall conform to the requirements of this section.

(6) SUITABILITY OF POLICIES. No insurer or intermediary may recommend to a prospective buyer the purchase or replacement of any individual life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The insurer or intermediary shall make all necessary inquiries under the circumstances to determine that the purchase of the insurance is not unsuitable for the prospective buyer. This subsection does not apply to an individual policy issued on a group basis.

(7) DECEPTIVE WORDS, PHRASES OR ILLUSTRATIONS. (a) No person subject to this section may use an advertisement that exaggerates a benefit or minimizes cost by overstatement, understatement or incompleteness. No advertisement may omit information or contain words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable or state or federal tax consequences. An advertisement referring to any policy benefit payable, loss covered, premium payable, or state or federal tax consequences shall be sufficiently complete and clear as to avoid deception or the capacity or tendency to mislead or deceive.

(b) No advertisement may state or imply that life insurance arrangements are the same as savings accounts or deposits in banking or savings institutions. No person subject to this section may use policies which resemble savings bank passbooks. If savings accounts or deposits in banking and savings institutions are utilized in connection with life insurance arrangements, this para-

graph does not prohibit the use of an accurate description of the life insurance arrangement.

Note: Annuity contracts are subject to the same limitations under s. Ins 2.15 (9) (b).

(c) No advertisement may contain the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of the policy to believe that he or she will receive, or that it is possible that he or she will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(d) An advertisement may refer to immediate coverage or guaranteed issuance of a policy only if suitable administrative procedures exist so that the policy is issued within a reasonable time after the application is received.

(e) No advertisement may refer to a policy or coverage as "special" unless a person subject to this section can show that a reasonable basis exists for the use of this term.

(8) IDENTITY OF INSURER. (a) Each advertisement shall clearly identify the insurer. If an application is a part of the advertisement, the application shall show the name of the insurer.

(b) No advertisement may contain a trade name, an insurance group designation, the name of the parent company of the insurer, the name of a government agency or program, the name of a department or division of an insurer, the name of an agency, the name of any other organization, a service mark, a slogan, a symbol or any other device which has the capacity or tendency to mislead or deceive as to the identity of the insurer or create the impression that an entity other than the insurer has any responsibility for the financial obligation under any policy.

(c) No advertisement may contain any combination of words, symbols or materials which, by its content, phraseology, shape, color, nature or other characteristics, is so similar to combinations of words, symbols or materials used by federal, state or local government agencies that it tends to confuse or mislead prospective buyers into believing that the solicitation is in some manner connected with such a government agency.

(d) No advertisement may refer to an affiliate of the insurer without disclosing that the 2 organizations are separate legal entities.

(e) No advertisement may indicate an address for an insurer in any manner that may mislead or deceive as to the insurer's identity or licensing status. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify the address other than that of its home office and clearly disclose the actual city and state of domicile of the insurer.

(9) TESTIMONIALS, ENDORSEMENTS, APPRAISALS, ANALYSIS OR COMMENDATIONS BY THIRD PARTIES. (a) No advertisement may contain a testimonial, endorsement or other commendatory statement concerning the insurer, its policies or activities by any person who receives any pay or remuneration, directly or indirectly, from the insurer in connection with the testimonial, endorsement or statement unless the advertisement, testimonial or endorsement includes a full and prominent disclosure therein of the relationship, direct or indirect, including but not limited to the existence of any financial interest, remuneration, or both, between the insurer and the person making the testimonial, endorsement or statement. The provisions of this paragraph do not apply to any person holding a Wisconsin intermediary's license nor to any radio or television announcer or other person employed or compensated on a salaried or union wage scale basis.

(b) A testimonial, endorsement, appraisal, or analysis used in an advertisement shall be genuine, represent the current opinion

of the author, apply to the policy advertised and be accurately reproduced.

(c) No person subject to this section may use a testimonial, endorsement, appraisal or analysis:

1. Which is fictional;
2. If the insurer has information indicating a substantial change of view on the part of the author;
3. If a reasonable person would conclude that the views expressed do not correctly reflect the current opinion of the author;
4. For more than 2 years after the date on which it was originally given or 2 years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion;
5. Which does not accurately reflect the present practices of the insurer;
6. To advertise a policy other than the policy for which the author gave the statement, unless the statement clearly has some reasonable application to the second policy;
7. Which effects a change or omission which alters or distorts its meaning or intent as originally written; or
8. Which does not disclose the true nature of the insurance coverage under which the benefits were paid if it contains a description of benefit payments.

(d) No advertisement may state or imply, unless true, that an individual, group of individuals, society, association or other organization approves or endorses an insurer or a policy. An advertisement shall disclose any affiliated relationship between the society, association or other organization and the insurer. If the insurer or the person or persons who own or control the insurer has formed or owns or controls the society, association or other organization, the advertisement shall clearly disclose this fact.

(e) If a testimonial refers to benefits received under a policy, the insurer shall retain a summary of the pertinent claim information including claim number and date of loss with the advertisement in the advertising file required by sub. (30).

(f) No advertisement may state or imply that a government publication commends or recommends the insurer or its policy.

(10) JURISDICTIONAL LICENSING; APPROVAL BY GOVERNMENTAL AGENCY. (a) No advertisement which may be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed may state or imply licensing beyond those limits.

(b) In any advertisement any reference to licensing shall contain an appropriate disclaimer that the viewer, listener, or reader should not construe the reference as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.

(c) No advertisement may state or imply that the insurer, its financial condition or status, the payment of its claims, its policy forms or the merits or desirability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any agency of this state or the federal government.

(d) No advertisement may contain a reproduction of a portion of a state insurance department report of examination.

(11) INTRODUCTORY, INITIAL OR SPECIAL OFFERS AND LIMITED ENROLLMENT PERIODS. (a) No advertisement may state or imply, unless true, that a policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages not available at a later date by accepting the offer, that only a limited number of policies will be sold, that a time is fixed for the discontinuance of the sale of the policy advertised because of special advantages available in the policy, or that an individual will receive special advantages by enrolling within an open enrollment period or by a deadline date.

(b) No advertisement may state or imply that enrollment under a policy is limited to a specific period unless the advertisement discloses the period of time permitted to enroll. This period of

time may not be less than 10 days and not more than 40 days from the date of the advertisement.

(c) If the insurer making an introductory, initial or special offer has previously offered the same or similar policy on the same basis or intends to repeat the current offer for the same or similar policy, the advertisement shall disclose this fact.

(d) No insurer may establish for residents of this state a limited enrollment period within which a person may purchase an individual policy less than 6 months after the close of an earlier limited enrollment period for the same or similar policy. The restriction shall apply to all advertisements in newspapers, magazines and other periodicals circulated in this state, all mail advertisements sent to residents of this state and all radio and TV advertisements broadcast in this state. This restriction does not apply to the solicitation of enrollments under individual policies issued on a group basis.

(e) Where an insurer is an affiliate of a group of insurers under common management and control, the word "insurer" for the purposes of this subsection means the insurance group. The requirements and restrictions applicable to an insurer shall apply to the insurance group.

(12) MAIL ORDER REFUSAL FORM. No person subject to this section may use a mail order advertisement which requires the recipient, in order to refuse a policy, to sign a refusal form and return it to a specified person or insurer.

(13) GROUP, QUASI-GROUP OR SPECIAL CLASS IMPLICATIONS. No advertisement may state or imply, unless true, that prospective policyholders or members of a particular class of individuals become group or quasi-group members or are uniquely eligible for a special policy or coverage and will be subject to special rates or underwriting privileges or that a particular coverage or policy is exclusively for preferred risks, a particular segment of people, or a particular age group or groups.

(14) INSPECTION OF POLICY. (a) An offer in an advertisement of free inspection of a policy or an offer of a premium refund shall not be a cure for misleading or deceptive statements contained in such advertisement.

(b) An advertisement which refers to the provision in the policy advertised regarding the right to return the policy shall disclose the time limitation applicable to this right.

(15) IDENTIFICATION OF PLAN OR NUMBER OF POLICIES. (a) When an advertisement refers to a choice regarding benefit amounts, it shall disclose that the benefit amounts provided will depend upon the plan selected and that the premium will vary with the amount of the benefits.

(b) When an advertisement refers to various benefits, all of which can be obtained only by purchasing 2 or more policies, it shall disclose that the benefits are provided only through a combination of such policies.

(16) USE OF STATISTICS. (a) An advertisement which sets out the dollar amounts of claims paid, the number of persons insured or other statistical information shall identify the source of the statistical information. No person subject to this section may use an advertisement unless it accurately reflects all of the relevant facts. No advertisement may contain irrelevant statistical data.

(b) No advertisement may imply that the statistical information given is derived from the insurer's experience under the policy advertised unless true. The advertisement shall specifically so state if the information applies to other policies or plans.

(c) An advertisement which sets out the dollar amounts of claims paid shall also indicate the period during which such claims have been paid.

(17) CLAIMS. No advertisement may:

(a) Contain untrue statements with respect to the time within which claims are paid;

(b) State or imply that claim settlements will be liberal or generous or use words of similar import;

(c) State or imply that claim settlements will be beyond the actual terms of the policy; or

(d) Contain a description of a claim which involves unique or highly unusual circumstances.

(18) STATEMENTS ABOUT AN INSURER. No advertisement may contain untrue statements or statements that by implication mislead with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.

(19) DISPARAGING COMPARISONS AND STATEMENTS. No advertisement may directly or indirectly contain unfair or incomplete comparisons of policies or benefits or falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.

(20) PREMIUMS. (a) An advertisement for a policy with non-level premiums shall contain a prominent description of the premium changes.

(b) No person subject to this section may describe in an advertisement a life insurance policy under which the insurer reserves the right to change the amount of the premium during the policy term unless this feature is prominently described in the advertisement.

(c) Except as otherwise allowed under this paragraph, no advertisement may contain a statement or representation that an insured may withdraw under the terms of the policy any premiums paid for a life insurance policy. The advertisement may refer to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. The advertisement may also refer to withdrawal rights under any unconditional premium refund offer.

(d) No advertisement may state or imply that a pure endowment benefit is a "profit" or "return" on the premium paid rather than a policy benefit for which a specified premium is paid.

(21) NONGUARANTEED POLICY ELEMENTS. (a) No advertisement may contain a description of or otherwise refer to nonguaranteed policy elements in a manner which is misleading or has the capacity or tendency to mislead.

(b) No advertisement may state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If an insurance policy's or annuity contract's nonguaranteed policy elements are illustrated, they may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, mortality tables, and other variable components currently used by the insurer for that insurance policy or annuity contract. The illustration shall contain a statement to the effect that the viewer, listener, or reader should not construe the nonguaranteed policy elements as guarantees or estimates of amounts to be paid in the future.

(c) No advertisement may state or imply that illustrated nonguaranteed policy elements will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at the future time and under what conditions this would occur.

(d) 1. No advertisement may refer to dividends as "tax free" or contain words of similar import, unless the tax treatment of dividends is accurately explained and the nature of the dividend as a return of premium is indicated clearly.

2. The requirements of this subsection are in addition to the requirements set forth in ss. Ins 2.14 (5) (h) and 2.15 (9) (g).

(22) POLICIES SOLD TO STUDENTS. (a) A person subject to this section may address an advertisement for policies sold to students to the parents of students. No address on the advertisement may include any combination of words which imply that the correspondence is from a school, college, university or other education

or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless true.

(b) All advertisements, including but not limited to information flyers used in the solicitation of insurance, shall contain clear identification that the advertisement comes from an insurer or intermediary, if this is the case, and these entities shall be clearly identified as insurers or intermediaries.

(c) No return address on the advertisement may state or imply that the soliciting insurer or insurance intermediary is affiliated with a university, college, school, or other educational or training institution, unless true.

(23) INDIVIDUAL DEFERRED ANNUITY PRODUCTS OR DEPOSIT FUNDS. For individual deferred annuity products or deposit funds, the following shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates for the annuity product or deposit fund shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. No higher interest rate may be greater than those currently being credited by the insurer unless the higher rate has been publicly declared by the insurer with an effective date for new issues not more than 2 months subsequent to the date of declaration.

(b) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and net premiums.

(c) If any policy does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning the policy shall prominently state that cash surrender benefits are not provided.

(24) ADVERTISEMENTS SHOWING A SPECIFIC RATE OF RETURN ON PREMIUMS OR CASH VALUES. All life insurance or annuity solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence, the following:

(a) A general statement describing the existence of first-year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied.

(b) The guaranteed rate of interest paid on the cash value.

(c) The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, an advertisement, representation, or solicitation shall disclose if interest on the first \$1,000 of cash value is limited to the guaranteed rate.

(d) An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case.

(e) An indication of any other significant factors which affect the manner in which cash values are computed.

(25) GRADED OR MODIFIED BENEFITS AFTER A POLICY IS ISSUED.

(a) An advertisement, representation, or solicitation for a policy containing graded or modified benefits shall prominently disclose this fact. If applicable, an advertisement, representation, or solicitation shall prominently disclose the fact that the premium is level and coverage decreases or increases with age or duration. Graded or modified benefits shall include, but are not limited to, life insurance policies that, within a specified period after the policy is issued, may pay no death benefits or death benefits that are less than premiums paid should the insurer pay the death benefits.

(b) The prominent disclosure required in par. (a) shall mean the following for the specified type of advertisement:

1. For television advertisements, an announcement describing the graded or modified benefits to be displayed during the advertisement for at least 10 seconds.

2. For radio advertisements, an announcement describing the graded or modified benefits.

3. For pre-printed advertisements intended for general distribution, a written description of the graded or modified benefits printed on the first page of the advertisement and in at least 12 point bold type.

(26) MISCELLANEOUS DISCLOSURE REQUIREMENTS. (a) In the event an advertisement uses "Nonmedical," "No Medical Examination Required," or similar terms where issue is not guaranteed, the terms shall be accompanied by a further disclosure in close proximity thereto and with equal prominence to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(b) No advertisement may contain as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.

(c) An advertisement shall prominently describe the type of policy advertised.

(d) No advertisement of an insurance policy marketed by direct response techniques may state or imply, unless the condition is true, that because there is no intermediary or commission involved there will be a cost saving to prospective purchasers.

(e) No advertisement may state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(f) If nonforfeiture values are shown in any advertisement, the advertisement shall show the values either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

(g) No advertisement may contain the words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import with respect to any benefit or service being made available with a policy, unless the insured is not charged for any benefit or service. If the insured is not charged, then the advertisement shall prominently disclose the identity of the payor.

(27) METHOD OF DISCLOSURE OF REQUIRED INFORMATION. (a) A person subject to this section shall set out all information required to be disclosed by this section clearly, conspicuously and in close proximity to the statements to which the information relates or under appropriate captions of sufficient prominence that it shall be readily noticed and not minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

(b) No person subject to this section may set out information required by this section under inappropriate captions or headings or under inappropriate questions where a question and answer format is used.

(28) FORM NUMBER. A person subject to this section shall identify by form number an advertisement other than an institutional advertisement defined in sub. (3) (h) which is mass-produced. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

(29) INSURER'S RESPONSIBILITY FOR ADVERTISEMENTS. (a) The insurer whose policy is advertised has responsibility for the content, form and method of dissemination of all advertisements, regardless of by whom designed, created, written, printed or used.

(b) An insurer shall require its intermediaries and all other persons or agencies acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

(30) INSURER'S ADVERTISING FILE. Each insurer shall maintain at its home or principal office a complete file containing every

printed, published or prepared advertisement of its policies hereafter disseminated in the state. With respect to group, blanket and franchise policies, all proposals prepared on the same printed form need not be included in the file; only typical examples of these proposals shall be included. A notation shall be attached to each such advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised. The file shall be subject to regular and periodic inspection by the office of the commissioner of insurance. A person subject to this section shall maintain all of these advertisements in the file while in use and for a period of 3 years after an advertisement's authorized use. If applicable, a person subject to this section shall also maintain files in accordance with ss. Ins 2.14 (5) (a) and 2.15 (9) (a).

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. (5) (b) 1. and 2. and (6) (b), Register, May, 1984, No. 341, eff. 6-1-84; r. (7) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; r. and recr. Register, July, 1989, No. 403, eff. 8-1-89; am. (1) and (3) (a) 2., Register, March, 1998, No. 507, eff. 4-1-98.

Ins 2.17 Life insurance illustrations. (1) **PURPOSE.** This section provides rules for life insurance policy illustrations that will protect consumers and foster consumer education. This section provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this rule are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed. The requirements of this section are in addition to and not a substitute for the requirements set forth in ss. Ins. 2.14 and 2.16.

(2) **SCOPE.** This section applies to all group and individual life insurance policies and certificates except:

(a) Variable life insurance.

(b) Individual and group annuity contracts.

(c) Credit life insurance.

(d) Life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.

(3) **DEFINITIONS.** In this section:

(a) "Actuarial standards board" means the board established by the American academy of actuaries to develop and promulgate standards of actuarial practice.

(b) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

(c) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

(d) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

(e) "Disciplined current scale" means a scale of non-guaranteed elements that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer.

(f) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

(g) "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(h) "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

1. The disciplined current scale; or
2. The currently payable scale.

(i) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and is one of the three illustrations described in pars. (b), (k), and (s).

(j) "Illustration actuary" means an actuary meeting the requirements of sub. (10).

(k) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force.

(L) "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this section, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first 5 years and 100 % policy persistency thereafter.

(m) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

1. Fully allocated expenses.
2. Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.
3. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the commissioner.

(n) "Non-guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

(o) "Non-term group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group under all of the following conditions:

1. Every plan of coverage was selected by the employer or other group representative.
2. Some portion of the premium is paid by the group or through payroll deduction.
3. Group underwriting or simplified underwriting is used.

(p) "Policy owner" means the owner named in an individual policy or the certificate holder in the case of a group policy.

(q) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

(r) "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value includes cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

(s) "Supplemental illustration" means an illustration furnished in addition to a basic illustration.

(4) POLICIES TO BE ILLUSTRATED. (a) Each insurer marketing policies to which this section is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on January 1, 1998, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after January 1, 1998, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

(b) If an insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first anniversary is prohibited.

(c) If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this section is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(d) Potential enrollees of non-term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this section, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

(5) GENERAL RULES AND PROHIBITIONS. (a) An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this section, be clearly labeled "life insurance illustration" and contain all of the following basic information:

1. Name of insurer.
2. Name and business address of agent or insurer's authorized representative, if any.
3. Name, age and sex of proposed insured, except where a composite illustration is permitted under this section.
4. Underwriting or rating classification upon which the illustration is based.
5. Generic name of policy, the insurer's product name, if different, and form number.
6. Initial death benefit.
7. Dividend option election or application of non-guaranteed elements, if applicable.

(b) When using an illustration in the sale of a life insurance policy, an insurer or its agent or other authorized representatives shall not:

1. Represent the policy as anything other than a life insurance policy.
2. Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead.
3. State or imply that the payment or amount of non-guaranteed elements is guaranteed.
4. Use an illustration that does not comply with the requirements of this section.
5. Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated.
6. Provide an applicant with an incomplete illustration.
7. Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.
8. Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums.

9. Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported".

10. Use an illustration that is not "self-supporting."

(c) If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

(d) In determining the disciplined current scale an insurer may use standards established by the actuarial standards board that meet all of the following criteria:

1. Are consistent with all provisions of this section.

2. Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred.

3. Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date.

4. Do not permit assumed expenses to be less than minimum assumed expenses.

(6) STANDARDS FOR BASIC ILLUSTRATIONS. (a) A basic illustration shall conform with the following requirements:

1. The illustration shall be labeled with the date on which it was prepared.

2. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration.

3. The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.

4. If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

5. The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

6. Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

7. If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.

8. The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements. Any page of an illustration that shows or describes only the non-guaranteed elements shall include a reference to the page where guaranteed elements are shown and a statement that guaranteed elements are found on that page.

9. The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown on the same page in close proximity to the corresponding value available upon surrender.

10. The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

11. Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

12. Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that the benefits and values are not guaranteed, that the assumptions on which they are based are subject to change, and that actual results may be more or less favorable.

13. If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration shall clearly disclose that a

charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

14. If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

(b) A basic illustration shall include the following narrative summary:

1. A brief description of the policy being illustrated, including a statement that it is a life insurance policy.

2. A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code.

3. A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy.

4. Identification and a brief definition of column headings and key terms used in the illustration.

5. A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

(c) A basic illustration shall include the following numeric summary, following the narrative summary:

1. A summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below in subs. 2, 3, and 4. For multiple life policies the summary shall show policy years 5, 10, 20 and 30.

2. Policy guarantees.

3. Insurer's illustrated scale.

4. Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

a. Dividends at 50% of the dividends contained in the illustrated scale used.

b. Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

c. All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

5. If coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases shown above in subs. 2., 3. and 4.

(d) Statements substantially similar to the following shall immediately follow the numeric summary and be signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this section.

1. A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements

illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

2. A statement to be signed and dated by the agent or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant or policy owner and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

(e) The following elements shall be shown in tabular detail:

1. A basic illustration shall include the following for at least each policy year from 1 to 10 and for every 5th policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:

a. The premium outlay and mode the applicant plans to pay and the contract premium, as applicable.

b. The corresponding guaranteed death benefit, as provided in the policy.

c. The corresponding guaranteed value available upon surrender, as provided in the policy.

2. For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

3. Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

(7) STANDARDS FOR SUPPLEMENTAL ILLUSTRATIONS. (a) A supplemental illustration may be provided so long as it complies with all of the following:

1. It is appended to, accompanied by or preceded by a basic illustration that complies with this section.

2. The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration.

3. It contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed.

4. For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

(b) The supplemental illustration shall include a statement informing the reader to consult the basic illustration for guaranteed elements and the other important information it contains.

(8) DELIVERY OF ILLUSTRATION AND RECORD RETENTION. (a) If a basic illustration is used by an agent or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this section, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant. If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this section, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and agent or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(b) If no illustration is used by an agent or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the agent or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application. If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(c) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

(d) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until 3 years after the policy is no longer in force. A copy need not be retained if no policy is issued.

(9) ANNUAL REPORT; NOTICE TO POLICY OWNERS. (a) Except as provided in par. (b), in the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

1. For universal life policies, the report shall include the following:

a. The beginning and end date of the current report period.

b. The policy value at the end of the previous report period and at the end of the current report period.

c. The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders).

d. The current death benefit at the end of the current report period on each life covered by the policy.

e. The net cash surrender value of the policy as of the end of the current report period.

f. The amount of outstanding loans, if any, as of the end of the current report period.

g. For fixed premium policies, in addition to the information described in subd. 1. a. through f. if, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report.

h. For flexible premium policies, in addition to the information described in subd. 1. a. through f. if, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

2. For all other policies, where applicable:

a. Current death benefit.

b. Annual contract premium.

c. Current cash surrender value.

- d. Current dividend.
- e. Application of current dividend.
- f. Amount of outstanding loan.

(b) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(c) If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: **"IMPORTANT POLICY OWNER NOTICE:** You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

(d) Within 25 calendar days of receipt of a request from the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of subs. (5) (a), (5) (b), (6) (a) and (6) (e). No signature or other acknowledgment of receipt of this illustration is required.

(e) If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

(10) ANNUAL CERTIFICATIONS. (a) The board of directors of each insurer shall appoint one or more illustration actuaries.

(b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the actuarial standard of practice for compliance with the national association of insurance commissioners model regulation on life insurance illustrations promulgated by the actuarial standards board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this section.

(c) The illustration actuary shall:

1. Be a member in good standing of the American academy of actuaries.
2. Be familiar with the standard of practice regarding life insurance policy illustrations.
3. Not have been found by the commissioner, following appropriate notice and hearing to have done any of the following:
 - a. Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of the actuary's dealings as an illustration actuary.
 - b. Been found guilty of fraudulent or dishonest practices.
 - c. Demonstrated the actuary's incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary.
 - d. Resigned or been removed as an illustration actuary within the past 5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards.
4. Not fail within 30 calendar days to notify the commissioner of any action taken by a commissioner of another state similar to that under subd. 3.
5. Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous 5 years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not con-

sistent with those illustrated for similar in force policies, this shall be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the non-guaranteed elements actually being paid, charged or credited to the same or similar forms, this shall be disclosed in the annual certification.

6. Disclose in the annual certification which of the following methods is used to allocate overhead expenses for all illustrations:

- a. Fully allocated expenses.
- b. Marginal expenses.

c. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the commissioner.

(d) The illustration actuary shall file a certification with the board and with the commissioner annually for all policy forms for which illustrations are used and before a new policy form is illustrated. If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner within 30 calendar days of discovery.

(e) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner of the actuary's inability to certify within 30 calendar days of that determination.

(f) A responsible officer of the insurer, other than the illustration actuary, shall certify annually all of the following:

1. That the illustration formats meet the requirements of this section and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary.
2. That the insurer has provided its agents with information about the expense allocation method used by the insurer in its illustrations and disclosed as required in par. (c) 6.

(g) The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.

(h) If an insurer changes the illustration actuary responsible for all or a portion of the insurer's policy forms, the insurer shall notify the commissioner of that fact within 30 calendar days and disclose the reason for the change.

(11) PENALTIES. In addition to any other penalties provided by the laws of this state, an insurer or agent that violates a requirement of this section is guilty of a violation of s. 628.34 Stats.

History: Cr. Register, September, 1997, No. 501, eff. 1-1-98.

Ins 2.20 Unisex nonforfeiture values in certain life insurance policies. (1) PURPOSE.

The purpose of this section is to allow insurers who have elected an operative date under s. 632.43 (6m) (h), Stats., to provide for cash surrender and paid-up nonforfeiture benefits which do not vary with the sex of the life insured. Some life insurance policies are subject to the decision of the United States supreme court in *Arizona Governing Committee v. Norris*, 103 Supreme Court Reporter 3492, which makes it illegal for an employer to make contributions after August 1, 1983, to a defined contribution pension plan if the benefits derived from those contributions differ by sex. Separate provisions are set forth in this section for unisex policies that may be subject to that decision and for unisex policies in general.

(2) SCOPE. Except as provided for in sub. (4) (b), this section applies only to those policies issued in this state for which the insurer or employer has determined that the implications of *Norris* would prohibit the use of cash surrender and paid-up nonforfeiture benefits which vary with the sex of the insured.

(3) DEFINITIONS. (a) "ix" means the number of lives surviving to age x.

(b) "1000 qx" means the yearly death rate per thousand at age x.

(c) 1. "Table A" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for male lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000

qx, for these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NA and SA" means the corresponding 1980 non-smoker and smoker mortality tables for male lives.

(d) 1. "Table G" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for female lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, from these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NG and SG" means the corresponding 1980 non-smoker and smoker mortality tables for female lives.

(e) 1. "Tables B through F" means the blended 1980 CSO and 1980 CET Mortality Tables for policies issued on an age nearest birthday basis with varying proportions of male lives to total lives. The ratio of male lives to total lives is 80% for Table B, 60% for Table C, 50% for Table D, 40% for Table E and 20% for Table F. These tables are published in the proceedings of the National Association of Insurance Commissioners for the 1983 December meeting, pages 396 last birthday basis, the tables shall be modified by interpolation between values of lx.

2. "Tables NB through NF and SB through SF" means the corresponding 1980 blended nonsmoker and smoker mortality tables.

(f) "1980 CSO and CET Nonsmoker and Smoker Mortality Tables" means the mortality tables with separate rates of mortality for nonsmokers and smokers derived from the 1980 CSO and 1980 CET Mortality Tables and adopted by the NAIC in December 1983. Mortality rates for these tables are published on pp. 406-409, Proceedings of the National Association of Insurance Commissioners, 1984, Vol. 1, and pp. 521-530 Proceedings of the National Association of Insurance Commissioners, 1987, Vol. 1.

(4) CASH VALUE AND PAID-UP NONFORFEITURE BENEFITS. (a) 1. For any policy of life insurance which falls within sub. (2) of this section and is delivered or issued for delivery in this state after the operative date of s. 632.43 (6m) (h), Stats., applicable to the policy, the cash surrender and paid-up nonforfeiture benefits provided under the policy may be calculated using one of the sets of tables designated as Table A through Table G. Tables A and G may not be used for policies issued on or after January 1, 1985 except where the proportion of persons insured is anticipated to be 90% or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986, shall use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered extensions of the *Norris* decision.

2. In place of Tables A through G under sub. (1), corresponding Tables NA through NG and SA through SG may be used in situations where separate rates for nonsmokers and smokers are used.

(b) 1. An insurer may elect one of the Tables B through F in lieu of the 1980 CSO and CET tables for all life insurance policies under which all contractual requirements and guarantees are independent of the sex of the life insured, without regard to any opinion as to the applicability of *Norris*; provided that the Table so elected may not be changed unless the insurer can demonstrate to the satisfaction of the commissioner that a different Blend is more appropriate.

2. In lieu of the above, corresponding Tables NB through NF and SB through SF may be used in situations where separate rates for nonsmokers and smokers are used.

(5) RESERVES. The minimum reserve standards for life insurance policies are set forth in s. 623.06, Stats., and are not affected by this section.

History: Emerg. cr. eff. 5-19-84; cr. Register, August, 1984, No. 344, eff. 9-1-84; r. (6) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; renun. (3)(c), (d), (e), (4)(a) and (b) to be (3)(c)1., (d)1., (e)1., (4)(a)1. and (b)1. and

am. (4)(a)1. and (b)1., cr. (3)(c)2., (d)2., (e)2., (f), (4)(a)2. and (b)2., Register, November, 1988, No. 395, eff. 12-1-88.

Ins 2.30 Annuity mortality tables. (1) PURPOSE. The purpose of this section is to adopt, pursuant to s. 623.06 (2a) (b) and (d), Stats., mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

(2) DEFINITIONS. (a) "NAIC" means the national association of insurance commissioners.

(b) "1983 'table'" means that mortality table adopted for the valuation of individual annuity and pure endowment contracts in June of 1982 by the NAIC and published on page 454, NAIC proceedings, vol. II 1982.

(c) "1983 GAM table" means those male and female group annuity mortality tables adopted for the valuation of group annuity and pure endowment contracts in December of 1983 by the NAIC and published on pages 414-415, NAIC proceedings, vol. I, 1984.

(d) "Annuity 2000 mortality table" means those male and female mortality tables adopted for the valuation of individual annuity and pure endowment contracts in December of 1996 by the NAIC as published on page 240, vol. XLVII, transactions, society of actuaries, 1995.

(e) "1994 GAR table" means the group annuity reserving table adopted for the valuation of group annuity and pure endowment contracts in December of 1996 by the NAIC as published on pages 866 & 867, vol. XLVII, transactions, society of actuaries, 1995.

(3) INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS. (a) The 1983 table 'a' may be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after November 8, 1977 but before January 1, 1986.

(b) Either the 1983 table 'a' or the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1986 but before January 1, 1999.

(c) Except as provided in par (d) the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999.

(d) The 1983 table a without projection shall be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999 when the contract is based on life contingencies and is issued to fund periodic benefits arising from any of one of the following:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions.

2. Settlements involving similar actions such as worker's compensation claims.

3. Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

(4) GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS. (a) Either the 1983 GAM table, the 1983 table 'a', or the 1994 GAR table may be used to value any annuity or pure endowment purchased on or after November 8, 1977 but before January 1, 1986 under a group annuity or pure endowment contract.

(b) Either the 1983 GAM table or the 1994 GAR table shall be used to determine the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1986 but before January 1, 1999 under a group annuity or pure endowment contract.

(c) The 1994 GAR table shall be used for determining the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1999 under a group annuity or pure endowment contract.

(5) APPLICATION OF 1994 GAR TABLE. (a) In using the 1994 GAR table the mortality rate for a person age x in year $(1994 + n)$ is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n$$

where the q_x^{1994} s and AA_x s are as specified in the 1994 GAR Table.

History: Cr. Register, November, 1985, No. 359, eff. 12-1-85; am. Register, October, 1998, No. 514, eff. 1-1-99.

Ins 2.35 Smoker and nonsmoker mortality tables for minimum reserve liabilities and minimum nonforfeiture benefits. (1) PURPOSE. This section implements ss. 623.06 (2) (am) 3 and 632.43 (6m) (e) 3 f, Stats., by permitting the use of mortality tables that reflect differences in mortality between smokers and nonsmokers. These mortality tables are used in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

(2) DEFINITIONS. In this section:

(a) "1980 CSO table, with or without 10-year select mortality factor" means that mortality table, consisting of separate rates of mortality for male and female lives, incorporated in ss. 623.06 (2) (am) 3 and 632.43 (6m) (e) 3 f, Stats., and referred to in those statutes as the commissioner's 1980 standard ordinary mortality table, with or without 10-year select mortality factors.

(b) "1980 CET table" means that mortality table consisting of separate rates of mortality for male and female lives incorporated in ss. 623.06 (2) (am) 3 and 632.43 (6m) (e) 3 f, Stats., and referred to in those statutes as the commissioner's 1980 extended term insurance table.

(c) "1980 CSO smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in par. (a), and adopted by the National Association of Insurance Commissioners in December 1983.

Note: Mortality rates for these tables are published on pp. 406-413, Proceedings of the National Association of Insurance Commissioners, 1984 Vol. I.

(d) "1980 CET smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in par. (b), and adopted by the National Association of Insurance Commissioners in December 1983.

Note: Mortality rates for these tables are published on pp. 406-413, Proceedings of the National Association of Insurance Commissioners, 1984 Vol. I.

(e) "Composite mortality tables" means the mortality tables defined in pars. (a) and (b), as originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

(3) ALTERNATE TABLES. At the option of the company and subject to the condition that the company use the same select factors for both smoker and nonsmoker tables, and the conditions stated in sub. (4), for any policy of insurance delivered or issued for delivery in this state after the operative date of s. 632.43 (6m) (h), Stats., for that policy form:

(a) The company may substitute the 1980 CSO smoker and nonsmoker mortality tables, with or without 10-year select mortality factors for the 1980 CSO table, with or without 10-year select mortality factors, for use in determining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; and

(b) The company may substitute the 1980 CET smoker and nonsmoker mortality tables for the 1980 CET Table for use in determining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(4) CONDITIONS. For each plan of insurance with separate rates for smokers and nonsmokers the company may:

(a) Use composite mortality tables to determine minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(b) Use 1980 CSO or 1980 CET smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by s. 623.06 (7), Stats., and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(c) Use 1980 CSO or 1980 CET smoker and nonsmoker mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

History: Cr. Register, November, 1988, No. 395, eff. 12-1-88.

Ins 2.40 Annuity contracts without life contingencies. (1) PURPOSE. This section implements and interprets s. 632.66, Stats., by authorizing life insurers to issue annuity contracts without life contingencies and setting forth the conditions under which these annuity contracts may be issued.

(2) SCOPE. This section applies to all annuity contracts without life contingencies and which are classified as life and disability insurance under s. Ins 6.75 (1).

(3) GRANT OF AUTHORITY. A life insurer that holds a valid certificate of authority to transact the business of life insurance and annuities in this state may issue in this state annuity contracts without life contingencies, subject to the following conditions:

(a) No insurer may base the consideration to be paid to the insurer for the annuity contract without a life contingency upon the age or condition of health of the purchaser of the contract or any other person, or on any mortality or morbidity contingencies.

(b) An insurer shall base the amounts guaranteed to be paid under an annuity contract without a life contingency upon reasonable assumptions as to investment income and expenses, determined in a manner which is equitable to all holders of such contracts.

(c) An insurer may offer to the public an annuity contract without a life contingency only through licensed intermediaries or directly by the insurer.

(4) APPLICABLE STATUTES AND ADMINISTRATIVE RULES. An annuity contract without a life contingency is deemed to be an annuity for purposes of chs. 600 to 645, Stats., and all rules adopted thereunder, including, but not limited to, ch. 623, Stats., ss. 631.20 to 631.27, Stats., and ss. Ins 2.07, 2.15, 6.05, and 14.02.

History: Cr. Register, December, 1988, No. 396, eff. 1-1-89.

Ins 2.45 Charitable organizations; insurable interest. (1) PURPOSE. The purpose of this section is to interpret s. 631.07, Stats., with respect to the insurable interest of charitable organizations. This section does not limit or abridge any insurable interest existing at common law or by statute.

(2) SCOPE. This section applies to life insurance policies issued in this state, including, but not limited to, policies in force on March 1, 1994.

(3) DEFINITIONS. In this section:

(a) "Charitable organization" means an organization described in 26 USC 170 (e) or 26 USC 501 (c) (3).

(b) "Life insurance" includes endowment policies and annuities.

(4) INSURABLE INTEREST. A charitable organization may be the applicant, owner or beneficiary of a life insurance policy issued on the life of any individual. A charitable organization is deemed to have an insurable interest in the individual. For insurance applied for on or after March 1, 1994, the charitable organization has an insurable interest only if it obtains the consent of the individual in writing or by other means authorized by common law or by statute.

History: Cr. Register, February, 1994, No. 458, eff. 3-1-94.

Ins 2.80 Valuation of life insurance policies.

(1) **PURPOSE.** (a) This section establishes minimum standards under ch. 623, Stats., for life insurance policy reserves by providing tables of select mortality factors, establishing rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits, and establishing rules concerning a minimum standard for the valuation of plans with secondary guarantees.

(b) The method for calculating basic reserves defined in this section constitutes the commissioner's reserve valuation method for policies to which this section is applicable.

(2) **SCOPE.** This section applies to all life insurance policies, wherever sold, with or without nonforfeiture values, issued on or after January 1, 1999, subject to the following exceptions and conditions:

(a) This section does not apply to any individual life insurance policy issued on or after January 1, 1999, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount that was issued before January 1, 1999, and that guarantees the premium rates of the new policy. This section also does not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

(b) This section does not apply to any of the following:

1. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

2. Any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

3. Group life insurance certificates, unless the certificates provide for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(c) Calculation of the minimum valuation standard for policies with guaranteed nonlevel premiums or guaranteed nonlevel benefits, other than universal life policies, or both, shall be in accordance with the provisions of sub. (5).

(d) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period of more than 5 years, shall be in accordance with the provisions of sub. (6).

(3) **DEFINITIONS.** In this section:

(a) "Basic reserves" means reserves calculated in accordance with the principles of s. 623.06 (3), Stats.

(b) "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment, from policy inception, for the first segment, to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation table and, if elected, the optional minimum mortality standard for deficiency reserves in sub. (4) (b). The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

$$G_t = \frac{GP_{x+k+t-1}}{GP_{x+k+t}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = the number of years from the beginning of the segment
= 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount, ignoring policy fees only if level for the premium paying period of the policy, for year t of the segment.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$$

however, R_t may be increased or decreased by one percent in any policy year, at the insurer's option, but R_t may not be less than one;

where:

x , k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year $k+t$.

Note: The purpose of the one percent tolerance in the R factor is to prevent irrational segment lengths due to such things as premium rounding. For example, consider a plan in which gross premiums are designed at some point to be a ratio times the underlying ultimate mortality rates, where the ratio varies by issue age. The resulting segments may be greater than one year, because the gross premiums are not expressed in fractional cents. The tolerance factor allows the creation of one-year segments for a plan in which premiums parallel the underlying valuation mortality table.

(c) "Deficiency reserves" means the excess, if greater than zero, of minimum reserves calculated in accordance with the principles of s. 623.06 (7), Stats., over basic reserves.

(d) "Maximum valuation interest rates" means the interest rates defined in s. 623.06 (2m), Stats. that are to be used in determining the minimum standard for the valuation of life insurance policies.

(e) "1980 CSO valuation table" means the commissioner's 1980 standard ordinary mortality table without 10-year select mortality factors, incorporated into the 1980 amendments to the national association of insurance commissioners standard valuation law, see s. 623.06 (2) (am), Stats., and variations of the 1980 CSO valuation table approved by the national association of insurance commissioners, such as the unisex and smoker and non-smoker versions approved in December 1983 and adopted by s. Ins 2.20 and 2.35.

Note: This paragraph defines the 1980 CSO valuation table without the existing ten-year select mortality factors to assure that, if select mortality factors are elected, only one set of factors may be applied to the base valuation mortality table.

(f) "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, "scheduled gross premium" means the smallest specified premium described in sub. (6) (c), if any, or else the minimum premium described in sub. (6) (d).

(g) "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment is calculated in the following manner:

1. The present value of the death benefits within the segment, plus

2. The present value of any unusual guaranteed cash value, see sub. (5) (g), occurring at the end of the segment, less

3. Any unusual guaranteed cash value occurring at the start of the segment, plus

4. For the first segment only, the excess of subdivision paragraph a. over subdivision paragraph b., as follows:

a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium may not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

b. A net one-year term premium for the benefits provided for in the first policy year.

5. The length of each segment is determined by the contract segmentation method.

6. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guaranteed duration equal to the sum of the lengths of all segments of the policy.

7. For both basic reserves and deficiency reserves computed by the contract segmentation method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

Note: The segmentation requirement should not be limited to plans with no cash surrender values; otherwise companies could avoid segmentation entirely by designing policies with minimal (positive) cash values. Segmentation for plans with cash surrender values should be based solely upon gross premium levels. Basing segmentation upon the level of cash surrender values introduces complications because of the interrelationship between minimum cash surrender values and gross premium patterns. The requirements of this section relating to reserves for plans with unusual cash values and to reserves if cash values exceed calculated reserves serve to link required reserves and cash surrender values. The calculation of segmented reserves shall not be linked to the occurrence of a positive unitary terminal reserve at the end of a segment. The requirement of this section to hold the greater of the segmented reserve or the unitary reserve eliminates the need for any linkage.

(h) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

(i) "Ten-year select factors" means the select factors adopted with the 1980 amendments to the national association of insurance commissioners standard valuation law. (see s. 623.06 (2) (am), Stats.)

(j) "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where all of the following occur:

1. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy.

2. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of:

a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium may not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy, over

b. A net one-year term premium for the benefits provided for in the first policy year.

3. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guaranteed duration equal to the length from issue to the mandatory expiration of the policy.

Note: The purpose of this paragraph is to define as specifically as possible what has become commonly called the unitary method. The national association of insurance commissioners standard valuation law does not define the term "unitary" for policies with nonlevel premiums or benefits; its requirement for reserves "computed

by a method that is consistent with the principles of the national association of insurance commissioners standard valuation law" has not been uniformly interpreted.

(k) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits, other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality or expense charges are made to the policy.

(4) GENERAL CALCULATION REQUIREMENTS FOR BASIC RESERVES AND PREMIUM DEFICIENCY RESERVES. (a) At the election of the insurer for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation table with select mortality factors. If select mortality factors are elected, they may be any of the following:

1. The 10-year select mortality factors incorporated into the 1980 amendments to the national association of insurance commissioners standard valuation law, as provided in s. 623.06 (2) (am), Stats.

2. One hundred fifty percent of the base select mortality factors in Appendix 1.

Note: The select mortality factors in Appendix 1 of this section reflect the society of actuaries' data for the years 1983 through 1986, (designated as "83-86 SOA inter-company experience" in the tables), split by sex and smoking status. The experience in those years improves considerably over the experience that formed the basis for the 1980 CSO valuation table. Nevertheless, a 50% margin was deemed appropriate to provide a reasonable margin, with little likelihood that actual experience for significant blocks of business would exceed it.

3. One hundred fifty percent of the select mortality factors in Appendix 1 to this section for the first 10 policy years; then linearly graded from the resulting tenth year factor to 100 percent at policy year 16.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the insurer for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation table with select mortality factors. If select mortality factors are elected, they may be any of the following:

1. The 10-year select mortality factors incorporated into the 1980 amendments to the national association of insurance commissioners standard valuation law.

2. One hundred twenty percent of the select mortality factors in Appendix 1.

Note: The select mortality factors in Appendix 1 of this section do not reflect the underwriting risk classes that have evolved since the period of the underlying experience. Mortality improvement since that period, almost 10 years ago, is not reflected either. In light of these considerations, this section allows a lower margin for deficiency reserves.

3. One hundred twenty percent of the select mortality factors in Appendix 1 of this section for the first 10 policy years; then linearly graded from the resulting tenth year factor to 100% at policy year sixteen (16).

(c) Notwithstanding par. (b), if the length of the first segment as determined by the contract segmentation method for the basic reserves is not greater than 5 years then for that length of time measured from issue, for either the unitary method or the contract segmentation method, gross premiums need not be substituted for net premiums even if the gross premiums are less than the net premiums. For subsequent periods, gross premiums shall be substituted for net premiums if the gross premiums are less than the corresponding net premiums.

(d) For any policies for which the insurer chooses to use the "safe harbor" method described in par. (c) the insurer shall demonstrate annually to the satisfaction of the commissioner, by submitting a statement of actuarial opinion signed by the appointed actuary, that the reserves held for all such policies are adequate.

(e) In applying percentages to the select mortality factors all of the following rules shall be followed:

1. Do not round any result.
2. Set equal to 100 any result that exceeds 100.

(f) This paragraph applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10-year select mortality factors may be used thereafter through the tenth policy year from the date of issue.

Note: This section does not allow the use of the select mortality factors beyond the first segment. The rationale is that the result of a premium increase that is sufficient to require a new segment will be increased lapsation, leading to mortality deterioration after the increase. However, this section allows the use of the ten-year select mortality factors beyond the first segment (but in no case beyond the tenth policy year) in recognition that the mortality deterioration is unlikely to occur to a significant degree within the first 10 years.

(g) In determining basic reserves or deficiency reserves, gross premiums without policy fees may be used where the calculation involves the gross premium but only if the policy fee is a level dollar amount for the entire premium-paying period of the policy. In determining deficiency reserves, policy fees may be included in gross premiums even if not included in the actual calculation of basic reserves.

(5) CALCULATION OF MINIMUM VALUATION STANDARD FOR POLICIES WITH GUARANTEED NONLEVEL PREMIUMS OR GUARANTEED NONLEVEL BENEFITS, OTHER THAN UNIVERSAL LIFE POLICIES. (a) Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same 1980 CSO valuation table and the same select mortality factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the following adjustments may be made:

1. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(b) The deficiency reserve at any duration shall be calculated as follows:

1. Using unitary reserves if the corresponding basic reserve determined by par. (a) is unitary.

2. Using segmented reserves if the corresponding basic reserve determined by par. (a) is segmented.

3. Using segmented reserves if the corresponding basic reserve determined by par. (a) is equal to both the segmented reserve and the unitary reserve.

(c) Pars. (b), (d), and (e) shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality specified in sub. (4) (b) and rate of interest.

(d) Deficiency reserves, if any, shall be calculated for each policy as the excess, if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in sub. (4) (b).

(e) For deficiency reserves determined on a contract segmentation method, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(f) Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date,

if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table, select mortality factor and interest rates as that used for the calculation of both the segmented and the unitary reserves. In no case may total reserves, including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination, be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any) exclusive of any deduction for policy loans, upon termination of the policy.

(g) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value may not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

Note: This requirement is independent of both the segmentation process and the unitary process. After the greater of the segmented or the unitary reserve has been determined, then pars. (g), (h), and (i) impose an additional floor on the ultimate reserve. The purpose of pars. (g), (h), and (i) is to assure adequate funding of significant increases in guaranteed cash surrender values.

(h) The reserves actually held subsequent to any unusual guaranteed cash surrender value may not be less than the reserves calculated by treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where all of the following apply:

1. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of the date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date or the mandatory expiration date of the policy.

2. The net premium for a given year during the n-year period is equal to the product of the net-to-gross ratio and the respective gross premium.

3. The net-to-gross ratio is equal to the present value, at the beginning of the n-year period, of death benefits payable during the n-year period plus the present value, at the beginning of the n-year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n-year period divided by the present value, at the beginning of the n-year period, of the scheduled gross premiums payable during the n-year period.

(i) For purposes of pars. (g), (h), and (j), a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of all of the following:

1. One hundred ten percent of the scheduled gross premium for that year.

2. One hundred ten percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values.

3. Five percent of the first policy year surrender charge, if any.

(j) At the option of the insurer, the following approach for reserves on yearly renewable term reinsurance may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves may not be less than the tabular cost of insurance for the appropriate period, as defined in par. (f).

3. For deficiency reserves for each policy year, calculate the excess, if greater than zero, of the valuation net premium over the

respective maximum guaranteed gross premium. Deficiency reserves may not be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with this subdivision.

4. For purposes of this paragraph, the calculations use the maximum valuation interest rate and the 1980 CSO valuation table with or without 10-year select mortality factors.

5. A reinsurance agreement shall be considered yearly renewable term reinsurance for purposes of this paragraph if all of the following apply:

a. The reinsurance premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, for any given year are independent of both the premium rates and the plan of the original policy.

b. Only the mortality risk is reinsured.

Note: Traditional reserves for yearly renewable term reinsurance, the calculations of which par. (j) describes, are already adequate and sufficient. However, without this option, yearly renewable term reinsurance would be subject to the more complex segmentation calculations.

(k) At the option of the insurer, the following approach for reserves for attained-age-based yearly renewable term life insurance policies may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves may not be less than the tabular cost of insurance for the appropriate period, as defined in par. (f).

3. For deficiency reserves for each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium. Deficiency reserves may not be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with this subdivision.

4. For purposes of this paragraph, the calculations use the maximum valuation interest rate and the 1980 CSO valuation table with or without 10-year select mortality factors.

5. A policy shall be considered an attained-age-based yearly renewable term life insurance policy for purposes of this paragraph if all of the following apply:

a. The premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued.

b. The premium rates, on both the initial current premium scale and the guaranteed maximum premium scale, are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

6. For policies that become attained-age-based yearly renewable term policies after an initial period of coverage, the approach of this paragraph may be used after the initial period if both the following apply:

a. The initial period is either constant or runs to a common attained age for all insureds of the same sex, risk class and plan of insurance.

b. After the initial period of coverage, the policy meets the conditions of subd. 5.

7. If the election in this paragraph is made, this approach shall be applied in determining reserves for all attained-age-based yearly renewable term life insurance policies issued on or after the effective date of this section.

Note: Traditional reserves for attained-age-based yearly renewable term policies, the calculations of which this paragraph describes, are already adequate and sufficient. However, without this option, these policies would be subject to the more complex segmentation calculations.

(L) Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if all of the following conditions are met:

1. The policy consists of a series of n -year periods, including the first period and all renewal periods, where n is the same for each period, and for each n -year period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level.

2. The guaranteed gross premiums in all n -year periods are not less than the corresponding net premiums based upon the 1980 CSO valuation table with or without the 10-year select mortality factors.

3. There is no cash surrender value in any policy year.

Note: Without this exemption, companies issuing certain n -year renewable term policies could be forced to hold reserves higher than n -year term reserves, even though in many cases gross premiums are well above valuation mortality rates.

(m) Unitary basic reserves and unitary deficiency reserves need not be calculated for a juvenile policy if, based upon the initial current premium scale at issue, all of the following conditions are met:

1. At issue, the insured is age 24 or younger.

2. Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values.

3. After the end of the juvenile period, gross premiums are level for the remainder of the premium-paying period, and death benefits are level for the remainder of the life of the policy.

Note: The jumping juvenile policy described has traditionally been valued in two segments. This exemption will allow that practice to continue without requiring the calculation of reserves on a unitary basis. However, within each segment, both basic and deficiency reserves shall comply with the segmented reserve requirements.

(6) CALCULATION OF MINIMUM VALUATION STANDARD FOR FLEXIBLE PREMIUM AND FIXED PREMIUM UNIVERSAL LIFE INSURANCE POLICIES THAT CONTAIN PROVISIONS RESULTING IN THE ABILITY OF A POLICYOWNER TO KEEP A POLICY IN FORCE OVER A SECONDARY GUARANTEE PERIOD OF MORE THAN 5 YEARS. (a) Policies with a secondary guarantee include either of the following:

1. A policy with a guarantee that the policy will remain in force at the original schedule of benefits over a period exceeding 5 years, subject only to the payment of specified premiums.

2. A policy in which the minimum premium at any future duration beyond the end of the fifth policy year is less than the corresponding one-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation table with or without 10-year select mortality factors.

(b) A secondary guarantee period is the longest period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. Secondary guarantees that are unilaterally extended by the insurer after issue shall be considered to have been made at issue. Reserves described in subds. pars. (f) and (g) shall be recalculated from issue to reflect the extensions.

(c) Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

(d) For purposes of this subsection, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors, including mortality charges, loads and expense charges, and the interest crediting rate, which are all guaranteed at issue.

(e) The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in sub. (4) (a) 2. and 3. and sub. (4) (b) 2. and 3. may not be used to calculate the one-year valuation premiums.

(f) Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments shall be determined according to the contract segmentation method.

(g) Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in sub. (5) (b) with gross premiums set equal

to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(h) The minimum reserves during the secondary guarantee period are the greater of:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

2. The minimum reserves required by other rules governing universal life plans.

History: Cr. Register, March, 1998, No. 507, eff. 1-1-99.

Ins 2.80 Appendix I
SELECT MORTALITY FACTORS

Appendix 1 contains tables of select mortality factors that are the bases to which the respective percentage of sub. (4) (a) 2. and (5) (b) 2. are applied.

The six tables of select mortality factors include: (1) male aggregate, (2) male nonsmoker, (3) male smoker, (4) female aggregate, (5) female nonsmoker, and (6) female smoker.

These tables apply to both age last birthday and age nearest birthday mortality tables.

For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are 80% of the appropriate male table in Appendix 1, plus 20% of the appropriate female table in Appendix 1.

Note: Section Ins 2.20 allows the use of sex-blended mortality tables for the purposes of determining nonforfeiture values, but sex-blended tables are not allowed for the purposes of valuing minimum reserve liabilities under s. Ins 2.80 or s. 623.06, Stats.