

CHAPTER 610

INSURERS IN GENERAL

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610.001 Purposes. The purposes of chs. 611 to 616 are:

(1) To provide an orderly procedure by which insurers may be created, governed and dissolved;

(2) To provide for procedures to merge, consolidate or convert various kinds of insurers;

(3) To provide for structure and management that will maximize democratic participation in the operation of insurers; and

(4) To prevent or control self-dealing by management in order to protect the interests of shareholders, policyholders, members, subscribers and the public.

History: 1971 c. 260; 1979 c. 102 s. 237; 1979 c. 261

Note: Chap. 260, laws of 1971, which created this chapter of the statutes, contained notes explaining the revision. See the 1971 session law volume.

610.01 Definitions. In chs. 610 to 620, unless the context requires otherwise:

(1) "Officer" does not include "director"

(2) "Director" includes "trustee"

(3) "Promoter stock" means shares issued by a domestic stock corporation under ss. 611.18 (2) (a) 2 and 611.32 (1), and shares issued within 5 years after the initial issuance of the certificate of authority, to incorporators, directors, principal officers, members of the families of any of these persons, and to any corporations controlled by, or any trustee acting in behalf of, any of these persons.

(4) In any provision of ch. 180 or 181 made applicable by any section of chs. 600 to 646, "secretary of state" shall be read "commissioner of insurance"

History: 1971 c. 260; 1979 c. 102, 177.

610.11 Qualified insurers. No person may do an insurance business as defined in s. 618.02 (2) on his own account in this state, either in

person, or through agents or brokers, or through the mail or any other method of communication, except:

(1) An insurer authorized to do business in this state, within the limits of its certificate of authority; or

(2) An insurer doing business under s. 618.41.

History: 1971 c. 260.

610.21 Other business. (1) PROHIBITION FOR DOMESTIC INSURERS. No domestic insurer may engage, directly or indirectly, in any business other than insurance and business reasonably incidental to its insurance business, except as specifically authorized by s. 611.26 (4), 611.26 (4) as incorporated by s. 614.24 (1), or 613.26 or any other provision of chs. 600 to 646.

(2) PROHIBITION FOR NONDOMESTIC INSURERS. No nondomestic insurer may engage in this state in any business forbidden to a domestic insurer, nor may the insurer engage in such business elsewhere if:

(a) The law of the insurer's domicile forbids an insurer to engage in such business; or

(b) The statutes of this state specifically prohibit a nondomestic insurer to engage in such business elsewhere; or

(c) The commissioner orders it to cease doing such business upon finding that doing such business is not consistent with the interests of its insureds, creditors or the public in this state; or that it gives the insurer a substantial competitive advantage in relation to domestic insurers.

(3) INCIDENTAL BUSINESS. "Incidental business" includes:

(a) The business of preparing and selling abstracts of title and related documents, if done by an insurer authorized to transact title insurance;

(b) Business that could be done through ancillary subsidiaries authorized under s. 611.26 (3), or, in the case of a nondomestic insurer, through corporations that would be so authorized if the insurer were domestic.

(4) ANNUITIES. For purposes of this section, "insurance" includes "annuities".

History: 1971 c. 260; 1975 c. 373; 1979 c. 102, 177.

610.23 Power to hold property in other than own name. An insurer shall hold all investments and deposits of its funds in its own name except that:

(1) CUSTODIAL OR TRUST ARRANGEMENTS. Securities kept under a custodial agreement or trust arrangement with a bank or banking and trust company may be issued in the name of a nominee of the bank or banking and trust company; and

(2) BEARER SECURITIES. Any insurer may acquire and hold securities in bearer form.

History: 1975 c. 373.

Legislative Council Note, 1975: This section continues s. 201.24 (4), made applicable to all insurers. The power certainly exists under ss. 180.04 (17) and 181.04 (16) as incorporated in ss. 611.07 (1), 612.03 and 614.07 (1), but this section places it beyond doubt for all insurers and permits the repeal of s. 201.24 (4). [Bill 643-S]

610.24 Insurers as fundholders. All assets shall be held, invested and disbursed for the use and benefit of the insurer and no policyholder, member or beneficiary may have or acquire individual rights in such assets or become entitled to any apportionment or the surrender of any part of such assets, except as provided in the contract. An insurer may create, maintain, invest, disburse and apply any special funds necessary to carry out any purpose permitted by the laws of this state and the articles and bylaws of the insurer.

History: 1979 c. 102.

610.41 Transition provisions for domestic insurance corporations under ch. 611.

(1) EFFECTIVE DATE OF CH. 611. Except as otherwise provided in subs. (2) and (3), ch. 611 applies to domestic stock and mutual insurance corporations on April 30, 1972.

(2) EXISTING STOCK AND MUTUAL INSURANCE CORPORATIONS. (a) *Continuance of authorization.* A domestic stock or mutual insurance corporation holding a valid certificate of authority on April 30, 1972 continues to be authorized within the limits of its certificate of authority, subject to par. (c).

(b) *Inapplicable provisions.* Except under par. (c), ss. 611.11 to 611.22 and 611.32 do not apply to existing stock and mutual insurance corporations. Sections 611.31 (1) to (3) and 611.33 do not apply to securities already issued.

(c) *Delayed effect.* Sections 611.12 (1) (c), (2) (c) to (e), (3) and (4), 611.42, 611.51 to 611.53, 611.56 and 611.57 become applicable 2 years after April 30, 1972. Any existing stock or mutual insurance corporation may elect to comply with such provisions at an earlier date. The requirement of s. 611.51 (3) is not applicable until 4 years after April 30, 1972, if the corporation classifies directors. So far as such provisions are not yet applicable, the corresponding provisions of the law applicable to that corporation prior to April 30, 1972 continue to apply.

(d) *Date of issuance.* Whenever a provision refers to the date of the initial issuance of the certificate of authority, that date is the date of issuance of the original certificate of authority under prior law for any corporations holding a valid certificate of authority on April 30, 1972.

(e) *Extension of business.* If an existing stock or mutual insurance corporation wishes to extend its business beyond the limits of its certificate of authority in effect as of April 30, 1972, it shall apply for a new certificate of authority which shall be issued upon substantial compliance with the procedural and substantive requirements of s. 611.20.

(3) EXTENSION OF ADJUSTMENT PERIOD. If timely adjustment to the requirements of ch. 611 would cause an existing stock or mutual insurance corporation hardship, disproportionate expense or serious inconvenience, the commissioner may, upon the corporation's request, grant an additional delay for compliance with specified requirements if the interests of insureds and of the public are not endangered, but in no case for more than 2 years beyond the effective dates otherwise applicable.

History: 1971 c. 260.

610.42 Transition provisions for corporations now in the process of organizing.

Corporations in the process of organization on April 30, 1972 that do not obtain a certificate of authority within one year after April 30, 1972, shall make appropriate refunds and reimbursements to subscribers, incorporators and creditors in accordance with a plan approved by the insurance commissioner, which shall also specify the date upon which the legal existence of the corporation shall terminate.

History: 1971 c. 260.

610.43 Transition provision for town mutuals under ch. 612. (1) EFFECTIVE DATE OF CH. 612. Except as otherwise provided in subs. (2) and (3), ch. 612 applies to town mutuals one day after May 23, 1973.

(2) EXISTING TOWN MUTUALS. (a) *Continuance of authorization.* A town mutual holding a valid certificate of authority on May 24, 1973

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shall continue to be authorized within the limits of its certificate of authority, subject to par. (c).

(b) *Inapplicable provisions.* Except under par. (d), s. 612.02 (1), (2) (a) and (4) to (7) do not apply to town mutuals under par. (a).

(c) *Delayed effect.* Sections 612.02 (2) (b) to (i), 612.33 (1), 612.36 and 612.51 do not apply to town mutuals under par. (a) until 2 years after May 24, 1973. However, any town mutual under par. (a) may elect to comply with any such provisions at an earlier date. So far as they are not yet applicable to a town mutual, corresponding provisions for the law applicable prior to May 24, 1973 continue to apply. The commissioner may extend the time for compliance with respect to any provision of ch. 612 for a reasonable period, either for all town mutuals by rule or for an individual town mutual by order.

(d) *Extension of business.* If a town mutual under par. (a) wishes to extend its business beyond the limits of its certificate of authority in effect as of May 24, 1973, it shall apply for a new certificate of authority which shall be issued upon substantial compliance with the applicable procedural and substantive requirements of s. 612.02 (4), (6) and (7) and any other applicable legal requirements.

(3) **EXTENSION OF ADJUSTMENT PERIOD.** If timely adjustment to the requirements of ch. 612 would cause an existing town mutual hardship, disproportionate expense or serious inconvenience, the commissioner may, upon the town mutual's request, grant an additional delay for compliance with specified requirements if the interests of insureds and the public are not endangered, but in no case for more than 2 years beyond the effective dates otherwise applicable.

History: 1973 c. 22, 25

610.44 Transition provisions for state funds. Any coverage in effect through the various state funds on September 26, 1973 is continued in effect.

History: 1973 c. 117

610.45 Transition provisions for nondomestic insurers. Except as otherwise provided, ch. 618 applies on April 30, 1972.

History: 1971 c. 260

610.46 Transition provision for service insurance corporations. (1) **EFFECTIVE DATE OF CH. 613.** Except as otherwise provided in subs. (2) and (3), ch. 613 is effective on the day after publication.

(2) **EXISTING NONPROFIT SERVICE PLANS.**

(a) *Authorization.* Nonprofit sickness care plans under s. 148.03, 1973 stats., nonprofit hospital service corporations under s. 182.032,

1973 stats., nonprofit dental care plans under s. 447.13, 1973 stats., nonprofit optometric care plans under s. 449.15, 1973 stats., and nonprofit pharmaceutical service plans or prepaid prescription plans under s. 450.13, 1973 stats., which, prior to May 5, 1976, have filed with the commissioner the information required in s. 200.26 (2), 1973 stats., and otherwise complied with s. 200.26 (3) and (6) and the sections referred to in s. 200.26 (4), 1973 stats., continue to be authorized under s. 613.13, subject to pars. (c) and (d), and shall be regulated under ss. 148.03, 182.032, 447.13, 449.15 or 450.13, 1973 stats., and s. 200.26, 1973 stats., until each becomes fully subject to ch. 613.

(b) *Incorporated plans.* Sections 613.11 to 613.13 do not apply to incorporated nonprofit service plans authorized under par. (a), except that the commissioner may by order require any information that would be required under s. 613.13 if it were applicable.

(c) *Incorporation.* An unincorporated nonprofit service plan satisfying par. (a) may incorporate under ss. 613.11 to 613.13 at any time within one year after May 5, 1976, and if it complies is exempt from payment of any fees under s. 601.31 that are otherwise payable at the time of incorporation and obtaining of an initial certificate of authority. The commissioner may by order exempt any such plan from any portion of the requirements of ss. 613.11 to 613.13. Until incorporation, those provisions of ch. 613 that are appropriate only for a corporation do not apply. After incorporation, a plan is not subject to s. 611.28, pursuant to s. 613.20, if it has transacted a substantial insurance business for the 5 years immediately preceding incorporation. Any plan that has not incorporated one year after May 5, 1976 shall become a corporation on that date by operation of law. The commissioner shall thereupon issue an order requiring the new corporation to comply with such portions of the requirements of ss. 613.11 to 613.13 as the commissioner considers necessary for effective operation as a corporation under ch. 613.

(d) *Delayed effect of ch. 613.* Except as they become applicable sooner by incorporation under par. (c), ss. 613.19, 623.11 and 623.12 apply to nonprofit service plans satisfying par. (a) one year after May 5, 1976. Any such nonprofit service plan may elect to comply with ss. 613.19, 623.11 and 623.12 at an earlier date.

(e) *Extension of business.* No nonprofit service plan may extend its business beyond that described by the information filed under s. 200.26 (2), 1973 stats., prior to May 5, 1976, unless it applies for a certificate of authority,

which shall be issued upon substantial compliance with the procedural and substantive requirements of s. 613.13, including incorporation if the plan is not yet incorporated.

(3) **EXTENSION OF ADJUSTMENT PERIOD.** If timely adjustment to the requirements of ch. 613 would cause a previously authorized plan hardship, disproportionate expense or serious inconvenience, the commissioner may, upon the plan's request, grant an additional delay for compliance with specified requirements if the interests of insureds and of the public are not endangered. In addition, if the commissioner is satisfied that a previously authorized unincorporated plan has not incorporated because it has been unable, despite its good faith and timely efforts, to obtain for the corporation into which it would incorporate the exemption from federal income tax under section 501 of the federal internal revenue code of 1954, as amended, that the plan then has, the commissioner shall, upon the plan's request, grant an additional delay for the plan to incorporate under ch. 613.

History: 1975 c. 223, 421; 1977 c. 203; 1979 c. 221.

Legislative Council Note, 1975: This section provides the necessary transitional provisions for making ch. 613 effective. The provisions for delay and waiver of fees in compliance minimize the cost of incorporation. [Bill 17-S]

610.47 Transition provisions for miscellaneous unincorporated insurers. Except for associations organized under s. 185.981 or under s. 185.991, 1977 stats., and except as otherwise provided in chs. 600 to 646, all unincorporated domestic insurance associations, societies or organizations shall be reorganized as corporations under ch. 611, 612, 613 or 614 before January 1, 1973, or the commissioner shall thereupon petition for and the court shall forthwith issue an order for liquidation under s. 645.42 on the ground of failure to incorporate.

History: 1971 c. 260; 1971 c. 307 s. 108; 1975 c. 223; 1975 c. 373 s. 40; 1977 c. 339; 1979 c. 89, 102, 177, 261, 355.

610.48 Transition provision for domestic fraternal. (1) **EXISTING FRATERNALS.** (a) *Continuing authorization.* A mutual benefit society holding a valid license under s. 208.24, 1973 stats., on June 19, 1976 shall continue to be authorized as a fraternal within the limits of its license; it shall comply with ch. 614 except under pars. (b) and (c).

(b) *Inapplicable provisions.* Sections 614.12 (1) (a), 614.13 to 614.18, 614.20 and 614.22 do not apply to fraternal under par. (a).

(c) *Delayed effect.* Section 614.12 (1) (b) to (h), (2) and (3) do not apply to fraternal under par. (a) until 2 years after June 19, 1976 or until 6 months after the next meeting of the supreme governing body, whichever is later, except that in no event may the time of delayed

effect be more than 5 years from June 19, 1976. Any fraternal under par. (a) may elect to comply with such provisions at an earlier date. So far as such provisions do not yet apply to a fraternal, any corresponding provisions of the law applicable prior to June 19, 1976 continue to apply.

(d) *Extension of business.* If a fraternal under par. (a) wishes to extend its business beyond the limits of the license it had on June 19, 1976, it shall apply for a new certificate of authority which shall be issued upon substantial compliance with the requirements of s. 611.20 (4) as incorporated in s. 614.20.

(2) **EXTENSION OF ADJUSTMENT PERIOD.** If timely adjustment to the requirements of ch. 614 would cause a previously licensed fraternal hardship, disproportionate expense or serious inconvenience, the commissioner may, upon the fraternal's request, grant an additional delay for compliance with specified requirements if it does not endanger insureds or the public, but in no case for more than 2 years beyond the effective dates otherwise applicable.

History: 1975 c. 373.

Note: Chapter 373, laws of 1975, which created this section, contains notes explaining the revision. See the 1975 session law volume.

610.49 Transition provision for residual unlicensed domestic insurers. (1) **PERIOD FOR ADJUSTMENT.** Every mutual benefit society which on June 19, 1976 does not hold a valid certificate of authority or license under s. 208.24, 1973 stats., shall within 2 years after June 19, 1976 complete one of the actions prescribed in subs. (2) to (5).

(2) **INCORPORATION AND LICENSING.** Any insurer under sub. (1) may be incorporated and apply or, if it is already incorporated, may apply, for a certificate of authority under one of chs. 611 to 614. The commissioner shall issue a certificate of authority and, if necessary, a certificate of incorporation, if satisfied that the insurer complies substantially with the requirements of the appropriate chapter that are necessary for the protection of insureds and the public.

(3) **TOTAL REINSURANCE.** Any insurer under sub. (1) may transfer all its obligations to a corporation authorized under chs. 600 to 646 to assume them, pursuant to a plan approved by the commissioner. The commissioner may disapprove the plan on a finding, after a hearing, that it is contrary to law or to the interests of insureds or the public.

(4) **RUNOFF OF BUSINESS.** An insurer under sub. (1) may adopt a plan to run off existing obligations without accepting any new policyholders or new obligations. The commissioner

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may disapprove the plan on a finding, after a hearing, that it is contrary to law or to the interests of insureds or the public.

(5) **EXEMPTION.** The commissioner may by order exempt an insurer from the requirements of sub. (1) or extend the deadline under sub. (1) on a finding:

(a) That incorporation and licensing, reinsurance or runoff would cause disproportionate expense, loss or substantial hardship; and

(b) That the nature of the existing and prospective business, the assets or the business plan of the insurer are such that it can be reasonably expected to continue to operate in a sound manner and can be subjected to adequate regulatory controls.

(6) **REGULATION OF EXEMPTED INSURERS.** Whenever the commissioner grants an exemption under sub. (5), the commissioner shall issue to the insurer a certificate of authority, which the commissioner may amend from time to time, specifying the business that it may transact and specifying in detail the controls to which it shall be subject, which shall correspond as nearly as practicable to those applicable to corporations transacting a like business.

(7) **LIQUIDATION.** It is a ground for liquidation under s. 645.41 if an insurer has not completed action under one of subs. (2) to (4) and has not applied for and been granted exemption under sub. (5) prior to the end of the 2-year period specified in sub. (1).

History: 1975 c. 373, 421; 1977 c. 203 s. 105; 1979 c. 89.

Note: Chapter 373, laws of 1975, which created this section, contains notes explaining this section and the revision. See the 1975 session law volume. [Bill 643-S]

610.51 Special charter corporations. Any insurance corporation organized under any special law is subject to all the provisions applicable to like corporations organized under the general law. Prior to January 1, 1973, the board, without approval by the shareholders or policyholders, may adopt articles of incorporation restating the charter, as amended, which conform to the general law. The restated articles shall be filed with the commissioner promptly upon adoption and may be disapproved by the commissioner if changes are made from the

charter that are not necessary or appropriate to make the articles conform to the general law.

History: 1971 c. 260; 1979 c. 102.

610.53 Transition provisions for issuers of gift annuities. (1) **EXISTING ORGANIZATIONS.** An issuer corporation subject to ch. 615 which has been in active operation for at least 10 years and has for a period of at least 2 years been engaged in the issuance of gift annuities may continue to issue them, if:

(a) *Registration.* It registers with the commissioner as an issuer corporation within 30 days after June 20, 1976, whereupon the commissioner shall promptly issue a certificate of authority under s. 615.05; and

(b) *Cease and desist order.* It is not ordered to cease and desist the issuance of gift annuities on a finding, after a hearing, that the issuer is not likely to be able to satisfy the requirements of ch. 615 within a reasonable time.

(2) **DELAYED ACCOMMODATION.** If prompt adjustment to the requirements of ch. 615 would result in hardship, disproportionate expense or serious inconvenience to a previously authorized association or corporation, and if the interests of the annuitants and the public can otherwise be protected, the commissioner may grant a delay for compliance with specified requirements, but in no case more than 2 years beyond the effective date otherwise applicable.

(3) **WAIVER OF FEES.** If the commissioner is satisfied that an issuer corporation subject to ch. 615 has been in active operation for at least 10 years and has for a period of at least 2 years been engaged in the issuance of gift annuities in conformity to ch. 199, 1973 stats., the commissioner shall waive the fees otherwise required by s. 601.31 (1) (d) and (2) (d).

History: 1975 c. 374, 421; 1979 c. 102 s. 237.

610.61 Duty of life insurers to report abandoned property. An insurer doing a life insurance business shall report under s. 177.11 any property presumed abandoned under s. 177.03.

History: 1979 c. 102.