

STATEMENT OF SCOPE

Office of the Commissioner of Insurance

Rule No.: Section Ins. 3.09, Wis. Adm. Code

Relating to: Mortgage Guaranty Insurance

Rule Type: Permanent

1. Finding/nature of emergency:

N/A

2. Detailed description of the objective of the proposed rule:

Section Ins. 3.09, Wis. Adm. Code establishes minimum requirements for the transaction of mortgage guaranty insurance. Recently, the National Association of Insurance Commissioners (NAIC) adopted revisions to the Mortgage Guaranty Insurance Model Act. These revisions are aimed at modernizing regulations regarding the mortgage guaranty business. The Office of the Commissioner of Insurance (OCI) finds that it is appropriate to repeal Section Ins. 3.09, Wis. Adm. Code and replace it with an updated rule that is more consistent with the Mortgage Guaranty Insurance Model Act. This will serve the dual purposes of modernizing the language of Section Ins. 3.09, Wis. Adm. Code and promoting uniformity amongst the states that regulate the mortgage guaranty business, like Wisconsin.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

As stated above, Section Ins. 3.09, Wis. Adm. Code currently sets forth the minimum requirements for the transaction of mortgage guaranty insurance. The proposed revisions to Section Ins. 3.09 will modernize the language of this rule. Some of the key revisions include: (1) clarifying that contingency reserves are to be based on direct premium earned, unless held by the reinsurer; (2) updating the language for the process of releasing excess contingency reserves; and (3) increasing the minimum capital requirements for newly formed mortgage guaranty companies.

Alternatives to repealing and replacing Section Ins. 3.09, therefore, would be to either leave Section 3.09 unchanged or to make minor revisions to this rule to incorporate some of the revisions to the Mortgage Guaranty Insurance Model Act. Repealing and replacing Section Ins. 3.09 with a rule that more closely tracks the revised Mortgage Guaranty Insurance Model Act, however, will best serve the interests of promoting uniformity and modernizing the language of Section Ins. 3.09.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Commissioner has the general authority to promulgate rules necessary to administer and enforce chs. 600 to 655, Wis. Stat., as provided under ss. 227.11 (2) (a) and 601.41 (3), Wis. Stat. The proposed rule updates a regulatory framework under s. Ins 3.09, Wis. Adm. Code, which is specific to the transaction of mortgage guarantee insurance. First, the proposed rule implements and interprets ss. 601.01 and 627.05, Wis. Stat., and 6.75 (2) (i) and (j), Wis. Adm. Code., which authorizes the Commissioner to define and delimit by rule classes of insurance for various regulatory purposes including

determining the financial needs of insurers under 611.19, Wis. Stat., and other comparable chapters, providing instructions for reports and replies under 601.42, Wis. Stat., and exercising other regulatory powers.

The proposed rule implements and interprets numerous statutes authorizing the Commissioner to promulgate rules addressing various financial requirements for insurers, which include ss. 611.19 (initial capital and surplus), 611.24 (Segregated Accounts), 620.02 (segregated account investments), and 623.02 to 623.04 and 623.11 (accounting principles). The rule also implements and interprets 618.21, Wis. Stat., which applies the above referenced financial requirements to nondomestic insurers. Finally, this rule implements and interprets ss. 601.42 (2) and 628.34 (12), Wis. Stat., which authorizes the Commissioner to prescribe forms and unfair trade practices, respectively.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

75 hours

6. List with description of all entities that may be affected by the proposed rule:

Insurers offering or seeking to offer mortgage guaranty insurance.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

OCI is not aware of any federal law or regulation intended to address this issue.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

OCI anticipates that the proposed repeal and replacement of Section Ins. 3.09 may have some economic impact on insurers in the mortgage guaranty space, particularly newly formed mortgage guaranty companies. However, OCI also anticipates that the proposed rule will help support the economic stability of the mortgage guaranty insurance market. OCI does not anticipate an economic impact on small businesses.

Contact Person: Andrea Davenport, 608-266-0080