

Chapter Ins 6

GENERAL

Ins 6.01	Foreign company to operate two years before admission	Ins 6.31	Interpretations of the instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers
Ins 6.02	Company to transact a kind of insurance two years before admission	Ins 6.40	Proxies, consents and authorizations of domestic stock insurers
Ins 6.03	Nonresident casualty and fire insurance agents	Ins 6.41	Insider trading of equity securities of domestic stock insurers
Ins 6.04	Countersignature requirements	Ins 6.42	Initial statement of beneficial ownership of securities
Ins 6.05	Filing of insurance forms	Ins 6.43	Statement of changes in beneficial ownership of securities
Ins 6.06	Termination of insurance contracts	Ins 6.50	Examination and licensing of insurance agents
Ins 6.08	Fictitious groups		
Ins 6.09	Prohibited acts by captive agents of lending institutions and others		
Ins 6.30	Instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers		

Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continuously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

Ins 6.02. Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application; for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided (A) into kinds of insurance according to the provisions of section 201.04, Wis. Stats., each subsection setting forth a separate kind, and (B) into classes of insurance upon the basis of and including the said kinds as follows: (a) Fire insurance includes the kinds in section 201.04 (1), Wis. Stats., (as extended by section 203.28), (2) and (12).

(b) Life insurance includes the kinds in section 201.04 (3), Wis. Stats., but excluding all insurance on the health of persons other than that authorized in section 206.03, Wis. Stats.

(c) Casualty insurance includes the kinds in section 201.04 (4) through (11), and (13) through (18), Wis. Stats.

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in section 201.04 (4), Wis. Stats., if the applicant company has

transacted any of the kinds of insurance in sections 201.04 (3), (5), (13), (15), (16) and (18), Wis. Stats., continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in section 201.04 (4), Wis. Stats.

Ins 6.03 Nonresident casualty and fire insurance agents. (1) Separate licenses are required for the solicitation of casualty insurance business and of fire insurance business.

(2) A separate license is required for each company for which the nonresident agent solicits business in Wisconsin but the provisions of subsections 201.53 (5) and 209.04 (5), Wis. Stats., permit a licensed nonresident agent to interchange business and receive the whole or any part of the commission from a resident agent on business obtained under such nonresident license and exchanged with the resident agent.

(3) A license will be revoked if the nonresident agent brokers insurance, either in Wisconsin, his state of residence, or elsewhere, of the class (casualty or fire) of insurance covered by the license, unless the placing of such business constitutes an exchange between agents as authorized by subsection 209.04 (5), Wis. Stats. One who solicits brokerage business is not eligible to have a nonresident agent's license for the same class (casualty or fire) of business.

(4) The company which a nonresident wishes to represent as an agent must furnish a statement showing that the applicant is appointed to solicit insurance in Wisconsin as its agent and agree that it will be bound by his knowledge and acts to the same extent as it is in connection with authorized resident agents in Wisconsin.

(5) The applicant for a nonresident agent's license must agree that each policy written by him covering property or risks in Wisconsin will be countersigned by a duly licensed resident agent of the company issuing the policy.

(6) A statement by the supervisory head of the insurance department of the state of residence showing that the applicant is a licensed agent in his state of residence for the company which he desires to represent in Wisconsin must be furnished when application is made for a nonresident agent's license.

(7) The applicant will be required to make full disclosure regarding any connection which he may have as an employe or member of any agency partnership, association or corporation, including the full names and residences of all members, officers, directors and stockholders.

(8) Licenses issued on or after November 1, 1949, shall expire on the next succeeding November 1st. The fee for each nonresident agent's license shall be \$10.00.

Ins 6.04 Countersignature requirements. (1) Every policy of insurance issued or delivered in this state shall be countersigned by a licensed resident agent. Except in the case of the standard fire policy, an agent's signature on a copy of an application attached to and forming a part of a policy will be considered as satisfying this requirement.

(2) This rule shall not apply to: (a) Policies issued in accordance with sections 201.44 (6), 201.44 (8), 202.08, or 209.04 (10) (c), (d), (e) and (f), Wis. Stats.;

(b) Policies of life insurance;

(c) Service contracts issued by hospital service corporations authorized under section 182.082, Wis. Stats.;

(d) Contracts issued by state or county medical societies authorized under section 148.01, Wis. Stats.;

(e) Contracts issued under authority of chapter 185, Wis. Stats.

History: Cr. Register, April, 1958, No. 28, eff. 5-1-58; am. (2) (a), Register, April, 1963, No. 88, eff. 5-1-63.

Ins 6.05 Filing of insurance forms. (1) **DEFINITIONS.** In this rule, unless the context otherwise requires, the following words and terms shall have the following meanings:

(a) "Insurance" shall mean any fire, liability, steam boiler, fidelity, title, credit, burglary, plate glass, sprinkler leakage, elevator, livestock, automobile, other casualty, or medical payments and other supplemental insurance provided under subsections (1), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (17), or (18) of section 201.04, Wis. Stats.

(b) "Filing" shall mean: 1. Any matter submitted under this rule. 2. The act of filing such matter.

(c) "Form" shall mean any matter intended to be used by any insurer as any part of an insurance contract including any application which becomes a part of an insurance contract and any policy, endorsement, or rider.

(d) "Reinsurance contract" shall mean a contract wherein a primary insurer cedes all or part of a risk to another insurer.

(2) **GENERAL PROVISIONS.** (a) The date of filing by an insurer shall be the date on which any filing is stamped received by the commissioner of insurance.

(b) Notice of disapproval by the commissioner shall state therein the effective date of disapproval, but any statutory period for contesting such disapproval shall begin upon receipt of such notice of disapproval.

(c) Each filing shall be on file for a period of 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 15 days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for consideration of such filing. A filing shall be deemed effective unless disapproved by the commissioner within the waiting period or any extension thereof, provided that if the filing proposes a later effective date such proposed date shall prevail. Upon written application by such insurer or rating organization the commissioner may authorize a filing to become effective before the expiration of the waiting period or any extension thereof.

(3) **INSURANCE FORMS TO BE FILED.** No form shall be used or issued in the state of Wisconsin as part of any contract of insurance unless such form has been filed by the insurer with the commissioner in accordance with (2) (c) above. Forms not now on file shall be filed as herein required. Forms now on file may continue to be used until such time as they may be disapproved. An insurer may satisfy its obligation to make form filings by becoming a member of or a subscriber to a licensed rating organization as considered in section 203.32 or sections 204.37 to 204.54, inclusive, Wis. Stats., which makes such filings, provided that basic policy forms must be filed by the insurer named thereon. Nothing in this rule shall be construed as requiring any insurer to become a member of or subscriber to any rating organization. This rule shall not apply to town mutual insurance companies; reinsurance contracts; or to any surety or guarantee bond required by law or by a court or executive order or by order, rule or regulation of a public body. No filing need be made hereunder of any form prepared to meet special, unusual, peculiar or extraordinary conditions applying to individual risks; nor to the comple-

tion of uniform forms to indicate the application of the contract to individual risks.

(4) **FORM OF FILING.** (a) *Letter of transmittal.* The filing shall be in duplicate and accompanied by a letter of transmittal in duplicate. Such letter of transmittal shall set forth:

1. Title and reasonable identification of filing.
2. The proposed effective date.
3. The descriptive title, form number and form edition date, date of approval, if known, of any filing superseded thereby, and shall identify and explain all changes by paragraph and clause.
4. If an endorsement or rider, reference to the policy or forms with which it is to be used.
5. If the nature of the information to be inserted in any blank space of any form cannot be determined from the wording of the form, such blank space shall be filled in with hypothetical data to the extent required to indicate the proposed use or uses of the form. As an alternative, such purpose and use may be explained in the transmittal letter.

(b) *Filing size to be uniform.* All forms, for the purpose of filing under this rule only, shall be printed or superimposed on or attached to a sheet 8½" by 11" in size or folded to 8½" by 11" folded size.

(c) *Form, requirements of.* 1. Every form shall carry a descriptive title and reasonable identification and must show a form number and edition date, or other differentiation to identify the revision of a form and its previous edition or editions.

2. Forms may be submitted in typed or printer's proof format for an advisory opinion prior to filing in accordance with this rule.

3. The style, arrangement, and over-all appearance of any policy form shall give no undue prominence to any portion of the text, and every portion of the text of any form, endorsements or attached papers must be clearly set out in letters of a style in general use, the type of which shall be no smaller than 8-point. The text includes all matter except name and address of the insurer, name or title of the policy, any brief description, and captions and subcaptions. Approval of any filing is upon the condition that all forms issued to an insured will be clearly legible. The face of any policy form shall set forth the name of the insurer assuming the risk more conspicuously than that of any department, underwriters' agency, general agency, or group or fleet of insurers; provided that policy forms in use in this state on the effective date of this rule with the name of company set forth less conspicuously may be continued in use until July 1, 1959.

(5) **DISAPPROVAL OF FILINGS.** (a) A form shall be disapproved if it contains a provision which is unfairly discriminatory, inequitable, misleading, deceptive, or encourages misrepresentation of the coverage.

(b) If the commissioner finds that a filing does not comply with the applicable insurance laws of this state or with rules of this department, he shall give written notice of disapproval of such filing, specifying therein in what respects he finds such filing fails to meet the requirements of such laws or rules and state that such filing shall not become effective.

(c) The disapproval of a filing shall be subject to review as provided by law.

History: Cr. Register, July, 1958, No. 31, eff. 8-1-58.

Register, February, 1965, No. 110

Ins 6.06 Termination of insurance contracts. (1) **PURPOSE.** This rule is intended to implement and interpret section 631.36, Wis. Stats., for the purpose of exempting certain classes of insurance contracts from section 631.36 (2), Wis. Stats., in accordance with section 631.36 (1) (c), Wis. Stats.

(2) **EXEMPT CLASSES.** The following classes of insurance contracts shall be exempt from the provisions of section 631.36 (2), Wis. Stats.:

(a) All classes of insurance contracts affording the kinds of insurance under section 201.04 (2), (3), (4), (8), (10), and (19), Wis. Stats.

(b) All classes of insurance contracts other than those specified in subsection (3) of this rule which afford the kinds of insurance under section 201.04 (1), (5), (6), (7), (9), (10), (11), (12), (13), (14), (15), (17), and (18), Wis. Stats.

(c) All classes of insurance contracts issued by companies organized or operating under chapter 202, Wis. Stats.

(3) **APPLICATION OF STATUTE.** The provisions of section 631.36 (2), Wis. Stats., shall apply to contracts of insurance which are issued and take effect on or after January 1, 1970, and which insure any of the following:

(a) Loss of or damage to real property used for residential purposes for not more than 4 families.

(b) Loss of or damage to personal property owned by natural persons except personal property used in the conduct and operation of any commercial, industrial, or professional enterprise.

(c) Legal liability for loss of, damage to, or injury to persons or property not arising from the conduct and operation of a commercial, industrial, or professional enterprise.

(d) Any other risk under a multiple peril, fire and extended coverage, or bodily injury and property damage liability contract which develops estimated premium per policy per year of less than \$200.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70.

Ins 6.07 History: Cr. Register, May, 1960, No. 53, eff. 6-1-60; r. Register, April, 1964, No. 100, eff. 5-1-64.

Ins 6.08 History: Cr. Register, June, 1960, No. 54, eff. 7-1-60; r. Register, February, 1970, No. 170, eff. 3-1-70.

Ins 6.09 Prohibited acts by captive agents of lending institutions and others. (1) **PURPOSE.** This rule implements and interprets applicable statutes, including but not limited to sections 207.03, 207.04 (1) (d) 1., and 207.05, Wis. Stats., prohibiting concerted acts of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance as unfair methods of competition and as unfair or deceptive acts or practices in the business of insurance.

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

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

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

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

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

(e) *Policy of insurance.* Any policy, certificate or memorandum of insurance affording in whole or in part any one or more of the kinds of insurance described, respectively, in section 201.04 (1), (2), (5a), (10), (11), (12), (13), (14), (15), (17), and (18), Wis. Stats.

(3) **DECLARATION OF POLICY.** (a) Every borrower in this state should be afforded a reasonable opportunity to purchase any policy of insurance, the form, content, and provisions of which have previously been approved by the office of the commissioner of insurance for use in this state, for the purpose of providing insurance coverage on real or personal property required by a lending institution to be placed in force by the borrower at the borrower's expense to protect its security interest in such real or personal property.

(b) Every borrower in this state should be afforded a reasonable opportunity to purchase a policy of insurance, from any insurer and through any agent currently licensed by the office of the commissioner of insurance to issue or sell in this state, which is designed to protect and which affords protection for security interests in real or personal property and which is required by a lending institution to be placed in force by the borrower at the borrower's expense for such purpose.

(c) At the minimum, every borrower in this state should be afforded the opportunity at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other

policy affording adequate limits of insurance with respect to such property, provided that such replacement policy has been approved for use in this state, and the insurer currently licensed by the office of the commissioner of insurance.

(4) **PROHIBITED ACTS.** Each of the following acts is declared to constitute the commission, by concerted action, of an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance and is prohibited:

(a) *Refusal to accept policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent's lending institution in real or personal property of the borrower if such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

(b) *Restriction on replacement of existing policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent's lending institution in real or personal property of the borrower if such lending institution then imposes or enforces any requirement or condition, whether or not assented thereto by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution then imposes or enforces any requirement or condition, whether or not assented to by a borrower, which abrogates or otherwise penalizes or restricts the right

of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

(5) **NONAPPLICATION.** The provisions of this rule shall not apply to renewal of any policy of insurance where the obligation of the borrower to procure insurance for the security interest of the lending institution accrued prior to the effective date of this rule.

History: Cr. Register, December, 1968, No. 156, eff. 1-1-69.

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Ins 6.30 Instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. For the purpose of establishing uniformity in classifications of expenses of fire and marine and casualty and surety insurers recorded in statements and reports filed with and statistics reported to the commissioner of insurance, all such insurers shall observe the instructions set forth below. These instructions shall not apply to single line accident and health insurance companies, assessment accident and health associations, hospital and medical service or indemnity organizations, single line title insurance companies, or town mutual insurance companies.

(1) **PART I. (a) LIST OF OPERATING EXPENSE CLASSIFICATIONS FOR ANNUAL STATEMENT PURPOSES FOR FIRE AND MARINE AND CASUALTY AND SURETY INSURERS.**

1. Claim Adjustment Services:
 - a. Direct
 - b. Reinsurance Assumed
 - c. Reinsurance Ceded
2. Commission and Brokerage:
 - a. Direct
 - b. Reinsurance Assumed
 - c. Reinsurance Ceded
 - d. Contingent-Net
 - e. Policy and Membership Fees
3. Allowances to Managers and Agents
4. Advertising
5. Boards, Bureaus and Associations
6. Surveys and Underwriting Reports
7. Audit of Assureds' Records
8. Salaries
9. Employee Relations and Welfare
10. Insurance
11. Directors' Fees
12. Travel and Travel Items
13. Rent and Rent Items
14. Equipment
15. Printing and Stationery
16. Postage, Telephone and Telegraph, Exchange and Express

17. Legal and Auditing
18. Taxes, Licenses and Fees:
 - a. State and Local Insurance Taxes
 - b. Insurance Department Licenses and Fees
 - c. Payroll Taxes
 - d. All Other (excluding Federal and Foreign Income and Real Estate)
19. Real Estate Expenses
20. Real Estate Taxes
21. Miscellaneous

(b) INSTRUCTIONS RELATING TO OPERATING EXPENSE CLASSIFICATIONS.

1. Claim Adjustment Services
 - a. Direct

Include the following expenses when in connection with the investigation and adjustment of policy claims:

Independent Adjusters: Fees and expenses of independent adjusters or settling agents.

Legal: Fees and expenses of lawyers for legal services in the defense, trial, or appeal of suits, or for other legal services.

Bonds: Premium costs of bonds.

Appeal Costs and Expenses: Appeal bond premiums; charges for printing records; charges for printing briefs; court fees incidental to appeals.

General Court Costs and Fees: Entry fees and other court costs, and other fees not includable in Losses. Note: Interest and costs assessed as part of or subsequent to judgment are includable in Losses.

Medical Testimony: Fees and expenses of medical witnesses for attendance or testimony at trials or hearings ("Medical" includes physicians, surgeons, chiropractors, chiropodists, dentists, osteopaths, veterinarians, and hospital representatives).

Expert Witnesses: Fees and expenses of expert witnesses for attendance or testimony at trials or hearings.

Lay Witnesses: Fees and expenses of lay witnesses for attendance or testimony at trials or hearings.

Service of Process: Constables', sheriffs' and other fees and expenses for service of process, including subpoenas.

Transcripts of Testimony: Stenographers' fees and fees for transcripts of testimony;

Medical Examinations: Fees for medical examinations, fees for performing autopsies, fees for impartial examination, x-rays, etc., for the purpose of trial and determining questions of liability. This does not include fees for medical examinations, x-rays, etc., made to determine necessary treatment, or made solely to determine the extent or continuation of disability, or first aid charges, as such fees and charges are includable in Losses.

Next page is numbered 147