

**Chapter Ins 6**

**GENERAL**

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**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 6.11 Insurance claim settlement practices. (1) PURPOSE. This rule is to promote the fair and equitable treatment of policyholders, claimants and insurers by defining certain claim adjustment practices which are considered to be unfair methods and practices in the business of insurance. The rule implements and interprets applicable statutes including but not limited to section 201.045 (1), 601.01 (3) (b), and 645.41 (3), Wis. Stats.

(2) SCOPE. This rule applies to the kinds of insurance identified in section 201.04, Wis. Stats., transacted by insurers as defined in section 601.02 (8), Wis. Stats. and nonprofit service plans subject to section 200.26, Wis. Stats.

(3) UNFAIR CLAIM SETTLEMENT PRACTICES. (a) Any of the following acts, if committed by any person without just cause and performed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance:

1. Failure to promptly acknowledge pertinent communications with respect to claims arising under insurance policies.
2. Failure to initiate and conclude a claims investigation with all reasonable dispatch.
3. Failure to promptly provide necessary claims forms, instructions and reasonable assistance to insureds and claimants under its insurance policies.
4. Failure to attempt in good faith to effectuate fair and equitable settlement of claims submitted in which liability has become reasonably clear.
5. Failure upon request of a claimant, to promptly provide a reasonable explanation of the basis in the policy contract or applicable law for denial of a claim or for the offer of a compromise settlement.
6. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.
7. Failure to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.
8. Failure to settle a claim under one portion of the policy coverage in order to influence a settlement under another portion of the policy coverage.
9. Except as may be otherwise provided in the policy contract, the failure to offer settlement under applicable first party coverage on the basis that responsibility for payment should be assumed by other persons or insurers.
10. Compelling insureds and claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.
11. Refusing payment of claims solely on the basis of the insured's request to do so without making an independent evaluation of the insured's liability based upon all available information.
12. Failure, where appropriate, to make use of arbitration procedures authorized or permitted under any insurance policy.
13. Adopting or making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(b) Any of the following acts committed by any person shall constitute unfair methods and practices in the business of insurance:

1. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

2. Failure to make provision for adequate claims handling personnel, systems and procedures to effectively service claims in this state incurred under insurance coverage issued or delivered in this state.

3. Failure to adopt reasonable standards for investigation of claims arising under its insurance policies.

(4) **PROMPT DEFINED.** Except where a different period is specified by statute or rule and except for good cause shown, the terms "prompt" and "promptly" as used in this rule shall mean responsive action within 10 consecutive days from receipt of a communication concerning a claim.

(5) **PENALTY.** The commission of any of the acts listed in subs. (3) (a) or (3) (b) 2., or 3. shall subject the person to revocation of license to transact insurance in this state. Violations of this rule or any order issued thereunder shall subject the person violating the same to section 601.64, Wis. Stats.

**History:** Cr. Register, October, 1971, No. 190, eff. 11-1-71; am. (1), Register, September, 1973, No. 213, eff. 10-1-73.

**Ins 6.12 Qualification of actuaries.** (1) **PURPOSE.** (a) The purpose of this rule is to protect the interests of insurers, insureds, insurance beneficiaries, insurance claimants, insurance company stockholders, and trustees, employers, covered employes, retired employes and terminated employes of employe welfare funds by establishing requirements for use of the terms actuary or actuarial. This rule interprets and implements sections 207.04, 211.04, 211.08, 211.09, 601.41, 601.42 and 601.43, Wis. Stats.

(b) It is not the purpose of this rule to require any insurer or rate service organization to employ an actuary except as may be otherwise required by statute or other administrative rule, nor does this rule require that filings under chapter 625, Wis. Stats., be prepared or submitted by a qualified actuary. Further, this rule is not intended to prohibit the strictly internal use by insurers of job titles containing the term actuary.

(2) **SCOPE.** This rule shall apply to all reports or representations subject to supervision by the commissioner of insurance.

(3) **SIGNATURE AS AN ACTUARY.** No document filed with this office which requires the signature of an actuary will be accepted unless the person signing as an actuary is a member of the American Academy of Actuaries or has otherwise demonstrated his actuarial competence to the commissioner.

(4) **ACTUARIAL REPRESENTATION.** No person in any representation made to the public or to this office in respect to any matter subject to this rule shall use the word actuary or actuarial to indicate a degree of professional competence unless that person is a member of the American Academy of Actuaries or has otherwise demonstrated his actuarial competence to the commissioner.

(5) **LEVEL OF COMPETENCY.** No member of the American Academy of Actuaries or a person who has otherwise demonstrated his actuarial competence to the commissioner shall use the word actuary or actuarial in any presentation subject to this rule unless he is qualified to give the actuarial advice required or requested.

Register, September, 1973, No. 213

(9) **CHANGES IN QUALIFICATION OF INVESTMENTS.** Any investment originally made under section 620.22 (8), Wis. Stats., may thereafter be considered as falling within any other class of investment for which it subsequently qualifies.

(10) **VALUATION.** (a) *General.* Security valuations contained in "Valuations of Securities", issued by the Committee on Valuation of Securities of the National Association of Insurance Commissioners, will be followed in implementing this chapter.

(b) *Insurance policies.* Insurance policies purchased under subsection (8) (g) of this rule will be valued at their cash surrender value.

(c) *Claims and demands guaranteed by insurer.* When an insurer authorized to sell credit insurance purchases, under subsection (8) (h) of this rule, claims and demands it has guaranteed, it shall value them at face value or at cost, whichever is less, and shall set up a separate and adequate "loss reserve for guaranteed claims purchased" in an amount satisfactory to the commissioner.

**History:** Cr. emerg. eff. 5-2-72; cr. Register, July, 1972, No. 199, eff. 8-1-72.

**Ins 6.25 Joint underwriting and joint reinsurance associations.** (1) **PURPOSE.** This rule, pursuant to section 625.04, Wis. Stats., is intended to encourage an active, economical and efficient insurance market; to provide for the regulation of marketing practices; and to exempt certain insurers and organizations from the provisions of section 625.33, Wis. Stats., with respect to joint underwriting or joint reinsurance.

(2) **SCOPE.** This rule shall apply to joint underwriting and joint reinsurance involving the insurance of risks associated with:

- (a) Nuclear energy
- (b) Commercial aircraft
- (c) Aircraft products liability
- (d) Crude oil production and processing

(3) **PERSONS EXEMPTED.** If any of the following joint underwriting associations and joint reinsurance associations is licensed as a rate service organization under section 625.32, Wis. Stats., each insurer-member thereof shall be exempted from the provisions of section 625.33, Wis. Stats., with respect to agreements between or among insurer-members to adhere to certain rates and rules in providing insurance or reinsurance as members of such association:

- (a) Aircraft Products Insurance Association
- (b) Factory Insurance Association
- (c) Mutual Atomic Energy Liability Underwriters
- (d) Mutual Atomic Energy Reinsurance Pool
- (e) Nuclear Energy Liability Insurance Association
- (f) Nuclear Energy Property Insurance Association
- (g) Oil Insurance Association

(4) **LIMITATION ON MEMBERSHIP DISCIPLINARY ACTION.** No person shall impose any penalty or other adverse consequence for failure of any insurer to adhere to the rates or rules of any joint underwriting association or joint reinsurance association of which such insurer is a member, except termination of or expulsion of such insurer from membership in such association.

(5) **PENALTY.** Violations of this rule shall be subject to section 601.64, Wis. Stats.

**History:** Cr. Register, September, 1973, No. 213, eff. 10-1-73.

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

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**(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.

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**Ins 6.50 Examination and licensing of insurance agents.** (1) **PURPOSE.** This rule sets forth the kinds of insurance agents' licenses to be issued as provided in section 209.04 (3) (d), Wis. Stats., and establishes the procedures to be followed in conducting examinations of applicants for agents' licenses as provided in sections 206.41 (4) (b) and 209.04 (2) (b), Wis. Stats.

(2) **KINDS OF LICENSES.** The following insurance agents' licenses shall be issued, each authorizing the solicitation of the kind or kinds of insurance as classified in section 201.04, Wis. Stats., and indicated respectively:

(a) *Fire and allied lines insurance*—as described in section 201.04 (1), (2), (12), and (14), Wis. Stats. (Includes the lines of insurance listed in subsection (2) (b) and (c) of this rule.)

(b) *Hail insurance*—one of the insurances described in section 201.04 (1), Wis. Stats.

(c) *Windstorm insurance*—one of the insurances described in section 201.04 (1), Wis. Stats.

(d) *Life insurance*—as described in section 201.04 (3), (3a), (3b) and (3c), Wis. Stats.

(e) *Credit life insurance*—as described in sections 201.04 (3c) and 206.63, Wis. Stats.

(f) *Disability insurance*—as described in section 201.04 (4) and (4a), Wis. Stats.

(g) *Credit accident and sickness insurance*—as described in section 201.04 (4a), Wis. Stats.

(h) *Casualty insurance*—as described in section 201.04 (5), (6) and (7), except bail bond insurance, and 201.04 (8), (9), (10), (11), (13), (15), (16), (17), (18), (19) and (20), Wis. Stats., (includes the lines of insurance listed in subsection (2) (i), (j), (l), (m) and (n) of this rule.

(i) *Steam boiler insurance*—as described in section 201.04 (6), Wis. Stats., and such insurance described in section 201.04 (18), Wis. Stats., as shall be written in connection therewith.

(j) *Fidelity and surety insurance*—as described in section 201.04 (7), Wis. Stats., except bail bond insurance.

(k) *Bail bond insurance*—one of the insurances described in section 201.04 (7), Wis. Stats.

(l) *Title insurance*—as described in section 201.04 (8), Wis. Stats.

(m) *Automobile insurance*—as described in section 201.04 (15), Wis. Stats., and such insurance described in section 201.04 (18), Wis. Stats., as shall be written in connection therewith.

(n) *Mortgage guaranty insurance*—as described in section 201.04 (19), Wis. Stats.

(3) **EXAMINATION PROCEDURES.** The following shall apply to the qualification examinations for insurance agents' licenses:

(a) *Kinds of examinations.* A written examination shall be required for each kind of license listed in subsection (2), except that no examination shall be required for credit life insurance as provided in section 206.41 (4) (b) 3, Wis. Stats., or for windstorm insurance as provided in section 209.04 (2) (b), Wis. Stats.



(b) *Grades.* The passing grade on all examinations is 70. When an applicant passes an examination, a grade of "pass" is to be indicated on the application. When an applicant fails an examination, the numerical grade is to be indicated on the application. Results will be mailed to the applicant.

(c) *Frequency.* If the applicant fails the first examination, he must wait at least 5 days from the date of the first examination before taking a second examination of the same kind. For all lines except life, upon failure to pass the same kind of examination a second time, the applicant must wait at least 30 days from the date of the second examination before repeating the examination procedure. For life insurance, the applicant must wait at least 6 months from the date of the second examination, as required by section 206.41 (4) (b) 2, Wis. Stats.

(d) *Time and place of examinations.* 1. Examination for life insurance agents' licenses may be taken in the office of the commissioner of insurance any work day. Applicants must report between 7:45 and 10:30 a.m. or between 12:30 and 3:15 p.m.

2. Examinations for all kinds of insurance agents' licenses will be administered at 9:30 a.m. on the second Saturday of each month at the following examination centers: Eau Claire, Green Bay, Madison, Milwaukee, Oshkosh, Platteville, Racine, Rhinelander, Superior.

3. Examinations for all kinds of insurance agents' licenses will be administered at 9:30 a.m. on the fourth Saturday of each month at the following examination centers: La Crosse, Madison, Milwaukee, Rice Lake, Stevens Point.

4. The center in each city shall be indicated on the "Notice to Report for Examination" (Form 11-4B) (Wis. Adm. Code section Ins 7.01 (4) (m)) sent each applicant.

5. Applicants who do not live in Wisconsin will be examined through arrangement with the insurance regulatory authority of their state of residence.

**History:** Cr. Register, December, 1967, No. 144, eff. 1-1-68; r. and recr. (3) (d), Register, November, 1971, No. 191, eff. 12-1-71; am. (2) (e), Register, February, 1973, No. 206, eff. 3-1-73; am. (2) (h), Register, September, 1973, No. 213, eff. 10-1-73.

**Ins 6.51 Group coverage discontinuance and replacement.** (1) **PURPOSE.** The purpose of this rule is to promote the fair and equitable treatment of group policyholders, insurance companies, nonprofit service plans, protected persons, claimants and the general public by setting forth principles and procedures applicable in providing coverage when a group or group type insurance contract is discontinued or replaced. This rule interprets and implements, including but not limited to the following Wisconsin statutes: Sections 200.26 (3) (c); 201.045; 204.32; 204.321; 206.60; 206.61; 206.64; and 601.01 (3) (b).

(2) **SCOPE.** This rule shall apply to all insurance policies issued or provided by an insurance company under authority of sections 201.04 (3) or 201.04 (4), Wis. Stats., on a group or group type basis covering persons as employees of employers or as members of unions or associations and to subscriber contracts issued or provided by an organization under authority of section 200.26, Wis. Stats., on a group or group type basis covering persons as employees of employers or as members of unions or associations.

(3) **DEFINITION.** The term "group type basis" means a benefit plan, other than "salary savings" or "salary budget" plans, utilizing indi-