

Chapter Ins 6

GENERAL

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**Ins 6.01 Foreign company to operate two 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 two 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 into kinds of insurance according to the provisions of section Ins 6.75 each subsection setting forth a separate kind, and into classes of insurance upon the basis of and including the said kinds as follows:

- (a) Fire insurance includes the kinds in section Ins 6.75 (2) (a).
- (b) Life insurance includes the kinds in section Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and section 6.70, Wis. Adm. Code.
- (c) Casualty insurance includes the kinds in section Ins 6.75 (2) (c) through (n).
- (2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c).

**History:** 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76; am. Register, March, 1979, No. 279, eff. 4-1-79.

**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.

(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.

(6) 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.

(7) 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.

**History:** 1-2-56; r. (6) and renum. (7) and (8) to be (6) and (7), Register, February, 1976, No. 242, eff. 3-1-76; emerg. r. (2), (3) and (4); r. (2), (3) and (6), Register, September, 1976, No. 249, eff. 10-1-76.

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**Ins 6.05 Filing of property and casualty insurance forms.** (1) **PURPOSE.** This rule is intended to implement and interpret s. 631.20, Stats., for the purpose of establishing filing procedures for certain property and casualty insurance policy forms.

(2) **SCOPE.** The requirements of this rule shall apply to insurance forms as defined in s. 600.03 (21) to be used to provide any of the lines or classes of insurance listed in Ins 6.75 (2) (a), (d), (e), (f), (g), (h), (i), (j), (l), (m) and (n).

(3) **DEFINITIONS.** In this rule, unless the context otherwise requires, the following words and terms shall have the following meanings:

(a) "Filing" shall mean:

1. Any matter submitted under this rule.
2. The act of filing such matter.

(b) "Basic policy forms" shall mean the basic insurance contracts used by any insurer including coverage parts or forms necessary to complete the contracts, amendatory endorsements needed to effect statutory compliance, and applications which become a part of an insurance contract.

(c) "Standard basic policy forms" shall mean any basic policy forms filed by a rate service organization licensed under s. 625.32, Stats.

(d) "Endorsement" shall mean any form or rider attached to a basic policy form which is not necessary to complete the basic contract nor effect statutory compliance, but is attached to either define, extend, limit, exclude, condition or otherwise alter coverage under the form.

(e) "Standard endorsements" shall mean any endorsements filed by a rate service organization licensed under s. 625.32, Stats.

(f) "Affiliated insurer" means an insurer who is a member or subscriber to a rate service organization licensed under s. 625.32, Stats., and who has authorized a rate service organization to make form filings on its behalf.

(4) **FILINGS REQUIRED.** (a) From a licensed rate service organization - A licensed rate service organization shall file all basic policy forms and endorsements intended for use in Wisconsin by any affiliated insurers for the commissioner's prior approval. In the absence of any other filing made under paragraph (b), such filings will automatically apply to all affiliated insurers. Such filing shall be accomplished by a *duplicate* transmittal letter which sets forth the following:

1. A listing, by form number and title and edition date, of each basic policy form and/or endorsement included in the filing.

2. A listing, by form number, title, edition date and effective date, of each basic policy form and/or endorsement to be superseded by the filing.

3. The proposed effective date of the filing. Such effective date shall be not less than 30 days following the date of receipt of the filing by the commissioner.

4. With respect to basic policy forms, a summary of all changes resulting from the filing by paragraph and clause.

5. With respect to each endorsement, a listing of the basic policy forms with which the endorsement may be used unless such information is specified on the endorsement itself.

(b) From an affiliated insurer - All standard basic policy forms and standard endorsements, as defined in subsections (2) (d) and (2) (f), that have been filed by a licensed rate service organization with which an insurer is affiliated, automatically apply to such affiliated insurer. For information purposes, each affiliated insurer shall submit a listing of such standard basic policy forms and standard endorsements that it intends to use in Wisconsin and shall update such lists, as needed, but in no event, less than once per year. Such filing is required from each individual insurer and filings by "insurer groups" are not permitted. Each affiliated insurer shall also file all basic policy forms and endorsements that it intends to use in lieu of or in addition to standard basic policy forms and standard endorsements for the commissioner's prior approval. Such filings shall take precedent over any standard basic policy forms and standard endorsements filed on behalf of the affiliated insurer, and shall be submitted in accordance with the requirements in paragraph (c).

(c) From an individual insurer not an affiliated insurer - Each insurer not an affiliated insurer shall file all basic policy forms, standard basic policy forms, endorsements and standard endorsements, as defined in this rule, for the commissioner's prior approval. Upon receipt of written notification to and acceptance by the commissioner, such insurer may, in lieu of filing, adopt by reference, the standard basic policy forms and standard endorsements filed by any licensed rate service organization and approved by the commissioner, but such adoption shall not relieve the insurer of its obligation to file other basic policy forms and endorsements as defined in this rule. Each filing shall be accompanied by a *duplicate* transmittal letter which sets forth the same information as that required of rate service organizations in paragraph (a).

(5) **EFFECTIVE DATE.** The effective date of all form filings made by a rate service organization shall automatically apply to all affiliated insurers or non-affiliated insurers who have elected to adopt form filings of such organization.

(6) **PENALTY.** Any insurer violating the provisions of this rule by using a form which has not been approved by the commissioner shall be subject to the penalties set forth in s. 601.64, Stats. Each form issued to each policyholder contrary to the provisions of this rule shall constitute a separate violation of this rule.

**History:** Cr. Register, July, 1958, No. 31, eff. 8-1-58; am. (3), Register, May, 1976, No. 233, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1977, No. 263, eff. 12-1-77.

**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 ch. 628, 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

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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 any paragraph of Ins 6.75 (2).

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

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**Ins 6.10 Insurance agents advisory council.** (1) **PURPOSE.** The purpose of this rule is to create an insurance agents advisory council to be appointed by the commissioner of insurance pursuant to ss. 15.04 (1) (e) and 601.20 (1), Stats.

(2) **MEMBERSHIP.** The council shall consist of the commissioner or a member of his staff designated by him and 11 other members, at least 6 of whom are experienced and licensed as resident insurance agents.

(3) **TERM.** Members of the council shall be appointed to serve for a term of 3 years except that the initial appointments under this rule shall be 3 members for a one-year term, 4 members for a 2-year term, and 4 members for a 3-year term.

(4) **DUTIES.** It shall be the duty of the council to:

(a) Advise the commissioner with respect to the carrying out of his functions under ch. 628, Stats.,

(b) Make recommendations to the commissioner for the preparation and conduct of examinations pursuant to ch. 628, Stats.,

(c) Advise the commissioner concerning the relevancy of the content of agents' examinations to the types of licenses being sought by applicants, and

(d) Advise the commissioner with respect to developing, in cooperation with various educational institutions in the state, courses of instruction in various fields of insurance for the education of agents and applicants for agents' licenses.

(5) **OFFICERS.** The council shall annually elect a chairman and a vice-chairman. The commissioner or his designee shall act as secretary and keep a record of all proceedings, transactions, communications, and other official acts of the council. The files and records of the council shall be maintained at the office of the commissioner.

(6) **MEETINGS.** The council shall meet at least twice a year when called by the commissioner and at such other times when requested by the commissioner or 3 or more members.

(7) **EXPENSE REIMBURSEMENT.** Members of the council shall receive no salary or compensation for service on the council but shall be reimbursed for their actual and necessary expenses in attending meetings or while performing other duties as directed by the commissioner.

**History:** Cr. Register, July, 1970, No. 175, eff. 8-1-70; emerg. am. (1) and (4) (a) and (b), eff. 6-26-76; am. (1) and (4) (a) and (b), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), Register, March, 1979, No. 279, eff. 4-1-79.

**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 ss. 601.04, 601.01 (3) (b), and 646.41 (3), Stats.

(2) **SCOPE.** This rule applies to the kinds of insurance identified in Ins 6.75, transacted by insurers as defined in s. 600.03 (27), Stats., and non-profit service plans subject to ch. 613, 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 subsections (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 s. 601.64, Stats.

**History:** Cr. Register, October, 1971, No. 190, eff. 11-1-71; am. (1), Register, September, 1973, No. 213, eff. 10-1-73; am. (2), Register, February, 1974, No. 218, eff. 3-1-74; emerg. am. (2), eff. 8-22-76; am. (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79.

**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 employees, retired employees and terminated employees of employee welfare funds by establishing requirements for use of the terms actuary or actuarial. This rule interprets and implements ss. 641.09, 641.13, 641.14, 601.41, 601.42, 601.43 and ch. 628, 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 ch. 625, 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.

(6) **PENALTY.** Violations of this rule or any order issued thereunder shall subject the person to s. 601.64, Stats., or other applicable statute.

**History:** Cr. Register, October, 1971, No. 190, eff. 11-1-71; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.13 Public inspection of records and reports.** (1) **PURPOSE.** The purpose of this rule is to specify which records of the office of the commissioner of insurance are not open to public inspection under s. 601.46 (4), Stats.

(2) **DEFINITIONS.** As used in this rule:

(a) "Records" includes all reports and writings required or authorized by law to be filed, deposited, or kept at the office of the commissioner of insurance or which are in his lawful possession or control.

(b) "Reports" includes all reports made, issued, or submitted by the commissioner of insurance under s. 601.46 (3), Stats.

(c) "Writing" means handwriting, typewriting, printing, photostating, photographing, electronic recording, and every other means of recording any form of communication or representation.

(3) **LIMITATIONS ON PUBLIC INSPECTION.** (a) *Procedure.* Records shall be open to public inspection during usual business hours and in such a manner as not to interfere with the efficient and orderly operation of the office of the commissioner of insurance.

(b) *Statutory limitations.* Public inspection shall be denied or limited with respect to records within the purview of s. 19.85 (3), Stats., and any other statute limiting inspection.

(c) *Other limitations.* Except as provided in paragraph (b), all records shall be open to public inspection except:

1. A record which is the work product of an employe in the office of the commissioner of insurance or a person contracting with the commissioner or insurance to provide such record, unless and until such record becomes a public record by operation of other statute or rule.

2. A record whose disclosure would reveal the identity of an informant who furnished information pursuant to a pledge of confidentiality.

3. A record received on a confidential basis from another governmental agency.

4. A record which is a part of a current investigation which may result in administrative, legal or criminal action or which relates to any such pending action, if the disclosure of such record would impede or frustrate such investigation or action.

5. A record whose disclosure would unduly damage a person's reputation so as to outweigh the public interest in disclosure.

6. A record whose disclosure would result in such harm to the public interest as to outweigh the public benefit to be gained by granting inspection.

(4) **JUSTIFICATION FOR REFUSING INSPECTION.** Whenever the commissioner is requested in writing to provide the reasons for his refusing a Register, March, 1979, No. 279

demand to inspect a particular record, he shall specifically state the reasons for such refusal.

(5) **EXCEPTIONS.** Nothing contained herein shall prevent the commissioner from furnishing a record when required to do so by a proper court order or when requested to do so by a public officer in the official discharge of his duties, under such safeguards as may be appropriate.

**History:** Cr. Register, June, 1973, No. 210, eff. 7-1-73; am. (3) (b), Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.17 Regulation of surplus lines insurance.** (1) **PURPOSE.** This rule implements and interprets ss. 601.42, 601.72, 601.73, 618.41 and 618.43, Stats., for the purpose of facilitating the regulation of surplus lines insurance business in this state.

(2) **PROHIBITED PLACEMENT.** No licensed surplus lines agent may place contracts of insurance with any unauthorized insurer:

(a) For the classes of insurance specified by paragraphs (h), (i), and (k) of section Ins 6.75 (2), and

(b) For any kind of insurance not specifically authorized by any of the other paragraphs of Ins 6.75.

(3) **RESPONSIBILITIES OF SURPLUS LINES AGENT.** Every licensed surplus lines agent who procures surplus lines insurance shall:

(a) Forward promptly to the policyholder a completed copy of a Surplus Lines Insurance Proposal in a form substantially as in Appendix 1 to this rule.

(b) When applicable, forward promptly to the policyholder a notice that the unauthorized insurer with which the insurance is to be placed is not on the list of unauthorized nondomestic insurers which the commissioner believes to be reliable and solid, along with notice of any other deficiencies of the insurer of which the agent has knowledge.

(c) File with the commissioner:

1. A copy of the policy, certificate, cover note, or other evidence of insurance issued to the policyholder;

2. A copy of the Surplus Lines Insurance Proposal (Appendix 1) which was furnished to the policyholder.

3. A copy of any Notice required by paragraph (b).

4. The name of the person to whom the commissioner shall mail legal process.

(d) Keep in his office in this state a full and true record of each surplus lines insurance contract procured by him, evidenced by a copy of the daily report or other documents to show at least the following information:

1. Amount of the insurance and perils insured against;
2. Brief general description of property insured and where located;
3. Gross premium charged;
4. Return premium paid, if any;

5. Rate of premium charged upon the several items of property;
6. Effective date of the contract, and the terms thereof;
7. Name and post-office address of the insured;
8. Name and home office address of the insurer;
9. Amount collected from the insured; and
10. A copy of the Notice required by paragraph (b).

(e) The record required by paragraph (d) shall be open at all times to examination by the commissioner without notice, and shall be so kept available and open to the commissioner for 3 years (5 years for notice required by paragraph (b)) next following the expiration or cancellation of the contract.

(4) **ADVERTISING BY SURPLUS LINES AGENT.** A surplus lines agent may advertise the availability of his services in procuring, on behalf of persons seeking insurance, contracts with insurers not holding a certificate of authority in Wisconsin, but such advertisements shall not refer to any particular unauthorized insurer or insurers.

(5) **REPORT AND PAYMENT OF TAX-SURPLUS LINES INSURANCE.** All premium tax collected by the surplus lines agent shall be reported and forwarded to the commissioner on or before March 1, for all insurance procured, renewed or continued during the preceding calendar year with unauthorized insurers. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(6) **PENALTY.** Any violation of this rule shall subject the agent to immediate revocation of his surplus lines agent's license and to other forfeitures and penalties provided by s. 601.64, Stats.

**History:** Cr. Register, December, 1973, No. 216, eff. 1-1-74; am. (1), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (2) (a) and (b), eff. 6-22-76; am. (2) (a) and (b), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) (a) and (b), Register, March, 1979, No. 279, eff. 4-1-79.

Appendix 1

Ins 6.17

**SURPLUS LINES INSURANCE PROPOSAL**

Name and address of applicant Date

Dear \_\_\_\_\_ : Proposal No. \_\_\_\_\_

You have asked that I procure the following insurance coverage on your behalf:

<i>Type of Insurance</i>	<i>Limits of Coverage</i>
--------------------------	---------------------------

I can procure the coverage desired from the following insurer (s) at the premium listed:

<i>Insurer (s)—Name and Address</i>	<i>% of Total Risk</i>	<i>Premium Quoted</i>
-------------------------------------	------------------------	-----------------------

This insurance is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin, and will be issued and delivered as a surplus lines coverage pursuant to s. 618.41, Stats. The insurance is regulated by the Commissioner of Insurance only as provided in ss. 618.41 and 618.43, Stats. Section 618.43 (1), Stats., requires payment by the policyholder of a 3% tax on gross premium (except for Ocean Marine Insurance on which the tax is one-half of 1%). The tax in this instance amounts to \$ \_\_\_\_\_. If the above transaction is not satisfactory, please advise immediately.

Sincerely yours,

\_\_\_\_\_  
Name and address of licensed surplus lines agent

cc: Commissioner of Insurance  
State of Wisconsin

Appendix 2

Ins 6.17

REPORT OF SURPLUS LINES INSURANCE

Year Ending December 31, 19\_\_\_\_\_

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 19\_\_\_\_\_

Agent		Business address, including zip code			Date	
Proposal No. and Date* (1)	Name of Insured (2)	Name of Insurance Company (3)	Contract Number (4)	Term and Effective Date (5)	Premium Charged (6)	3%** Premium Tax Collected (7)

\*Proposals are to be numbered consecutively.  
 \*\*½ of 1% for Ocean Marine Insurance

Premium Collected During Year -----	\$ _____
Tax Due @ 3%**—Total Column (7) -----	\$ _____
Amount Enclosed -----	\$ _____

**Ins 6.18 Reporting and payment of tax by unauthorized insurers transacting business in violation of law.** (1) **PURPOSE.** This rule implements and interprets ss. 601.42, 610.11 and 618.43, Stats., for the purpose of facilitating the reporting and collection of tax due the state of Wisconsin from unauthorized insurers transacting business in violation of Wisconsin law.

(2) **REPORTING AND PAYMENT OF TAX BY UNAUTHORIZED INSURERS TRANSACTING BUSINESS IN VIOLATION OF LAW.** All premium tax shall be reported and forwarded to the commissioner on or before March 1, for all insurance which applies to exposures located wholly or partially within this state written, renewed or continued during the preceding calendar year by an unauthorized insurer. The report shall be made on a form substantially the same as Appendix 1 to this rule.

(3) **PENALTY.** Any violation of this rule shall subject the person violating the same to s. 601.64, Stats.

**History:** Cr. Register, December, 1973, No. 216, eff. 1-1-74.

**Ins 6.19 Reporting and taxation of directly placed unauthorized insurance.** (1) **PURPOSE.** This rule implements and interprets ss. 601.42, 618.42 and 618.43, Stats., for the purpose of facilitating the reporting and collection of tax due the state of Wisconsin from persons who directly procure or renew insurance in an unauthorized insurer.

(2) **REPORTING DIRECTLY PLACED UNAUTHORIZED INSURANCE.** The procurement or renewal of insurance from any unauthorized insurer shall be reported within 60 days to the commissioner on a form substantially the same as Appendix 1 to this rule.

(3) **REPORTING AND PAYMENT OF TAX FOR DIRECTLY PLACED UNAUTHORIZED INSURANCE.** All premium tax shall be reported and forwarded to the commissioner on or before March 1, for all insurance which applies to exposures located wholly or partially within this state procured, renewed or continued during the preceding calendar year in an unauthorized insurer. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(4) **PENALTY.** Any violation of this rule shall subject the person violating the same to s. 601.64, Stats.

**History:** Cr. Register, December, 1973, No. 216, eff. 1-1-74.

Appendix I

Ins 6.18

PREMIUM TAX REPORT

Year Ending December 31, 19\_\_\_\_\_

Unauthorized Insurance on Wisconsin Risks—Sections 610.11 and 618.43, Statutes

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 19\_\_\_\_\_

Insurance Company		Address, including zip code		
Numbers or Names of Risks (1)	Type of Coverage (2)	Name(s) and address(es) of Wisconsin agent(s) who assisted in procurement (3)	Total Premium Received* (4)	5% Tax on Total Premium** (5)

\*Include all premium which can be allocated to a Wisconsin exposure, excluding "move-in" business and business placed with your company by a Wisconsin Surplus Lines agent  
\*\*2% for Ocean Marine Insurance

Premium Income from Wisconsin Risks— \$ \_\_\_\_\_  
Total Column (4) ----- \$ \_\_\_\_\_

Tax Due @ 5%\*\*—Total Column (5) ----- \$ \_\_\_\_\_  
Amount Enclosed ----- \$ \_\_\_\_\_

The undersigned, as an officer of the above-named insurance company, certifies that the report is true and correct according to the best of his information, knowledge, and belief.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title Date



## Appendix 1

Ins 6.19

**NOTICE OF DIRECTLY PLACED UNAUTHORIZED  
INSURANCE**

To: Commissioner of Insurance  
State of Wisconsin  
123 West Washington Avenue  
Madison, WI 53702

1. Name of Person or Organization Insured
2. Address of Insured
3. Contract Number
4. Effective Date
5. Expiration Date
6. Name and Address of Insurance Company
7. Description or Type of Coverage
8. Premium Charged

The undersigned certifies that this report is true and correct according to the best of his information, knowledge, and belief.

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\_\_\_\_\_, 19\_\_\_\_

*Note:* This report, pursuant to s. 618.42 (2), Stats., must be filed with the Commissioner of Insurance within 60 days after effectuation of any new or renewal insurance contract independently procured from an unauthorized insurer. A separate report is required for each new or renewal insurance contract. A 3% Tax on the premiums charged for such contracts during the calendar year ending December 31 must be paid to the Commissioner on or before March 1 next succeeding.

Appendix 2

Ins 6.19

PREMIUM TAX REPORT

Year Ending December 31, 19\_\_\_\_\_

Directly Placed Unauthorized Insurance—Sections 618.42 and 618.43, Wisconsin Statutes

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 19\_\_\_\_\_

Person or Organization Insured			Address, including zip code			Date
Contact Number (1)	Effective Date (2)	Expiration Date (3)	Name and Address of Insur- ance Company (4)	Description or Type of Coverage (5)	Premium Charged (6)	3% Tax on Pre- mium* (7)

\*¼ of 1% for Ocean Marine Insurance

Premium Charged—Total Column (6) -----	\$ _____
Tax Due @ 3%*—Total Column (7) -----	\$ _____
Amount Enclosed -----	\$ _____

The undersigned certifies that this report is true and correct according to the best of his information, knowledge, and belief.

\_\_\_\_\_  
\_\_\_\_\_ 19\_\_\_\_

**Ins 6.20 Investments of insurance companies.** (1) **PURPOSE.** The purpose of this rule is to implement and interpret ch. 620, Stats., for the purpose of establishing procedures and requirements for investments of insurance companies.

(2) **SCOPE.** This rule shall apply to all insurers subject to ch. 620, Stats.

(3) **DEFINITIONS.** As used in this rule:

(a) "Fixed charges" includes interest on all debt, and amortization of debt discount.

(b) "Net earnings available for fixed charges" means income after allowance for operating and maintenance expenses, depreciation and depletion, and taxes other than federal and state income taxes, but without allowance for extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing company. If the issuing company has acquired, prior to the date of investment, substantially all the assets of another company by purchase, merger, consolidation or otherwise, the net earnings available for fixed charges of the other company for the portion of the test period that preceded acquisition may be included in accordance with a consolidated earnings statement covering the period.

(c) "Net earnings available for fixed charges and dividends" shall be determined in the same manner as "net earnings available for fixed charges" but after allowance for federal and state income taxes.

(d) "Preferred dividend requirements" include dividends at the maximum prescribed rate on all stock ranking as to dividends on parity with or prior to that being acquired, whether or not the dividends are cumulative.

(e) "Real estate" or "real property" includes leaseholds.

(4) **GENERAL LIMITATIONS ON RESTRICTED INSURERS.** No insurer restricted under s. 620.03, Stats., may invest thereafter in any of the following classes of assets except by permission of the commissioner:

(a) Any securities of an issuer who has defaulted on any payment on any debt security within the previous 5 years; or

(b) Any asset under s. 620.22 (8), Stats.

(5) **SPECIAL LIMITATIONS ON RESTRICTED INSURERS.** No insurer restricted under s. 620.03, Stats., shall invest:

(a) *Evidences of indebtedness.* In evidences of indebtedness under s. 620.22 (1), Stats., unless they are lawfully authorized and:

1. They are rated AAA, AA or A by Fitch Investors Service, Inc. or by Standard & Poor's Corporation, or Aaa, Aa or A by Moody's Investors Service, Inc.; or

2. They are evidences of indebtedness of a municipally owned public utility of this state created pursuant to section 3 of article XI of the constitution, and the net book value of the property pledged as security for the bonds has been established or approved by the public service commission and the total issue of the bonds does not exceed 50% of the net book value of such property; or

3. They are payable from revenues of a public utility or railroad owned by or held for the benefit of any governmental unit in the United States or Canada, if they are adequately secured by mortgage or lien on property or by specific pledge or revenues, and lawful authorizing resolutions or ordinance of the governing body of the unit require that during the life of the evidence of indebtedness the rates, fees, tolls or charges together with any other revenues pledged shall at all times produce revenues sufficient to pay all expenses of operation and maintenance, interest as promised and the principal sum when due; or

4. They are evidences of indebtedness of public utilities in the United States or Canada and are either adequately secured by mortgage, pledge or other collateral, or have had net earnings available for fixed charges that for the previous 3 fiscal years have averaged per year not less than  $1\frac{1}{2}$  times the average annual fixed charges; or

5. They are evidences of indebtedness of a United States or Canadian private corporation, and they are either adequately secured by mortgage, pledge or other collateral, or are issued by a corporation which has had net earnings available for fixed charges that have averaged for the previous 5 years and equalled for each of the previous 2 years an annual amount which exceeded average annual fixed charges by at least 50%, or 25% in the case of corporations engaged primarily in wholesale or retail merchandising, installment, commercial and consumer financing, factoring or small loan business.

(b) *Equipment securities.* In equipment securities or in certificates of an equipment trust under subsection (8) (b) of this rule unless the obligor's net earnings have averaged at least 2 times its average annual fixed charges for the previous 3 years:

(c) *Real estate loans.* In real estate loans:

1. On the security of encumbered property, but property shall not be deemed encumbered because of unpaid but not delinquent assessments and taxes, mineral, oil or timber rights, easements for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or profits are reserved to the owner;

2. In excess of  $\frac{2}{3}$  of the fair market value, including buildings covered by the mortgage. If the value of buildings constitute part of the security, the buildings must be insured adequately to protect the insurer's security interest. The  $\frac{2}{3}$  limitation shall not apply to any loan fully insured by a federal insurance corporation; nor

3. On the security of a leasehold interest in real property unless it is unencumbered except by rentals owed to the owner of the fee, has at least 25 years yet to run, and then for no more than 50% of the fair market value of the leasehold less the present value of all rentals due upon it to the owner of the fee.

(d) *Preferred shares.* In preferred shares unless the issuing company has had, disregarding fixed charges on indebtedness and dividend requirements on preferred stock for the retirement of which provision has been made at the date of the investment, net earnings:

1. Available for fixed charges and dividends that during the previous 5 fiscal years have averaged not less than twice the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

2. Available for fixed charges and dividends that for each of the previous 3 fiscal years have been not less than 1 1/2 times the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

3. Available to meet preferred dividend requirements of the previous 5 years, after allowance for fixed charges and federal and state income taxes, that have averaged not less than 3 times the preferred dividend requirements.

(e) *Common stock.* In common stock except:

1. In accordance with a plan of acquisition proposed by the insurer and approved by the commissioner; and

2. In common stocks which are authorized securities for NASDAQ, the automated quotation system of the National Association of Securities Dealers.

(f) *Real property.* In any investment under s. 620.22 (4) or (5), Stats., except with prior written approval of the commissioner.

(g) *Limitations on amount of investment.* More than 3% of assets in any single issue of a security to which this rule is applicable unless it obtains the prior approval of the commissioner except that such limitations shall not be applicable to securities of the government of the United States or its instrumentalities or securities guaranteed by the full faith and credit of the United States (and except that such limitation shall be 10% as to the securities of any state, governmental unit therein, or instrumentality thereof).

(6) **TOWN MUTUAL INSURANCE COMPANIES.** (a) Town mutual insurance companies authorized to operate under the provisions of ch. 612, Stats., shall be considered restricted insurers and shall be subject to the restrictions of s. 620.03 (1), Stats., except as provided in s. 620.03 (2), Stats., or in subsection (6) (b) of this rule.

(b) A town mutual insurance company may invest up to 50% of its assets in shares in mutual funds provided the assets of such mutual funds are invested only in accordance with subsection (4) and subsection (5) (a) through (f) of this rule and provided that such mutual fund shall:

1. Invest no more than 5% of its aggregate assets and securities in any one issuer, excepting securities of the United States government,

2. Own no more than 10% of the securities of any one issuer,

3. Submit quarterly statements to the commissioner in such detail as he requests,

4. Be audited annually by a certified public accountant acceptable to the commissioner.

(c) A town mutual insurance company may invest up to 75% of its assets in any common trust fund of which a Wisconsin state bank or

trust company serves as trustees but only so long as such bank, in the administration of said common trust fund complies with the following conditions:

1. The fund shall be administered in compliance with applicable Wisconsin banking statutes and any rules and regulations promulgated by the commissioner of banking.

2. The bank shall furnish to the commissioner of insurance a copy of the plan establishing the common trust fund and shall promptly furnish the commissioner with copies of all amendments to such plan,

3. Notwithstanding the scope of any investment powers granted to the bank as trustees of such fund, the bank as trustee shall invest the assets of the fund only in:

a. Commercial paper rated "prime 1" by Moody's Investors Service, Inc., or "A-1" by Standard & Poor's Corporation or "F-1" by Fitch Investor Service, Inc.;

b. Prime banker's acceptances;

c. Certificates of deposits issued by banks;

d. Obligations of the United States government or any of its instrumentalities;

e. Bank repurchase agreements, if fully collateralized by obligations of the United States government or any of its instrumentalities.

4. The maturity date of each of the investments listed in subdivision 3 of this paragraph shall not exceed 91 days,

5. All income received by the fund shall be distributed monthly by the banks as trustee and there shall be no accumulation or re-investment of such income by the bank,

6. The bank shall furnish monthly reports to each insurer-investor stating the value of such investor's participation in such common trust fund and the amount of income distributed to each insurer for such month,

7. The bank shall furnish annually to the commissioner an audited year-end financial statement of the common trust fund,

8. The common trust fund shall be subject to examination by the commissioner of banking.

(7) BONDS PERMISSIBLE. Bonds permissible under s. 620.22 (1), Stats., include:

(a) Direct obligations of the United States or Canada, or of other governmental units therein;

(b) Obligations payable from and adequately secured by specifically pledged revenues of such governmental units or their instrumentalities, including corporations owned by or operated for such units; and

(c) Evidences of indebtedness of any solvent corporation of the United States or Canada.

(8) ADDITIONAL AUTHORIZED INVESTMENTS. An insurer may, in addition to investments authorized by s. 620.22 (1) to (6), Stats., invest its assets

in the following classes of investments, up to the limits stated, and in the case of insurers that are subject to special restrictions under s. 620.03, Stats., in accordance with any other rules made applicable to them:

(a) Mortgage bonds of farm loan banks authorized under the federal farm loan act, and debentures issued by the banks for cooperatives established pursuant to the farm credit act of 1933, as amended;

(b) Equipment securities or certificates of any equipment trust evidencing rights to receive partial payments agreed to be made upon any contract of leasing or conditional sale—not exceeding 10% of assets;

(c) The purchase and ownership of machinery or equipment, which is or will become subject to contracts for sale or use under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property which shall be not less than 5 years—not exceeding 3% of assets;

(d) Loans upon the collateral security of any securities that the insurer could lawfully purchase, but not exceeding 90% of the market value of the securities up to an amount which, together with like securities owned, does not exceed the limits on the purchase of such securities;

(e) Evidences of indebtedness not otherwise authorized of the kind which if held by a bank would be eligible for discount, rediscount, purchase or sale by federal reserve banks or other government agencies having similar powers and functions—not exceeding 1% of assets;

(f) Shares of savings and loan associations to the extent that they are insured or guaranteed by the United States government or any agency thereof;

(g) The cash surrender values of life insurance policies of companies authorized to do business in Wisconsin;

(h) For a company authorized to transact a credit insurance business, the claims and demands that it has guaranteed;

(i) For a company authorized to transact a title insurance business, materials and plant necessary for the convenient transaction of business—not exceeding 50% of minimum capital or 5% of assets, whichever is greater;

(j) Direct obligations of foreign government—not exceeding 1% of assets;

(k) Loans, securities or investments in countries other than the United States and Canada which are of substantially the same kinds, classes and investment grades as those eligible for investment under ch. 620, Stats., and supplementary rules, but the aggregate of such investments shall not exceed 2% of the company's assets;

(l) Direct obligations of the international bank for reconstruction and development, the inter-American development bank and the Asian development bank—not exceeding 2% of assets;

(m) For an insurer doing business in a foreign country, the assets needed to meet its obligations in the foreign country in the kinds of securities within the foreign country that would be permissible investments if made in this state; and

(n) Shares of investment companies or investment trusts registered under the Federal Investment Company Act of 1940, as amended—regarded as part of the common stock portfolio of the insurer.

(9) **CHANGES IN QUALIFICATION OF INVESTMENTS.** Any investment originally made under s. 620.22 (8), 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; am. (5) (a) 1., Register, October, 1974, No. 226, eff. 11-1-74; r. and recr. (5) (g), cr. (6) (c), Register, December, 1974, No. 228, eff. 1-1-75; emerg. am. (6) (a), eff. 6-22-76, am. (6) (a), Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.25 Joint underwriting and joint reinsurance associations.**

(1) **PURPOSE.** This rule, pursuant to s. 625.04, 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 s. 625.33, 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
- (e) Municipal bonds

(3) **PERSONS EXEMPTED.** If any of the following joint underwriting associations and joint reinsurance associations is licensed as a rate service organization under s. 625.32, Stats., each insurer-member thereof shall be exempted from the provisions of s. 625.33, 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) Industrial Risk Insurers
- (c) Mutual Atomic Energy Liability Underwriters
- (d) Mutual Atomic Energy Reinsurance Pool
- (e) American Nuclear Insurers



- (f) Nuclear Energy Property Insurance Association
- (g) Municipal Bond 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 s. 601.64, Stats.

History: Cr. Register, September, 1973, No. 213, eff. 10-1-73; am. (2) and (3), Register, August, 1974, No. 224, eff. 9-1-74; am. (3) (e), Register, May, 1975, No. 233, eff. 6-1-75; am. (3), Register, February, 1976, No. 242, eff. 3-1-76; am. (3) (e), Register, November, 1978, No. 276, eff. 12-1-78.

**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

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- 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.

**Miscellaneous:** Costs of appraisals, expert examinations, surveys, plans, estimates, photographs, maps, weather reports, detective reports, audits, credit or character reports, watchman. Charges for hospital records and records of other kinds, notary fees, certified copies of certificates and legal documents. Charges for Claim Adjustment Services by underwriting syndicates, pools and associations.

**Exclude:**

Compensation to employes (see Salaries).

Expenses of salaried employes (see Travel and Travel Items).

Items includable in Allowances to Managers and Agents.

Payments to State Industrial Commissions (see Taxes, Licenses and Fees).

Payments to claim adjusting organizations except where the expense is billed specifically to individual companies (see Boards, Bureaus and Associations).

Cost of services of medical examiners for underwriting purposes (see Surveys and Underwriting Reports.)

Salvage and subrogation recovery expense, rewards, lost and found advertising, expenses for disposal of salvage. Such expenses shall be deducted from salvage.

Any expenses which by these instructions are includable elsewhere.

**Separation of Claim Adjustment Services:**

The Statistical Plans filed by certain rating bureaus contain definitions of "Allocated Loss Adjustment Expenses" which exclude for rating purposes certain types of claim adjustment services as defined herein. For the lines of business thus affected, companies which are members of such rating bureaus shall maintain records necessary to the reporting of Claim Adjustment Services—Direct, as defined in Statistical Plans, and other than as defined in Statistical Plans.

**b. Reinsurance Assumed**

**Include:** Claim adjustment expenses in bills rendered by ceding companies.

**c. Reinsurance Ceded**

**Include:** Claim adjustment expenses billed to assuming insurers.

**2. Commission and Brokerage.**

**a. Direct**

**Include:**

All payments, reimbursements and allowances, on direct writings, computed as a percentage of premiums for production, management or other services to managers, supervising general agents, general agents, regional and district agents, local agents, office agents, brokers, solicitors, and other producers and agents.

Commissions and brokerage to employes when the activities for which the commissions are paid are not a part of their duties as employes.

**Exclude:**

Compensation to employes except as noted above (see Salaries.)

Allowances, reimbursements and payments not computed as a percentage of premiums (see Allowances to Managers and Agents).

Expenses involved in transactions between insurance companies (see Joint Expenses; Commission and Brokerage-Reinsurance Assumed and Ceded; Expenses for Account of Another; and Income from Special Services).

Contingent commission (see Commission and Brokerage-Contingent).

Fees of investment counsel (see Legal and Auditing).

Expenses includable in Boards, Bureaus and Associations.

Taxes on premiums (see Taxes, Licenses and Fees).

Commission received for special services such as loss adjustment and inspection not related to policies issued by the company (see Income from Special Services).

#### b. Reinsurance Assumed

Commission and allowances of every nature on reinsurance assumed including tax and board allowances and reinsurance brokerage, except contingent commission, shall be included in Commission and Brokerage-Reinsurance Assumed.

**Exception:** Where commission and allowances under reinsurance assumed take the form of accurate proportions of actual expenses incurred, as in some quota share and pooling agreements, entries shall be made to the actual expenses.

#### c. Reinsurance Ceded

Commission and allowances of every nature on reinsurance ceded including tax and board allowances and reinsurance brokerage, except contingent commission, shall be included in Commission and Brokerage-Reinsurance Ceded.

**Exception:** Where commission and allowances under reinsurance ceded take the form of accurate proportions of actual expenses incurred, as in some quota share and pooling agreements, entries shall be made to the actual expenses.

**Note: Examples Relating to the Treatment of Commission on Reinsurance Assumed and Reinsurance Ceded:**

1. Company A cedes business to Company B under a treaty specifying a commission of 35% and an allowance for taxes and board fees of 5%. On the statement filed by Company A, both the 35% and the 5% shall be entered in Commission and Brokerage-Reinsurance Ceded. On the statement filed by Company B, both the 35% and the 5% shall be entered in Commission and Brokerage-Reinsurance Assumed.

2. Company A cedes 10% of all its business to Company B under an agreement whereby Company B pays 10% of all actual expenses, on such business, incurred by Company A. Assume the expenses of Company A on the business reinsured as follows:

	Paid on Written Business
Commission and Brokerage-Direct .....	\$100,000
Salaries .....	30,000
Rent and Rent Items .....	7,000
Printing and Stationery .....	7,000
Postage, etc. ....	5,000
Surveys and Underwriting Reports .....	8,000
<b>Total</b> .....	<b>\$157,000</b>

**Note:** These are not intended to show the complete list of expenses involved but are given only for illustration purposes.

On the statement filed by Company A the commission and allowances by Company B shall be credited as follows:

	Paid on Written Business
Commission and Brokerage-Reinsurance Ceded .....	\$10,000
Salaries .....	3,000
Rent and Rent Items .....	700
Printing and Stationery .....	700
Postage, etc. ....	500
Surveys and Underwriting Reports .....	800
<b>Total</b> .....	<b>\$15,700</b>

On the statement filed by Company B the commission and allowances made to Company A shall be debited as follows:

	Paid on Written Business
Commission and Brokerage-Reinsurance Assumed .....	\$10,000
Salaries .....	3,000
Rent and Rent Items .....	700
Printing and Stationery .....	700
Postage, etc. ....	500
Surveys and Underwriting Reports .....	800
<b>Total</b> .....	<b>\$15,700</b>

**d. Contingent—Net**

**Include:**

Contingent or profit commission paid.

Contingent or profit commission received.

Contingent commission to employes when the activities for which the contingent commission is paid are not a part of their duties as employes.

**e. Policy and Membership Fees**

**Include:**

Policy and membership fees retained by, or paid to, agents.

Policy and membership fees to employes when the activities for which the policy and membership fees are paid are not a part of their duties as employes.

**3. Allowances to Managers and Agents**

**Include:** Net allowances, reimbursements and payments for expenses of every nature, not computed as a percentage of premiums, to managers, agents, brokers, solicitors, and other producers.

**Exclude:**

Compensation to employes (see Salaries).

Expenses of salaried employes (see Travel and Travel Items).

Expenses of management where one insurance company has been appointed manager for another (see Joint Expenses; Commission and Brokerage-Reinsurance Assumed and Ceded; and Expenses for Account of Another).

Contingent commission (see Commission and Brokerage-Contingent).

Policy and membership fees (see Commission and Brokerage-Policy and Membership Fees).

Expenses in connection with owned real estate (see Real Estate Expenses).

Amounts representing exact reimbursements for Losses; Taxes, Licenses and Fees; Boards, Bureaus and Associations; and Advertising; where only the minimum space required by law is taken.

Amounts representing exact reimbursements for Claim Adjustment Services, Surveys and Underwriting Reports and Audit of Assureds' Records when these services are performed by others than employes of managers, agents, brokers, solicitors or other producers.

#### 4. Advertising

**Include:**

Cost of the following: Services of advertising agents; public relations counsel; space in newspapers, periodicals, billboards, programs, and other publications; circulars, pamphlets, calendars and literature issued for advertising or promotional purposes; drawings, plates, etchings, etc., in connection with advertising; all charges for printing, paper, etc., in bills covering advertising; radio broadcasts; prospect and mailing lists; signs, frames, medals, etc., for agents; souvenirs for general distribution; directory listings; house organs similar publications distributed to others than employes; and advertising required by law when more than the minimum space required to comply with the law is taken.

**Exclude:**

Compensation to employes (see Salaries).

Items includable in Travel and Travel Items, Claim Adjustment Services, and Boards, Bureaus and Associations.

Cost of literature, booklets, placards, signs, etc., issued solely for accident and loss prevention (see Surveys and Underwriting Reports).

Advertising and business development expenses allowed, reimbursed or paid to managers, agents, brokers, solicitors, and other producers (see Allowances to Managers and Agents).

Cost of help wanted advertising (see Employee Relations and Welfare).

Cost of advertising in connection with owned real estate (see Real Estate Expenses).

Cost of house organs and similar publications for the use of employes (see Printing and Stationery).

Donations to organized charities (see Miscellaneous).

Cost of souvenirs not generally distributed (see Travel and Travel Items).

#### 5. Boards, Bureaus and Associations

##### **Include:**

Dues, assessments, fees and charges of: underwriters' boards, rating organizations, statistical agencies, inspection and audit bureaus; underwriters' advisory and service organizations including such organizations as Insurance Executives Association, and Association of Casualty and Surety Companies; accident and loss prevention organizations; claim organizations; underwriting syndicates, pools and associations such as Factory Insurance Association, Oil Insurance Association, assigned risk plans (except Commission and Brokerage; Claim Adjustment Services; and Taxes, Licenses and Fees); and specific payments to boards, bureaus and associations for rate manuals, revisions, fillers, rating plans and experience data.

##### **Exclude:**

Cost of inspection, engineering or accident and loss prevention billed specifically to individual companies (see Surveys and Underwriting Reports). Loss adjustment expenses billed specifically to individual companies (see Claim Adjustment Services).

Allowances under reinsurance contracts for board and bureau expenses (see Commission and Brokerage-Reinsurance Assumed and Ceded).

Payments to State Industrial Commissions (see Taxes, Licenses and Fees).

Payments into State Security Funds (see Taxes, Licenses and Fees).

Commission and Brokerage, Claim Adjustment Services, and Taxes, Licenses and Fees of underwriting syndicates, pools, and associations such as Factory Insurance Associations and Oil Insurance Association.

Cost of survey, credit, moral hazard, character and commercial reports obtained for underwriting purposes (see Surveys and Underwriting Reports).

Cost of commercial reporting services (see Surveys and Underwriting Reports).

Dues and subscriptions to social or civic clubs or affairs (see Travel and Travel Items).

Dues and subscriptions to accounting, legal, actuarial or similar societies and associations (see Travel and Travel Items).

**6. Surveys and Underwriting Reports****Include** cost of the following:

Survey, credit, moral hazard, character and commercial reports obtained for underwriting purposes.

Commercial reporting services.

Appraisals for underwriting purposes.

Fire records.

Inspection, engineering, and accident and loss prevention billed specifically.

Literature, booklets, placards, signs, etc., issued solely for accident and loss prevention.

Maps and corrections.

Services of medical examiners for underwriting purposes.

**Exclude:**

Compensation to employes (see Salaries).

Expenses of salaried employes (see Travel and Travel Items).

Items includable in Boards, Bureaus and Associations; Claim Adjustment Services; and Allowances to Managers and Agents.

Cost of character or credit reports on employes or applicants for employment (see Employee Relations and Welfare).

Fees for physical examination of employes or applicants for employment (see Employee Relations and Welfare).

Income from inspections, which shall be classified in accordance with the instruction "Income from Special Services".

**7. Audit of Assureds' Records**

**Include:** Auditing fees and expenses of independent auditors for auditing payrolls and other premium bases.

**Exclude:**

Compensation to employes (see Salaries).

Expenses of salaried employes (see Travel and Travel Items).

Items includable in Claim Adjustment Services.

Items includable in Allowances to Managers and Agents.

**8. Salaries****Include:**

Salaries, bonus, overtime, contingent compensation, pay while on leave, dismissal allowance, pay while training and other compensation of employes.

Commission and brokerage to employes when the activities for which the commission is paid are a part of their duties as employes.



**Exclude:** Salaries or wages of janitors, caretakers, maintenance men and agents paid in connection with owned real estate (see Real Estate Expenses).

9. Employee Relations and Welfare

a. Pensions and Insurance Benefits for Employees

**Include:**

Cost of retirement insurance.

Payments or appropriations to funds irrevocably devoted to the payment of pensions or other employees' benefits.

Pensions or other retirement allowances.

Accident, health and hospitalization insurance for employees.

Group life insurance for employees.

Workmen's compensation insurance.

Payments to or on behalf of employees under self-insurance.

Any other insurance for the benefit of employees.

**Exclude:**

Cost of insurance on lives of employees when the company is the beneficiary (such cost shall not appear among expenses, but shall be charged to surplus).

Payments or appropriations to pension funds not irrevocably devoted to the payment of pensions or other employees' benefits (such payments or appropriations shall not appear among expenses).

Items includable in Real Estate Expenses.

All other types of insurance premiums.

b. All Other

**Include** cost of:

Advertising-help wanted.

Training and welfare of employees.

Physical examinations of employees or applicants for employment.

Character or credit reports on employees or applicants for employment.

Gatherings, outings and entertainment for employees.

Visiting nurse service for or on behalf of employees.

Medical and hospital bills for employees (not covered by 9-a).

Direct payments, other than salaries, to employees for injury and sickness (not covered by 9-a).

Supper money.

Donations to or on behalf of employees.

Food and catering for employes.

**Exclude:**

Salaries, bonus, overtime, contingent, pay while on leave, dismissal allowances, pay while training and other compensation of employes (see Salaries).

Items includable in Real Estate Expenses.

Cost of house organs and similar publications (see Advertising, and Printing and Stationery).

10. Insurance

**Include:**

Fidelity or surety bonds covering employes and agents.

Burglary, and robbery insurance premiums.

Public liability insurance premiums (Excl. owned Real Estate).

Premiums for insurance on office contents.

Cost of insurance on automobiles.

All other insurance premiums not specifically provided for in other operating accounts.

**Exclude:**

Items includable in Employee Relations and Welfare.

Items includable in Real Estate Expenses.

11. Directors' Fees

**Include:**

Directors' fees and other compensation of directors for attendance at board or committee meetings.

Other fees, compensation, and expenses paid to directors.

**Exclude:** Commission to directors for the production of business (see Commission and Brokerage-Direct).

12. Travel and Travel Items

**Include:**

Transportation, hotel, meals, postage, telephone, telegraph, express and incidental living expenses of employes while traveling.

Expenses for transfer of employes.

Depreciation, repairs and other operating expenses of automobiles.

Rent of automobiles.

Fees for automobile license plates.

Cost of transportation, hotel, meals and entertainment of guests.

Cost of favors and presents given or extended to others than employees.

Cost of souvenirs not generally distributed.

Dues and subscriptions to social or civic clubs or affairs.

Dues and subscriptions to accounting, legal, actuarial, or similar societies and associations.

**Exclude:**

Items includable in Salaries; Advertising; Commission and Brokerage; Taxes, Licenses and Fees; Boards, Bureaus and Associations; and Equipment.

Cost of gatherings, outings, etc., and entertainment for employees (see Employee Relations and Welfare).

Travel and travel items paid, reimbursed, or allowed to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Items includable in Real Estate Expenses.

Donations to organized charities (see Miscellaneous).

Cost of souvenirs for general distribution (see Advertising).

**13. Rent and Rent Items**

**Include:**

Rent of home office and branch offices.

Rent for space occupied in buildings owned.

Light, heat, power and water charges in leased premises.

Interest, taxes, etc., paid in lieu of rent for leased premises.

Cost of alterations and repairs of leased premises.

Rent of storage, safekeeping and warehouse space.

Rent of safe deposit boxes.

Rent of post office boxes.

Time clock service charges.

Cost of cleaning, towels, ice, water, electric lamp replacements and other expenses incidental to office maintenance.

**Exclude:**

Compensation to employees (see Salaries).

Rent of furniture, equipment, and office machines (see Equipment).

Rent of automobiles (see Travel and Travel Items).

Rent allowed, reimbursed, or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Items includable in Real Estate Expenses.

Rent income from owned real estate.

#### 14. Equipment

##### Include:

Rent and repairs of furniture, equipment and office machines including printers' equipment, postage machines and punched card equipment.

Depreciation on furniture, equipment and office machines.

##### Exclude:

Compensation to employes (see Salaries).

Rent, repairs and depreciation of automobiles (see Travel and Travel Items).

Cost of alterations and repairs of leased premises (see Rent and Rent Items).

Equipment expenses allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Items includable in Real Estate Expenses.

#### 15. Printing and Stationery

##### Include cost of the following:

Printing, stationery and office supplies such as letterheads, envelopes, paper stock, printed forms or manuals, adding machine tape, carbon paper, binders and posts, photostatic copies, pencils, pens, leads, ink, glue, stamps and stamp pads, stapler, staples, clips and pins, desk top equipment (calendars, trays, etc.), waste baskets, analysis pads, ledgers, journals, minute books, etc.

Policies and policy forms.

Punch cards.

House organs and similar publications for the use of employes.

Books, newspapers and periodicals including investment, tax and legal publications and services.

##### Exclude:

Compensation to employes (see Salaries).

Specific payments to boards, bureaus and associations for rate manuals, revisions, fillers, rating plans and experience data (see Boards, Bureaus and Associations).

Cost of literature, booklets, placards, signs, etc., issued solely for accident and loss prevention (see Surveys and Underwriting Reports); items includable in Claim Adjustment Services; items includable in Advertising; printers' equipment in company owned printing departments (see Equipment); printing and stationery allowed, reimbursed or paid

to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents); house organs and similar publications distributed to others than employees (see Advertising); commercial reporting services (see Surveys and Underwriting Reports); and items includable in Real Estate Expenses.

16. Postage, Telephone and Telegraph, Exchange and Express

**Include:**

Express, freight and cartage.

Postage.

Cost of telephone and telegrams, cables, radiograms and teletype.

Bank charges for collection and exchange.

**Exclude:**

Compensation to employes (see Salaries).

Rent, repairs and depreciation of postage machines (see Equipment).

Postage, telephone, telegraph and express of employes while traveling (see Travel and Travel Items).

Postage, telephone and telegraph, exchange, and express allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Profits or losses resulting from exchange or remittances to Home Office by a United States Branch. Such profits or losses shall not be included in expenses.

Items includable in Real Estate Expenses.

Rent of post office boxes (see Rent and Rent Items).

17. Legal and Auditing

**Include:**

Legal retainers, fees and other legal expenses (except losses and salvage).

Auditing fees of independent auditors for examining records of home and branch offices.

Cost of services of tax experts.

Fees of investment counsel.

Registrar fees.

Custodian fees.

Trustees' fees.

Transfer agent fees.

Fees and expenses of others than employes, for collecting balances.

Notary fees.

**Exclude:**

Compensation to employes (see Salaries).

Expenses of salaried employes (see Travel and Travel Items).

Items includable in Claim Adjustment Services.

Items includable in Real Estate Expenses.

Cost of auditing of assureds' records (see Audit of Assureds' Records).

**18. Taxes, Licenses and Fees**

**a. State and Local Insurance Taxes**

**Include:**

State, county and municipal taxes, licenses and fees based upon premiums.

Fire Patrol assessments.

Payments to State Industrial (or other) Commissions for administration of Workmen's Compensation or other State Benefit Acts (including assessments for administering Financial Responsibility Laws) regardless of basis of assessment.

Net payments to State Security Funds, Reopened Case Funds, Second Injury Funds and other State Funds, when construed by the company as operating expenses, regardless of basis of assessment.

**Exclude:** Allowances for taxes under reinsurance contracts (see Commission and Brokerage-Reinsurance Assumed and Ceded).

**b. Insurance Department Licenses and Fees**

**Include:**

Agents' Licenses.

Certificates of authority, compliance, deposit, etc.

Filing fees.

Fees and expenses of examination by insurance departments or other governmental agencies.

**Exclude:** Items includable in Claim Adjustment Services.

**c. Payroll Taxes**

**Include:**

Old age benefit taxes.

Unemployment insurance taxes.

**Exclude:** Payroll taxes includable in Real Estate Taxes.

**d. All other (excluding Federal and Foreign Income and Real Estate)**

**Include:**

Qualifying bond premiums.

Statement publication fees.

Advertising required by law.

Personal property taxes.

State income taxes.

Capital stock taxes.

Business or corporation licenses or fees (not includable under a. or b. of this subparagraph).

Marine profits taxes.

Documentary stamps on reinsurance.

Any other taxes not assignable under a., b., and c. of this subparagraph and not otherwise excluded.

**Exclude:**

Cost of advertising required by law where more than minimum space required to comply with the law is taken. Such expense shall be included in Advertising.

Real estate taxes, licenses and fees (see Real Estate Taxes).

Items includable in Claim Adjustment Services.

Fees for automobile license plates (see Travel and Travel Items)

Federal and foreign income tax.

Sales taxes, etc., included on invoices of vendors. Such taxes are to follow allocation of cost of items purchased.

19. Real Estate Expenses

**Include:**

Salaries, wages and other compensation of janitors, caretakers, maintenance men and agents paid in connection with owned real estate.

Cost of operating and maintaining owned real estate.

Cost of insurance in connection with owned real estate.

Cost of advertising in connection with owned real estate.

20. Real Estate Taxes

**Include:** Taxes, licenses and fees on owned real estate.

21. Miscellaneous

**Include:** Expenses not listed as includable in other operating expense classifications, and not analogous thereto. Specifically, the following shall be included:

Cost of tabulating service when such service is rendered by outside organizations.

Amounts received and handled in accordance with the instruction "Income from Special Services".

Donations to organized charities.

Differences between actual amounts paid, and amounts apportioned in accordance with the instruction "Joint Expenses".

## 22. General Instructions in Connection With Operating Expense Classifications

### a. Joint Expenses

Whenever personnel or facilities are used in common by two or more companies, or whenever the personnel or facilities of one company are used in the activities of two or more companies, the expenses involved shall be apportioned in accordance with the regulations relating to Joint Expenses, and such apportioned expenses shall be allocated by each company to the same operating expense classifications as if the expenses had been borne wholly. Any difference between the actual amount paid, and the amount of such apportioned expenses shall be included in the operating expense classification "Miscellaneous".

This instruction does not apply to the allocation of the following, which are covered by separate instructions herein:

Reinsurance commission and allowances (see Commission and Brokerage-Reinsurance Assumed and Ceded).

Commission and brokerage paid to managers and agents (see Commission and Brokerage-Direct).

Allowances to managers and agents (see Allowances to Managers and Agents).

Expenses allocable in accordance with the instruction "Income from Special Services".

### b. Expenses for Account of Another

Whenever expenses are paid by one company for account of another, the payments shall not appear among the expenses reported by the former, and shall be included by the latter in the same expense classifications as if originally paid by it.

### c. Income from Special Services

Whenever an insurance company receives compensation for sales or services, such as loss adjustment or inspection not related to policies written by the company, and such compensation is not calculated as a joint expense reimbursement, the amount thereof shall be included in the operating expense classification "Miscellaneous". Where an insurance company pays the compensation, allocation shall be made to the expense classification dictated by the nature of the expense.

This instruction is of limited applicability and does not apply to the allocation of the following, which are covered by separate instructions herein:

Reinsurance commission and allowances (see Commission and Brokerage-Reinsurance Assumed and Ceded).

Expenses incurred for the benefit of companies in the same group or fleet. Such expenses are covered by the instruction "Joint Expenses".

### d. Analogous Items



The lists of expenses includable in the operating expense classifications are representative and do not exclude analogous items which are omitted from the lists.

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Injury to payments to employes—9  
Ink—16  
Inspection billed specifically—6  
Inspection bureaus—5  
Insurance, accident—9  
Insurance, automobile—10  
Insurance, burglary and robbery—10  
Insurance department examinations—18-b  
Insurance department licenses and fees—18-b  
Insurance, health—9-a  
Insurance, in connection with owned real estate—19  
Insurance, on office contents—10  
Insurance, operating expense classification—10  
Insurance, public liability—10  
Insurance, Retirement—9-a  
Insurance, workmen's compensation—9-a  
Interest, taxes, etc., paid in lieu of rent for leased premises—13

Investment counsel fees—17  
Joint expenses—21 and 22-a  
Journals—15  
Lawyers' expenses relating to claim adjustment—1-a  
Lawyers' fees and expenses—17  
Leased premises, cost of alterations and repairs—13  
Leased premises, interest, taxes, etc., paid in lieu of rent—13  
Leased premises, light, heat, power and water charges—13  
Leave pay for employes—8  
Ledgers—15  
Legal and auditing, operating expense classification—17  
Legal expenses relating to claim adjustment—1-a  
Legal expenses—17  
Legal societies, dues and subscriptions to—12  
Letterheads—15  
Licenses on owned real estate—20  
Licenses, taxes and fees—18  
License plates, automobile—12  
Life insurance for employes—9-a  
Light, heat, power and water charges in leased premises—13  
Literature for accident and loss prevention—6  
Literature for advertising purposes—4  
Local agents, payments to—2-a and 3  
Local insurance taxes—18-a  
Loss adjustment expenses—1  
Loss prevention billed specifically—6  
Loss prevention literature—6  
Loss prevention organizations—5  
Machines, depreciation, rent and repairs of—14; insurance of—10  
Mailing lists—4  
Maintaining owned real estate—19  
Managers, payments to—2-a and 3  
Maps relating to claim adjustment—1-a  
Maps and corrections—6  
Marine profits taxes—18-d  
Meals for employes while traveling—12  
Meals for guests—12  
Medals for agents—4  
Medical bills of employes—9-b  
Medical examinations relating to claim adjustment—1-a  
Medical examiners, services of, for underwriting purposes—6  
Medical testimony relating to claim adjustment—1-a  
Membership and policy fees—2-a  
Minute books—15  
Miscellaneous, operating expense classification—21  
Moral hazard, reports—6  
Municipal and county taxes, licenses and fees—18-a  
Newspapers, advertising in—4  
Newspapers, books, periodicals, etc., including investment, tax and legal publications and services—15  
Notary fees—17  
Notary fees relating to claim adjustment—1-a  
Nurse service to employes—9-b  
Office agents, payment to—2-a and 3  
Office machines, depreciation, rent and repairs of—14; insurance of—10  
Office maintenance expense—13  
Office rent—13  
Office supplies—15  
Old age benefit taxes—18-c  
Operating expenses of owned real estate—19  
Overtime—8  
Outings for employes—9-b  
Pamphlets, advertising in—4  
Paper in bills covering advertising—4  
Paper stock—15  
Payroll audit—7  
Payroll taxes—18-c  
Pencils and pens—15  
Pensions—9-a  
Periodicals, advertising in—4  
Periodicals, newspapers, books, etc., including investment, tax and legal publications and services—15  
Personal property taxes—18-d  
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Photographs relating to claim adjustment—1-a  
 Photostatic copies—15  
 Physical examinations of employes—9-b  
 Pins—15  
 Placards for accident and loss prevention—6  
 Plates in connection with advertising—4  
 Policies and policy forms—15  
 Policy and membership fees—2-e  
 Policy claims, investigation and adjustment—1-a  
 Pools and associations—5  
 Pool and quota share agreements—2-b and 2-c  
 Post office boxes, rent of—13  
 Postage machines—14  
 Postage expenses incurred by employes while traveling—12  
 Postage, telephone, telegraph, exchange and express, operating expense classification—16  
 Power, light, heat and water charges in leased premises—13  
 Premium cost of bonds relating to claim adjustment—1-a  
 Premium taxes, licenses and fees—18-a  
 Premiums for insurance on office contents—10  
 Presents and favors given to others than employes—12  
 Printed forms—15  
 Printers' equipment, rent, repairs and depreciation of—14; insurance of—10  
 Printing and stationery, operating expense classification—16  
 Printing and stationery relating to claim adjustment—1-a  
 Printing in bills covering advertising—4  
 Process, service of, relating to claim adjustment—1-a  
 Producers, payments to—2-a and 3  
 Profit commission—2-d  
 Programs, advertising in—4  
 Prospect lists—4  
 Public liability insurance premiums—10  
 Public relations counsel—4  
 Publication fees—18-d  
 Publications, advertising in—4  
 Publications such as house organs, for use of employes—15  
 Punch cards—16  
 Punched card equipment—14  
 Punched card services—21  
 Qualifying bond premiums—18-d  
 Quota share and pool agreements—2-b and 2-c  
 Radio broadcasts—4  
 Radiograms—16  
 Rate manual—5  
 Rating organizations—5  
 Rating plans—5  
 Real estate expenses, operating expense classification—19  
 Real estate taxes, operating expense classification—20  
 Regional agents, payments to—2-a and 3  
 Registrar fees—17  
 Reinsurance assumed, claim adjustment services—1-b  
 Reinsurance assumed, commission and brokerage—2-b  
 Reinsurance ceded, claim adjustment services—1-c  
 Reinsurance ceded, commission and brokerage—2-c  
 Rent and rent items, operating expense classification—13  
 Rent of furniture, equipment and office machines—14  
 Rent of automobiles—12  
 Reopened case funds—18-a  
 Repairs and alterations in leased premises—13  
 Repairs of automobiles—12  
 Repairs of furniture, equipment and office machines—14  
 Retirement allowances—9-a  
 Retirement insurance—9-a  
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 Salaries, operating expense classification—8  
 Salaries paid in connection with owned real estate—19  
 Second injury funds—18-a  
 Security funds—18-a  
 Service organizations—5  
 Services, tabulating, rendered by outside organizations—21  
 Sickness payments to employes—9  
 Signs for accident and loss prevention—6  
 Signs for agents—4

Solicitors, payment to—2-a and 3  
 Souvenirs for general distribution—4  
 Souvenirs not generally distributed—12  
 Social clubs, dues and subscriptions to—12  
 Space occupied in buildings owned—13  
 Stamp pads—15  
 Staples and staplers—15  
 State income taxes—18-d  
 State industrial commissions—18-a  
 State insurance taxes—18-a  
 State licenses and fees—18-b  
 State premium taxes, licenses and fees—18-a  
 State security funds—18-a  
 Statement publication fees—18-d  
 Stationery—15  
 Statistical services—21  
 Statistical agencies—5  
 Stenographers' fees relating to claim adjustment—1-a  
 Stock taxes—18-d  
 Storage, safekeeping and warehouse space, rent of—13  
 Subpoenas relating to claim adjustment—1-a  
 Subscriptions to accounting, legal, actuarial and similar societies—12  
 Subscriptions to social or civic clubs or affairs—12  
 Supper money—9-b  
 Surety bonds covering employees—10  
 Survey reports relating to claim adjustment—1-a  
 Surveys and underwriting reports, operating expense classification—6  
 Syndicates, underwriting—5  
 Tabulating services—21  
 Tax allowances, reinsurance—2-b and 2-c  
 Tax expert services—17  
 Taxes, interest, etc., paid in lieu of rent for leased premises—13  
 Taxes, licenses and fees, operating expense classification—18  
 Taxes, real estate—20  
 Telephone and telegraph—16  
 Telephone and telegraph expenses of employees while traveling—12  
 Teletype—16  
 Time clock service charges—13  
 Towels—13  
 Training of employees—9-b  
 Training pay of employees—8  
 Transcripts of testimony relating to claim adjustment—1-a  
 Transfer agents' fees—17  
 Transfer of employees—12  
 Transfer taxes—18-d  
 Transportation of guests—12  
 Transportation of employee—12  
 Travel and Travel Items, operating expense classification—12  
 Traveling expenses of employees—12  
 Trustees' fees—17  
 Underwriters' boards—5  
 Underwriting reports—6  
 Underwriting syndicates—5  
 Unemployment insurance taxes—18-c  
 Visiting nurse service—9-b  
 Wages paid in connection with owned real estate—19  
 Warehouse, storage and safekeeping space, rent of—13  
 Waste baskets—15  
 Water, light, heat and power in leased premises—13  
 Watchman expenses relating to claim adjustment—1-a  
 Weather reports relating to claim adjustment—1-a  
 Welfare of employees—9-b  
 Witnesses relating to claim adjustment—1-a  
 Workmen's compensation insurance—9-a

(2) PART II. (a) *Instructions relating to the allocation of joint expenses to companies.* 1. Joint Expenses a. Joint Expenses, as described in Ins 6.30 (1) (b) 22-a, shall be allocated to companies as follows:

<b>Expenses to be Allocated to Companies</b>	<b>Bases of Allocation to Companies</b>
Advertising	Premiums
Boards, Bureaus and Associations	Special Studies
Surveys and Underwriting Reports	Special Studies
Audit of Assureds' Records	Special Studies
Salaries	See Special Instructions Relating to the Allocation of Salaries and Other Expenses (Ins 6.30 (5))
Employee Relations & Welfare Insurance	Overhead on Salaries
Travel and Travel Items	Overhead on Salaries
Rent & Rent Items	Special Studies
Equipment	Overhead on Salaries
Printing and Stationery	Overhead on Salaries
Postage, Telephone and Telegraph, Exchange and Express	Overhead on Salaries
Legal and Auditing	Special Studies
Payroll Taxes	Overhead on Salaries
Miscellaneous	Special Studies

**b. Definitions**

The term Premiums used as basis of allocation means the allocation of expenses shall follow the percentages of applicable premiums.

The term Special Studies used as a basis of allocation means that expenses shall be analyzed and bases of allocation applied as dictated by that analysis.

The term Overhead on Salaries used as a basis of allocation means that the allocation of expenses shall follow the percentages of the applicable salaries allocation.

**c. Other Bases Permitted or Prescribed**

For those operating expense classifications permitting the basis, Overhead on Salaries or Premiums, any other basis of allocation may be adopted which yields more accurate results. The bases Overhead on Salaries and Premiums shall not be used if clearly inappropriate.

**d. Other Instructions Applicable**

In making any allocations of Joint Expenses, companies shall observe the General Instructions Regarding Allocation Bases (see Ins 6.30 (5) (a) 2.).

**e. Records Required**

The methods followed in allocating Joint Expenses shall be described, kept and supported as set forth under Detail of Allocation Bases (See Ins 6.30 (b) (a) 3-c).

The effects of the application, to each operating expense classification, of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

**f. Interim Allocations of Joint Expenses**

It is permissible to apportion expenses between companies during the year on the basis of methods and procedures other than those prescribed herein, provided allocations of corrected amounts, calculated in accordance with these instructions, are made in time for entry in the Annual Statement.

**(3) PART III. (a) INSTRUCTIONS RELATING TO THE COMPOSITION OF, AND ALLOCATION TO, EXPENSE GROUPS.**

**1. List of Expense Groups**

Expenses reported in the operating expense classifications shall be allocated to the following expense groups:

Investment Expenses.

Loss Adjustment Expenses.

Acquisition, Field Supervision and Collection Expenses.

Taxes.

General Expenses.

**2. Composition of the Expense Groups.**

The composition of each expense group shall be as follows:

**Investment Expenses**

Investment Expenses shall comprise all expenses incurred wholly or partially in connection with the investing of funds and the obtaining of investment income, including related expenses incurred in the following activities: initiating or handling orders and recommendations; doing research; pricing; appraising and valuing; paying and receiving; entering and keeping general and detail records; safe keeping; collecting, recording, calculating and accruing investment income; general clerical, secretarial, office maintenance, supervisory and executive duties; handling personnel, supplies, mail, etc.; and all other activities reasonably attributable to the investing of funds and the obtaining of investment income.

**b. Loss Adjustment Expenses**

Loss Adjustment Expenses shall comprise all expenses incurred wholly or partially in connection with the adjustment and recording of policy claims, including the totals of the operating expense classification, Claim Adjustment Services; the types of expenses included in Claim Adjustment Services, when the activities resulting in such types of expenses are performed by employees; and including related expenses incurred in the following activities: estimating amounts of claims; paying and receiving; entering and keeping general and detail records; general clerical, secretarial, office maintenance, supervisory and executive duties; handling personnel, supplies, mail, etc.; and all other activities reasonably attributable to the adjustment and recording of policy claims in connection with claims reported, paid, and outstanding, and reinsurance thereon.

**c. Acquisition, Field Supervision and Collection Expenses**

**Acquisition, Field Supervision and Collection Expenses** shall comprise all expenses incurred wholly or partially in the following activities:



Soliciting and procuring business and developing the sales field.

Writing policy contracts, and checking and directly supervising the work of policy writers.

Receiving and paying of premiums and commissions; entering into or setting up records of premiums and commissions receivable and payable for collection purposes; balancing and maintaining such records; corresponding with and visiting insureds and producers for the purpose of collecting premiums or adjusting differences; checking current accounts from producers; auditing of records of delinquent agents; and services of collection agencies. Do not include activities offices within the company.

Compiling and distributing expiration lists, notices of premiums due, lists of premiums or premium balances receivable and payable, contingent and other commission statements, production statements for acquisition and field supervision purposes, and similar data.

Maintaining good will of insureds and producers; activities of field men; contact work relating to acquisition, field supervision and collection; making contracts and agreements with producers; and activities in connection with agency appointments and replacements. Do not include: inspections of risks when carried on by personnel employed by the insurance company, engaged full time in physical inspection of risks and activities directly related thereto; audits for the purpose of premium determination; and activities in connection with the adjustment of policy claims.

Rendering service to agents and other producers, such as providing office space, personnel, telephone, etc., and obtaining agents' licenses.

Do not include fees paid for agents' licenses.

Advertising and publicity of every nature related to acquisition, field supervision and collection. In addition to applicable salaries, etc., include the entire amount shown in the operating expense classification, Advertising.

Miscellaneous activities of agents, brokers and producers other than employees, when performed by them: inspections; quoting premiums; signing policies; examining and mailing policies, applications and daily reports; compiling figures for current accounts; correspondence and sundry bookkeeping and clerical work.

Other activities reasonable attributable to those operations listed above, such as: keeping general and detail records; paying and receiving; general clerical, secretarial, office maintenance, supervisory and executive work; and handling personnel, supplies, mail, etc.

**Commission and Allowances:** When the whole or a part of any amount in the operating expense classifications Commission and Brokerage-Direct, and Allowances to Managers and Agents is paid specifically for services other than those set forth under Acquisition, Field Supervision and Collection Expenses, and when such services are not duplicated or otherwise compensated by the company, the amount thereof shall be allocated to expense groups other than Acquisition, Field Supervision and Collection, and such allocations shall be justified by detailed statements and data calculated and prepared in accordance with the methods described in these instructions showing amounts of expenditures properly allocated to expense groups and lines of business.

When Allowances to Managers and Agents represent a division of expenses shared with other companies, the aforementioned statements and data shall show the division of such shared expenses calculated and prepared in accordance with the methods prescribed in these instructions.

The calculation and preparation of the aforementioned statements and data shall be subject to verification and audit by insurance department personnel.

The instructions under the heading **Commission and Allowances** do not apply to Commission and Brokerage-Reinsurance Assumed, or Commission and Brokerage-Reinsurance Ceded.

d. Taxes

Taxes shall comprise the totals of the operating expense classification Taxes, Licenses and Fees.

e. General Expenses

General Expenses shall comprise all expenses not assignable by these instructions to other expense groups.

3. Allocation to Expense Groups

a. Expenses shall be allocated to expense groups as follows:

<b>Expenses to be Allocated to Expense Groups</b>	<b>Allocation to Expense Groups</b>
<b>Claim Adjustment Services:</b>	
Direct	Loss Adjustment Expenses
Reinsurance Assumed	Loss Adjustment Expenses
Reinsurance Ceded	Loss Adjustment Expenses
<b>Commission and Brokerage:</b>	
Direct	See Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Reinsurance Assumed	Acquisition, Field Supervision and Collection Expenses
Reinsurance Ceded	Acquisition, Field Supervision and Collection Expenses
Contingent-Net	Acquisition, Field Supervision and Collection Expenses
Policy and Membership Fees	Acquisition, Field Supervision and Collection Expenses
Allowances to Managers and Agents	See Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Advertising	Acquisition, Field Supervision and Collection Expenses
Boards, Bureaus and Associations	General Expenses
Surveys and Underwriting Reports	General Expenses
Audit of Assureds' Records	General Expenses
Salaries	See Special Instructions Relating to the Allocation of Salaries and Other Expenses (Ins 6.30 (5))
Employee Relations and Welfare	Overhead on Salaries
Insurance	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel and Travel Items	Special Studies

Rent and Rent Items	Overhead on Salaries
Equipment	Overhead on Salaries
Printing and Stationery	Overhead on Salaries
Postage, Telephone and Telegraph, Exchange and Express	Overhead on Salaries
Legal and Auditing	Special Studies
Taxes, Licenses and Fees	Taxes
Real Estate Expenses	Investment Expenses
Real Estate Taxes	Investment Expenses
Income from Special Services	Special Studies
Miscellaneous	Special Studies

b. Definitions

For definitions of the terms Overhead on Salaries and Special Studies, see Ins 6.30 (2) (a) 1-b.

c. Other Bases Permitted or Prescribed

For those operating expense classifications permitting the basis Overhead on Salaries, any other basis of allocation may be adopted which yields more accurate results. The basis Overhead on Salaries shall not be used if clearly inappropriate.

d. Other Instructions Applicable

In making any allocations to expense groups, companies shall observe the General Instructions Regarding Allocation Bases (see Ins 6.30 (5) (a) 2).

e. Records Required

The methods followed in allocating to expense groups shall be described, kept and supported as set forth under Detail of Allocation Bases (see Ins 6.30 (5) (a) 3-c).

The effects of the application to each operating expense classification of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

(4) PART IV. (a) INSTRUCTION RELATING TO ALLOCATION TO LINES OF BUSINESS.

1. Lines of Business. The lines of business for allocation of expenses shall be the following:

Fire and Allied Lines:

- Fire
- Extended Coverage
- Other
- Homeowners Multiple Peril
- Commercial Multiple Peril
- Ocean Marine
- Inland Marine
- Automobile Liability:
  - Bodily Injury (including medical payments coverage)
- Property Damage
- Automobile Physical Damage:
  - Fire, Theft and Comprehensive
  - Collision
- Workmen's Compensation

Liability Other than Automobile:  
 Bodily Injury  
 Property Damage  
 Fidelity  
 Surety  
 Glass  
 Burglary and Theft  
 Individual Accident and Health:  
 Accident only  
 Accident and Health  
 Hospital and Medical Expense  
 Group Accident and Health  
 Boiler and Machinery

## 2. Allocation of Expenses to Lines of Business

a. The allocation of expenses to lines of business shall be by expense groups. Each classification of expense within each expense group shall be allocated separately to lines of business on the bases of allocation prescribed as follows.

All bases employed in such allocations shall be applicable and appropriate to the expense group of which such expense is a part.

Example—Expenses which are allocated to lines of business as an Overhead on Salaries shall be calculated in relation only to the salaries included in the same expense group.

Expenses Included in the Expense Group, Loss Adjustment Expenses	Bases of Allocation to Lines of Business
Claim Adjustment Services:	
Direct	Actual
Reinsurance Assumed	Actual
Reinsurance Ceded	Actual
Commission and Brokerage-Direct	See Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Allowances to Managers and Agents	See Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Salaries	See Special Instructions Relating to the Allocation of Salaries and Other Expenses (Ins 6.30 (5))
Employee Relations and Welfare	Overhead on Salaries
Insurance	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel and Travel Items	Special Studies
Rent and Rent Items	Overhead on Salaries
Equipment	Overhead on Salaries
Printing and Stationery	Overhead on Salaries
Postage, Telephone and Telegraph, Exchange and Express	Overhead on Salaries
Legal and Auditing	Special Studies
Income from Special Services	Special Studies
Miscellaneous	Special Studies

<b>Expenses Included in the Expense Group, Acquisition, Field Supervision and Collection Expenses</b>	<b>Bases of Allocation to Lines of Business</b>
Commission and Brokerage:	
Direct	Actual, but Subject to Instructions under Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Reinsurance Assumed	Actual
Reinsurance Ceded	Actual
Contingent-Net	Special Studies
Policy and Membership Fees	Actual
Allowances to Managers and Agents	Special Studies, but Subject to Instructions under Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Advertising	Premiums
Salaries	See Special Instructions Relating to the Allocation of Salaries and Other Expenses (Ins 6.30 (5))
Employee Relations and Welfare Insurance	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel and Travel Items	Overhead on Salaries
Rent and Rent Items	Special Studies
Equipment	Overhead on Salaries
Printing and Stationery	Overhead on Salaries
Postage, Telephone and Telegraph, Exchange and Express	Overhead on Salaries
Legal and Auditing	Special Studies
Income from Special Services	Special Studies
Miscellaneous	Special Studies
<b>Expenses Included in the Expense Group, General Expenses</b>	<b>Bases of Allocation to Lines of Business</b>
Commission and Brokerage-Direct	See Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Allowances to Managers and agents	See Commission and Allowances (Ins 6.30 (3) (a) 2-c)
Boards, Bureaus and Associations	Special Studies
Surveys and Underwriting Reports	Special Studies
Audit of Assureds' Records	Special Studies
Salaries	See Special Instructions Relating to the Allocation of Salaries and Other Expenses (Ins 6.30 (5))
Employee Relations and Welfare Insurance	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel and Travel Items	Overhead on Salaries
Rent and Rent Items	Special Studies
Equipment	Overhead on Salaries
Printing and Stationery	Overhead on Salaries

Postage, Telephone and Telegraph, Exchange and Express	Overhead on Salaries
Legal and Auditing	Special Studies
Income from Special Services	Special Studies
Miscellaneous	Special Studies
<b>Expenses Included in the Expense Group, Taxes</b>	<b>Bases of Allocation to Lines of Business</b>
<b>Taxes, Licenses and Fees:</b>	
State and Local Insurance Taxes	Special Studies
Insurance Department Licenses and Fees	Special Studies
Payroll Taxes	Overhead on Salaries
All other (excluding Federal and foreign income and real estate)	Special Studies
b. Definitions	

The term Actual means that the expenses are susceptible of direct and accurate allocation, and companies shall allocate directly to lines of business and shall not employ any apportionments or estimations.

For definitions of the terms Special Studies, Premiums, and Overhead on Salaries, see Ins 6.30 (2) (a) 1-b.

c. Other Bases Permitted or Prescribed

For those expense classifications permitting the basis Overhead on Salaries or Premiums, any other basis of allocation may be adopted which yields more accurate results. The bases Overhead on Salaries and Premiums shall not be used if clearly inappropriate.

d. Other Instructions Applicable

In making any allocations to lines of business, companies shall observe the General Instructions Regarding Allocation Bases (see Ins 6.30 (5) (a) 2).

e. Records Required

The methods followed in allocating to lines of business shall be described, kept and supported as set forth under Detail of Allocation Bases (see Ins 6.30 (5) (a) 3-c).

The effects of the application to each operating expense classification of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

(5) PART V. (a) SPECIAL INSTRUCTIONS RELATING TO THE ALLOCATION OF SALARIES AND OTHER EXPENSES.

1. General Procedures in Allocating Salaries

a. Direct Allocations

Wherever possible, salaries of individuals or similarly employed groups shall be allocated direct to companies, expense groups, and lines of business. In other words, salaries of employes whose work is solely in connection with a specific company, expense group or line of business shall be allocated thereto.

b. Allocations Other Than Direct

When a direct allocation is not made, salaries, with certain exceptions hereinafter noted, shall be allocated on whichever of the following bases, or combinations thereof, are appropriate: Number of Items or Units, Time Studies, Overhead on Other Allocations, Premiums, Dollar Volume of Losses, and Other Special Studies.

All bases of allocation, and the application thereof, shall be subject to restrictions, modifications and exceptions in the General Instructions Regarding Allocation Bases which follow.

## 2. General Instructions Regarding Allocation Bases

### a. Number of Items or Units

Item and unit counts may include Number of Premium Entries, Number of Policies, Number of Loss Entries, Number of Accidents, Number of Employees, and any other unit or item counts which aid in the allocation of expenses. To the greatest practical extent, such unit or item counts shall be applied only to expenses incurred in activities having a direct relationship to the bases.

In determining the applicability of Number of Premium Entries as a basis of allocation, consideration shall be given to the number of premiums on original policies plus additional premiums, return premiums, reinsurance premiums, and return premiums on reinsurance. Where more than one card is punched or more than one entry is made covering only one amount, consideration shall be given procedural differences in connection with types of entries.

In determining the applicability of Number of Policies as a basis of allocation, consideration shall be given to policies underlying another policy, to policies covering more than one line of business, to policies for various terms, and to the effect on cost of procedural differences in connection with types of policies.

In determining the applicability of Number of Loss Entries as a basis of allocation, consideration shall be given to the number of gross entries plus salvage entries and reinsurance entries, for paid or outstanding losses, or both, and to the effect on cost of procedural differences in connection with types of loss entries.

In determining the applicability of Number of Accidents as a basis of allocation, consideration shall be given to accidents on which specific estimates are set up, those on which no specific estimate is made, and those for which no claim is made, and to the effect on cost of procedural differences in connection with types of accidents.

The basis Number of Employees is of limited application and shall be used only where the cost logically follows the number of employees. It may be of use, where properly weighted, in allocating such units as cafeteria, personnel department, and payroll department.

### b. Time Studies

Time studies are actual measurements of time required to make motions, to complete a routine of regularly occurring procedure. In contemplating the use of a time study as a basis of allocation, consideration shall be given to the number of motions which must be studied to obtain a valid average and to possible distortions in the average caused by exceptional conditions during the study.

c. Overhead on Other Allocations

Salaries of supervisors and executives may be distributed as an overhead on the salaries of employes whom they supervise. Salaries of departments such as mail and general stenographic may be distributed as an overhead on the salaries of people whose work is handled. However, no salaries shall be distributed as an overhead on other allocations if any other basis is more appropriate.

d. Premiums

Premiums shall not be used as a basis of allocation except when specifically noted as a permissible basis or when the expense is incurred as a percentage of premiums (subject to instructions under **Commission and Allowances** in Ins 6.30 (3) (a) 2-c), or when the expenses are logically allocable on the basis of premiums. In no event shall premiums be used as a basis of allocation in connection with clerical, technical, secretarial, office maintenance, supervisory and executive activities unless such basis is clearly appropriate and until all other reasonable bases of allocation have been considered and found less appropriate than premiums.

In determining the applicability of premiums as a basis of allocation, consideration shall be given to the applicability of direct and reinsurance premiums, and written, earned and unearned premiums, as well as to subdivisions thereof.

e. Dollar Volume of Losses

Dollar Volume of Losses shall be used as a basis of allocation only when the activities resulting in expense are influenced by the dollar amounts of losses, and only when all other reasonable bases of allocation have been considered and found less appropriate than Dollar Volume of Losses.

In determining the applicability of Dollar Volume of Losses as a basis of allocation, consideration shall be given to the applicability of direct and reinsurance losses, and paid, incurred and outstanding losses as well as to subdivisions thereof.

f. Other Special Studies

Salaries may be allocated on the basis of other special studies, provided demonstrably more accurate results are thereby produced than through the use of the bases heretofore discussed, but not otherwise.

g. Weightings

Weightings may be applied in using any bases of allocation but the justification for such weightings shall be stated in the Detail of Allocation Bases (see Ins 6.30 (5) (a) 3-c). Weightings shall not be used as a means for giving effect to a basis which is prohibited by these instructions.

h. Bases Shall be Appropriate

The bases of allocation used shall be appropriate and applicable to the expenses to which such bases are applied. All bases shall be limited and subdivided in such manner that the expenses to which the bases are applied have a reasonable relationship to each component of the bases. For example, an allocation basis which includes a particular line of business



shall not be applied to expenses incurred for activities which do not include that line.

Any basis of allocation which is found to be inappropriate shall be discontinued.

i. General Work on Totals

Where an individual or a group of employes work on totals, the allocation of the expenses involved may be based on the information entering into the totals.

j. Bases Shall Be Made in Current Period

All bases of allocation shall be compiled or calculated from the transactions or procedures for the period applicable to the expenses to be allocated, unless the use of any other period is justified by investigation made during the applicable period. Such justification shall be set forth on the Detail of Allocation Bases (see Ins 6.30 (5) (a) 3-c).

3. Special Statements and Records Required

The following types of records shall be prepared by each company or fleet in allocating salaries to companies, expense groups and lines of business: Allocation of Salaries, Recapitulation of Salaries, and Detail of Allocation Bases.

The Allocation of Salaries and the Recapitulation of Salaries shall be prepared either for the twelve months of the current calendar year, or for twelve months ending not earlier than September 30th of the current year, in which case the ratios established shall be applied to the total salaries for the twelve months of the current calendar year. The second method herein referred to shall not be followed if operations during the period used were materially different from operations during the period to which the ratios are to be applied. All amounts included in the operating expense classification Salaries, for the period used in preparing the Allocation of Salaries and the Recapitulation of Salaries shall be accounted for on such records.

Forms of the records are shown as Forms A through C at the close of Ins 6.30 (5). The forms may be of any convenient size, and may be entered in ink, type, or by other mechanical means, provided the entries are legible. If the organization or method of operation of any company is such as to make desirable changes in the forms such as a rearrangement of the columns, or a separation of the forms into two or more parts, such changes may be made, provided the substituted forms do not, in any respect, show less information than called for on the forms shown herein, and do not result in confusing the presentation of salary allocation.

Such records shall be maintained in good order and shall at all times be readily available for examination.

a. Allocation of Salaries Form

**First:** The form, Allocation of Salaries, is shown as Form A. To aid in the understanding of the form, specimen entries have been made thereon and, as further aids to understanding, each column is explained in the following paragraphs:

**Column 1:** List each similarly employed unit within each departmental or other division in the organization. By "similarly employed" is meant employed in essentially the same or similar activities in or for the same department or other division.

The personnel shall be divided into as many units as necessary to show each type of work done by each departmental or other division in the organization. Employees whose duties are not solely related to the work performed by one unit, such as some in supervisory positions, shall be listed separately by title or job classification.

**Column 2:** Gross salaries applicable to each unit shown in Column 1.

**Columns 3, 4 and 5:** These columns are for use when the Salaries classification is affected by allocations made to other companies.

A separate line is to be used for the allocation to each company or group of companies. When intercompany allocations are not made, or when quota share percentages can be applied to fleet totals, Columns 3, 4 and 5 need not be used.

Designating numbers shall be entered in Column 4 for the methods used in intercompany allocations.

**Column 6:** Designating numbers shall be entered in this column for the methods used in allocating salaries to expense groups.

**Columns 7 to 10:** The amounts assigned to each expense group shall be in accordance with the method shown in Column 6. At the side of each expense group column (except the column Investment Expenses) is shown a narrower column captioned "Line Dist.", wherein shall be entered designating numbers for the methods to be followed in distributing salaries to lines of business.

**Second: Pool and Quota Share Reinsurance.** When quota share reinsurance is in effect and when salaries may be allocated in strict accordance with the quota share percentages, the amounts shown in the Allocation of Salaries Form may be those subject to quota share. Quota share percentages may, in such cases, be applied to the totals either on the Allocation of Salaries or the Recapitulation of Salaries.

**Third: Branch and Field.** Branch office salaries shall be shown separately in the Allocation of Salaries and in the Recapitulation of Salaries. In combining branch employes into similarly employed units, it shall be permissible to consider as a unit all similarly employed personnel in all branch offices having similar functions, and handling approximately the same relative volume of each line of business.

**Fourth: Salary Reimbursements to Other Companies.** Due to expense sharing with another company, outside of the company or fleet, debits may appear in the salary accounts for reimbursements to outside companies. Such payments are to be shown under separate caption in the Allocation of Salaries. Where such payments amount to less than 10% of gross salaries paid by the company to its own employes, the amounts shown on the Allocation of Salaries may be distributed as an overhead on all other salary distributions. If more than 10%, the distribution shall be obtained from the other company.

**Fifth: Salaries Not Specifically Reimbursable.** When the employes of a company devote time to the affairs of another company, and the reimbursements therefor are handled in accordance with the instructions, Expenses for Account of Another or Income from Special Services (see Ins 6.30 (1) (b) 22-b and 22-c) the salaries for each similarly employed unit applicable to work done for such other company shall be shown separately on the Allocation of Salaries (in Columns 3 to 10 incl.).

**b. Recapitulation of Salaries Form**

When all distributions called for on the Allocation of Salaries Form have been completed, the Recapitulation of Salaries shall be made.

For each company to which salaries have been allocated on the Allocation of Salaries Form, the amounts shown in each expense group column shall be combined by the line distribution codes shown in the "Line Dist." columns. The totals thus obtained shall be entered on the Recapitulation of Salaries Form and allocated to lines of business in accordance with the line distribution codes.

The form, Recapitulation of Salaries, is shown in three parts, B-1, B-2, and B-3. B-1 is for Loss Adjustment Expenses, B-2 is for Acquisition, Field Supervision and Collection Expenses, and B-3 is for General Expenses. For purposes of illustration, the specimen entries, applicable to Company A, made on the Allocation of Salaries Form have been continued on the Recapitulation of Salaries Form. Note that, for Company A, the figures in the expense group columns on the Allocation of Salaries Form have been combined by "Line Dist." codes, entered on the Recapitulation of Salaries Form, and then spread to lines of business based on the "Line Dist." codes.

**c. Detail of Allocation Bases Form**

The bases of allocation used on the Allocation of Salaries Form shall be fully described on the Detail of Allocation Bases Form. There shall be a separate sheet for each basis and the sheets shall be kept in consecutive numerical order, available at all times for examination.

When the basis of allocation cannot be fully described on the form, subsidiary worksheets, compilations and data shall be either attached to the form or filed separately and readily available.

The Detail of Allocation Bases Form and all subsidiary worksheets, compilations and data shall be clear and legible; shall show the sources, detail and dates of all figures used; shall disclose the names of persons or groups responsible for all compilations, data, calculations, studies, estimates, judgment factors, weightings, etc., and the dates thereof; and, in general shall include complete explanations of all figures used and decisions made.

**Note:** The Detail of Allocation Bases Form need not be prepared each year, but with appropriate changes in supporting worksheets, etc., may remain current as long as the bases are in effect.

The Detail of Allocation Bases Form is identified as Form C and four illustrations of the form are shown. The allocation bases No. 1, 101, 105 and 501 shown on the Allocation of Salaries Form have been carried into the forms and specimen explanations given.

FORM A  
ALLOCATION OF SALARIES

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Title of Similarly Employed Units  (Each unit may comprise one or more individuals)	Gross Salaries	Allocation of Gross Salaries in Column 2 to Companies Including the Employing Company		Method of Allocation to Expense Groups	Investment Expenses  Amount	Loss Adjustment Expenses  Amount	Acquisition Field Supervision and Collection		General Expenses  Amount
		Company	Method of Allocation	Amount		Line Dist.	Amount	Line Dist.	Line Dist.
<b>General Accounting Dept.</b>									
Investment Records	\$ 3,000	A	#1	\$ 2,000			\$ 2,000		
		B		1,000			1,000		
Premium Tax Returns	6,000	A	#2	4,500				\$ 4,500	
		B		1,500					1,500
Internal Auditing	15,000	A	#3	10,000			1,000	\$ 4,000	4,000
		B		5,000			500	2,150	2,150
General Bookkeeping	30,000	A	#4	21,500			1,075	6,450	12,900
		B		8,500			425	2,550	5,100
Manager and Assistant	15,000	A	#5	10,500			1,155	2,940	5,880
		B		4,500			540	1,305	2,475

Note: Totals in Col. 5 for each similarly employed unit must equal amount in Col. 2.

FORM B  
RECAPITULATION OF SALARIES

Company AB-1 LOSS ADJUSTMENT EXPENSES

Allocation Bases (From "Line Dist." columns on Allocation of Salaries)	Total	Auto-	Auto-	Work-	Lia-	Glass	Burglary and Theft	Fire and Allied Lines	Home-owners Multiple Peril	Com-mercial Multiple Peril	Inland Marine	Ocean Marine	Fidelity	Surety	Boiler and Machinery	Acci-dent and Health	Other
		mobile Bodily Injury and Property Damage	mobile Physical Damage and Theft	men's Com-pen-sation	bility and Colli-sion ex. Auto												
#501	\$13,390	\$4,820		\$6,026	\$1,741	\$268	\$134							\$134	\$267		

Company A B-2 ACQUISITION, FIELD SUPERVISION AND COLLECTION EXPENSES

Allocation Bases (From "Line Dist." columns on Allocation of Salaries)	Total	Auto-	Auto-	Work-	Lia-	Glass	Burglary and Theft	Fire and Allied Lines	Home-owners Multiple Peril	Com-mercial Multiple Peril	Inland Marine	Ocean Marine	Fidelity	Surety	Boiler and Machinery	Acci-dent and Health	Other
		mobile Bodily Injury and Property Damage	mobile Physical Damage and Theft	men's Com-pen-sation	bility and Colli-sion ex. Auto												
#502	\$2,600	\$ 910		\$1,248	\$286	\$ 52	\$ 26							\$ 31	\$ 47		

Company A B-3 GENERAL EXPENSES

Allocation Bases (From "Line Dist." columns on Allocation of Salaries)	Total	Auto-	Auto-	Work-	Lia-	Glass	Burglary and Theft	Fire and Allied Lines	Home-owners Multiple Peril	Com-mercial Multiple Peril	Inland Marine	Ocean Marine	Fidelity	Surety	Boiler and Machinery	Acci-dent and Health	Other
		mobile Bodily Injury and Property Damage	mobile Physical Damage and Theft	men's Com-pen-sation	bility and Colli-sion ex. Auto												
#502	\$22,780	\$7,973		\$10,934	\$2,506	\$456	\$228					\$273	\$410				
#503	4,500	904		3,011	308	110	47						60	60			

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## WISCONSIN ADMINISTRATIVE CODE

## FORM C

## ILLUSTRATION 1

## DETAIL OF ALLOCATION BASES

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Company ALPHA GROUP Basis VALUE OF INVESTMENTS

Purpose INTERCOMPANY ALLOCATION

Number 1

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## EXPLANATION OF BASIS

Based on statement values of bonds and stocks owned (See memo of Allocation Committee 11/14/68)

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## APPLICATION OF BASIS

	1958	1959	1960	1961	1962
Company					
A.....	66½%				
B.....	33½%				

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FORM C

ILLUSTRATION 2

DETAIL OF ALLOCATION BASES

Company ALPHA GROUP

Basis DIRECT

Purpose ALLOCATION TO EXPENSE GROUPS

Number 101

EXPLANATION OF BASIS

Direct to Investment Expenses. This basis is applicable to the positions and units listed on the memo dated 11/14/58 from the Allocation Committee.

APPLICATION OF BASIS

Expense Groups	1958	1959	1960	1961	1962
<b>Company A</b>					
Investment Expenses .....	100%				
Loss Adjustment Expenses					
Acquisition, Field Supervision and Col- lection Expenses					
General Expenses					
<b>Company B</b>					
Investment Expenses .....	100%				
Loss Adjustment Expenses					
Acquisition, Field Supervision and Col- lection Expenses					
General Expenses					

## FORM C

## ILLUSTRATION 3

## DETAIL OF ALLOCATION BASES

Company ALPHA GROUP

Basis TIME ESTIMATE

Purpose ALLOCATION TO EXPENSE GROUP

Number 105

## EXPLANATION OF BASIS

This basis was made after a general analysis of the duties of the Internal Auditing unit of the General Accounting Department (See memo of Allocation Committee 11/15/58)

## APPLICATION OF BASIS

	1958	1959	1960	1961	1962
<b>Company A</b>					
Investment Expenses .....	10%				
Loss Adjustment Expenses .....	40%				
Acquisition, Field Supervision and Col- lection Expenses .....	10%				
General Expenses .....	4%				
<b>Company B</b>					
Investment Expenses .....	10%				
Loss Adjustment Expenses .....	43%				
Acquisition, Field Supervision and Col- lection Expenses .....	4%				
General Expenses .....	43%				



FORM C

ILLUSTRATION 4

DETAIL OF ALLOCATION BASES

Company ALPHA GROUP Basis NO. OF LOSS ENTRIES

Purpose ALLOCATION TO LINES OF BUSINESS

Number 501

EXPLANATION OF BASIS

The Allocation Committee, in consultation with Mr. Jones, General Adjuster, decided to allocate auditing and bookkeeping work, done in connection with losses, on the basis of number of loss entries, modified by certain weightings and discounts. Memo from the Allocation Committee dated 7/18/58, together with work sheet, tabulations, etc., are attached hereto.

APPLICATION OF BASIS

	1958	1959	1960	1961	1962
<b>Company A</b>					
Auto BI and PD .....	36%				
Auto Physical Damage and Theft .....					
Workmen's Compensation .....	45%				
Liability and Collision ex. Auto .....	13%				
Glass .....	2%				
Burglary and Theft .....	1%				
Fire and Allied Lines .....					
Homeowners Multiple Peril .....					
Commercial Multiple Peril .....					
Inland Marine .....					
Ocean Marine .....					
Fidelity .....	1%				
Surety .....	2%				
Boiler and Machinery .....					
Accident and Health .....					
Other .....					
<b>Total .....</b>	<b>100%</b>				
<b>Company B</b>					
Auto BI and PD .....					
Auto Physical Damage and Theft .....					
Workmen's Compensation .....					
Liability and Collision ex. Auto .....					
Glass .....	11%				
Burglary and Theft .....	7%				
Fire and Allied Lines .....					
Homeowners Multiple Peril .....					
Commercial Multiple Peril .....					
Inland Marine .....					
Ocean Marine .....					
Fidelity .....	23%				
Surety .....	59%				
Boiler and Machinery .....					
Accident and Health .....					
Other .....					
<b>Total .....</b>	<b>100%</b>				

History: Cr. Register, July, 1959, No. 43, off. 8-1-59.

**Ins 6.31 Interpretations of the instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. (1) PURPOSE.** (a) This rule is intended to implement and interpret uniform accounting instructions in Wis. Adm. Code section Ins 6.30.

1. The following kinds of expense shall be allocated to indicated operating expense classifications.

Kind of Expense	Allocation to Operating Expense Classification
a. Payments, based on a percentage of premiums or losses, to independent claim adjusters where none of the activities of the payees are concerned with the production of business-----	Claim Adjustment Services
b. Payments, based on a percentage of premiums or losses, to independent attorneys-at-law for investigation, adjustment and settlement of claims where none of the activities of the payees are concerned with the production of business-----	Claim Adjustment Services
c. Cost of cafeteria equipment-----	Equipment
d. Salaries paid in connection with the operation of a company cafeteria--	Salaries
e. Cost of food used in company cafeteria-----	Employee Relations and Welfare
f. Cost of food license fees in connection with the operation of a company cafeteria-----	Employee Relations and Welfare
g. Cost of telephone directory listings --	Postage, Telephone and Telegraph, Exchange and Express
h. Fees paid in connection with stockholders' meetings, such as fees to tellers and inspectors of elections	Legal and Auditing
i. Payment to an independent efficiency engineer for an inside on-the-job analysis of a company's operations and procedures -----	Legal and Auditing
j. Cost of credit reports on agents -----	Surveys and Underwriting Reports
k. Payment made in settlement of damage suit brought by an agent because of the termination of his contract -----	Miscellaneous
l. Premium for group life insurance coverage of janitor, in connection with company owned real estate -----	Real Estate Expenses
m. Cost of pensions, in connection with company owned real estate -----	Real Estate Expenses
n. Service fees for servicing real estate owned -----	Real Estate Expenses
o. Service fees for servicing of mortgages held-----	Legal and Auditing

- p. Cost of policy typing service, when such service is rendered by "outside" personnel (contract typists) ----- Miscellaneous
- q. Cost of "outside" special assistance employed by a company for the purpose of changing its filing system from a numerical arrangement to a digit system ----- Legal and Auditing

2. a. When contingent commission payments are large in number and small in average amount, a method of allocation based on the over-all profit in each line of business should yield reasonably correct allocations.

b. Company-owned automobiles and equipment may be depreciated on a 100% basis.

c. A company may carry company-owned automobiles and equipment as an asset (non-admitted) and deduct depreciation each year.

d. Handling of certain filing charges: Where a company sells a policy to a long haul firm and that firm requests that the insuring company make a "filing" with a State Commerce Commission in a state in which it is not licensed and another insurance company on behalf of the first insurance company actually issues the policy and makes the required filing, charging a nominal fee for the transaction, the company receiving the fee should credit it to "Direct Premiums" and the company paying the fee should charge it to "Direct Premiums."

3. The following kind of expense shall be allocated to the indicated expense group:

Kind of Expense	Allocation to Expense Group
All expenses includable in Taxes, Licenses and Fees	Taxes, licenses and fees applicable solely to investments should be allocated to the expense group, Investment Expenses. All other taxes, licenses and fees should be allocated to the expense group, Taxes

4. When commission on reinsurance is on a "sliding scale" or "guaranteed profit" basis both the tentative commission and any adjustments brought about by the "sliding scale" or "guaranteed profit" provisions should be allocated to Commission and Brokerage-Reinsurance Assumed or Commission and Brokerage-Reinsurance Ceded.

Note: To make clear the meaning of "sliding scale" and "guaranteed profits" the following is submitted:

**SLIDING SCALE CONTRACTS**

Most of these contracts provide for a flat commission ranging from about 30% to 37 1/2%, paid on a written basis. Additional profit commissions are paid at a later date on an earned basis as specified by a formula embodied in the contract. These profit commissions are paid as the result of savings in the loss ratio. A common provision is that 1/2% profit commission shall be paid for each 1% saving in the loss ratio. Sometimes a portion of the scale may provide for a "1 for 1" profit commission, i.e., a full 1% profit commission for each 1% saving in the loss ratio.

For example, a contract may provide for a flat commission of 35%, with a "1/2 for 1" profit commission to be paid the ceding company for any saving in the loss ratio under 55%, until the profit commission reaches 10%, or a total commission of 45%.

Some contracts provide for a possible "return commission." In the preceding example, if the loss ratio should exceed the breaking point of 55%, then the ceding company might have to pay a return commission to the reinsurer on a "1/2 for 1" basis until return commissions of, say, 5% have been returned, thus reducing the ultimate net commission from 35% to 30%. If the loss ratio should run under 35% or exceed 65%, then such saving or loss would ordinarily be carried forward to the computation for the following year.

#### GUARANTEED PROFIT CONTRACTS

The most common form of "surplus aid" is the "guaranteed profit" contract. Its principal characteristic is that it transfers unearned premium reserve from the ceding company to the reinsurer and results in an immediate increase in the ceding company's surplus by the amount of the tentative commissions received, but because all such tentative commissions are subject to return to the reinsurer, does not actually relieve the ceding company of risk. The ceding company still remains exposed to the same risk as before. It is in the position of paying two to five percent of the ceded premiums to induce a reinsurer to sign a contract which has no ultimate effect other than to reduce its surplus by two to five percent of these premiums.

Guaranteed profit contracts are often written in a form similar to a quota share or portfolio of reinsurance contract, or a combination of both. The tentative commission is ordinarily 45 or 50 percent. The reinsurer's fee is generally 2, 3, or 5 per cent of the amount ceded. Most quota-share type contracts are subject to monthly reporting and settlements. The contract usually provides for additional commissions to be increased by 1 per cent for each 1 per cent decrease in the loss ratio, and return commissions on the basis of 1 per cent for each 1 per cent increase in the loss ratio. An example follows:

Commissions .....	45%
Fee for reinsurer .....	3%
Loss ratio "breaking point" .....	52%
Total original premium .....	100%

In a situation similar to the one illustrated, the ceding company pays to the reinsurer the gross reinsurance premiums less 45% commissions, or a net 55%. As losses are determined they are paid by the reinsurer until the ceding company has received back from the reinsurer losses recovered in an aggregate amount equal to 52% of the original premiums ceded (55% less 3%). Any additional losses are immediately charged back to the ceding company as "return commissions" on a "1 for 1" basis. On the other hand, any saving under 52% is returned to the ceding company in the form of additional commissions. The ultimate effect on the ceding company is the loss of 3% of its ceded premiums. The ceding company actually carries its own full risk throughout the entire period with respect to its gross business.)

#### 5. Salvage and subrogation may be allocated as follows:

a. Where attention is given to salvage or subrogation matters at the same time as the adjustment of the loss is proceeding, no attempt will be made to allocate any portion of the adjuster's time to salvage (or subrogation) expense.

b. Where the salvage or subrogation activity follows the adjustment of the loss such additional time as may be required will be treated as salvage expense.

c. Any items of outside service such as advertising, expenses of outside organizations or rewards where paid by and billed to the company will be treated as salvage expense.

d. Cost of recovering stolen goods incurred by and billed to the company will be treated as salvage expense.

e. Where salvage is handled by outside agencies and their billing is made directly to the company, sufficient information should be given for proper classification of the related expenses.

f. It is understood that the classification of expenses as salvage expense is not dependent upon any salvage recovery.

6. a. The following employe activities should be allocated to expense groups on the basis of the purposes for which the tabulating, listing, filling or other jobs were performed: Cutting and verifying punched cards, sorting and tabulating punched cards, maintaining punched card files, and supervision thereof.

b. The salaries of the employes in service units, such as the following, providing services to other employes may be allocated to expense groups as overhead on the salaries of employes in all other departments except executive officers: Mailroom, Personnel, First aid, Telephone operation, Office maintenance and Receptionists.

c. If an appreciable part of the time of employes handling purchases and supplies is devoted to furnishing supplies to agents, such salaries may be allocated to expense groups on the basis of a time estimate. Allocate to General Expenses that part of the time spent in working on supplies for agents; allocate remainder as Overhead on Salaries of employes in all other departments except executives.

d. When files are maintained and serviced in a separate department or at a central location, the salaries of employes engaged in this activity may be allocated to expense groups on the basis of a time estimate. That portion of time spent on policy files (daily reports, applications, endorsements, etc.) and that portion of time spent on general correspondence files may be allocated to General Expenses; that portion of time spent on active claim files may be allocated to Loss Adjustment Expenses; that portion of time on inactive claim files (dead files) may be allocated to General Expenses.

e. When a central abstract department is maintained for the mechanical reproduction of premium abstracts and claim abstracts for use by other departments, the salaries of these employes may be charged on the basis of a time estimate. That portion of time spent on claim abstracts may be allocated to Loss Adjustment Expenses and that portion of time spent on premium abstracts to General Expenses.

f. If a company maintains a general accounting unit and a cashier's unit (the duties of which include keeping the general ledger, general journal and general cash books) and no apportionment to Investment Expenses, to Loss Adjustment Expenses, or to Acquisition, Field Supervision and Collection Expenses is possible, except by using a rough estimation which is little better than a guess, the company may allocate the total expenses of these units to General Expenses in view of the impossibility of making reasonable accurate apportionments to expense groups.

7. If the salary of a non-supervisory employe predominantly pertains to the activities of one expense group, the whole of such salary may be allocated to that expense group.

(Note: By this interpretation, many salaries may be allocated directly and without fractional apportionment. As examples: a branch office or home office employe who is primarily concerned with the collection of premiums may be allocated wholly to Acquisition, Field Supervision and Collection Expenses, even though a lesser part of his activities may pertain to General Expenses; a branch office or home office underwriter who is primarily concerned with the acceptability of risks, net retentions, quoting of rates, etc., may be allocated wholly to General Expenses, although he may also engage, in a lesser extent, in production work, pertaining to Acquisition, Field Supervision and Collection Expenses; a special agent working on the development and maintenance of the sales field may be allocated wholly to Acquisition, Field Supervision and Collection Expenses, although he may also be concerned, to a lesser extent, in the adjustment of losses; key punch and tabulating machine operators, whose work is primarily statistical, may be allocated wholly to General Expenses, although

the cards and tabulations may be used to some extent in collection and loss adjustment activities.)

8. The following describes an acceptable method of allocating to expense groups and lines of business the salaries of employes engaged in administrative and/or supervisor activities:

a. Salaries of executive heads, such as the president of a company, the chairman of a company's board, and their secretaries, ordinarily should be distributed to expense groups and lines of business as an Overhead on Salaries of supervised personnel, after an apportionment to Investment Expenses. If any other methods are used, the allocations must be supported by detailed analyses of activities.

b. Salaries of other executive officers, department heads and supervisors ordinarily should be allocated on the basis of a study of time spent on the affairs of each of the departments or units supervised and then these salaries should be allocated to expense groups and lines of business as Overhead on Salaries of the employes in the respective departments or units. If any other methods are used, the allocations must be supported by detailed analyses of activities.

9. Includable in the operating expense classification, Boards, Bureaus and Associations, are the following: "Dues, assessments, fees and charges of: . . . underwriting syndicates, pools and associations such as Factory Insurance Association, Oil Insurance Association, assigned risk plans (except Commission and Brokerage; Claim Adjustment Services; and Taxes, Licenses and Fees); . . ."

The foregoing instruction is applicable to all assigned risk plans and to the following syndicates, pools and associations:

American Cargo War Risk Reinsurance Exchange  
 American Foreign Insurance Association  
 American Marine Hull Syndicate  
 American Marine Insurance Syndicate of Insurance of Builders Risks  
 American Negative Film Syndicate  
 American Reinsurance Exchange  
 Associated Aviation Underwriters  
 Burlap Reinsurance Exchange  
 Coastwise, Great Lakes & Inland Hull Assn.  
 The Cotton Insurance Association  
 Cotton Marine Reinsurance Agreement  
 Eastern Intercoastal Cargo Reinsurance Exchange  
 Excess of Loss Association  
 Excise Bond Underwriters  
 Export Automobile Reinsurance Exchange  
 Factory Insurance Association  
 Furriers Customers' Reinsurance Syndicate  
 General Cover Underwriters Assn.  
 The Great Lakes Underwriting Syndicate  
 Inland Marine Reinsurance Assn.  
 Inland Marine Syndicate, Inc.  
 Inland Waterways Insurance Assn.  
 Lake P. & I. Reinsurance Agreement  
 Livestock Insurance Office  
 Logging Underwriting & Inspection Association  
 Multiple Location Service Office  
 Mutual Corporation Inter-Reinsurance Fund

Oil Insurance Association  
Railroad Insurance Association  
Railway Underwriters  
Registered Mail Central Bureau  
Reinsurance Clearing House  
Reinsurance Exchange  
Southern Reinsurance Exchange  
Stock Companies Association  
The Tugboat Underwriting Syndicate  
Underwriters Grain Association  
Underwriters Service Association

10. Dues or assessments of organizations includable in Boards, Bureaus and Associations, or in Surveys and Underwriting Reports, directly related to loss work are properly chargeable to the expense group, Loss Adjustment Expenses.

History: Cr. Register, July, 1959, No. 43, eff. 8-1-59.

**Ins 6.40 Proxies, consents and authorizations of domestic stock insurers.** (1) **APPLICATION OF RULE.** This rule is applicable to all domestic stock insurers having 100 or more stockholders; provided, however, that this rule shall not apply to any insurer if 95% or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than 500 stockholders. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities and Exchange Act of 1934 and the Securities and Exchange Acts amendments of 1964 and Regulation X-14 of the Securities and Exchange Commission promulgated thereunder shall be exempt from the provisions of this rule.

(2) **PROXIES, CONSENTS AND AUTHORIZATIONS.** No domestic stock insurer, or any director, officer or employe of such insurer subject to subsection (1), or any other person, shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any stock of such insurer in contravention of this rule.

(3) **DISCLOSURE OF EQUIVALENT INFORMATION.** Unless proxies, consents or authorizations in respect of a stock of a domestic insurer subject to subsection (1) are solicited by or on behalf of the management of such insurer from the holders of records of stock of such insurer in accordance with this rule prior to any annual or other meeting such insurer shall, in accordance with this rule and/or such further rules as the commissioner may adopt, file with the commissioner and transmit to all stockholders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.

(4) **DEFINITIONS.** (a) The definitions and instructions set out in schedule SIS—Stockholder Information Supplement (Wis. Adm. Code section Ins. 7.01 (24) (m)) shall be applicable for purposes of this rule.

(b) The terms "solicit" and "solicitation" for purposes of this rule shall include:

1. Any request for a proxy, whether or not accompanied by or included in a form of proxy; or
2. Any request to execute or not to execute, or to revoke, a proxy; or

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3. The furnishing of a proxy or other communication to stockholders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(c) The terms "solicit" and "solicitation" shall not include:

1. Any solicitation by a person in respect of stock of which he is the beneficial owner;

2. Action by a broker or other person in respect to stock carried in his name or in the name of his nominee in forwarding to the beneficial owner of such stock soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

3. The furnishing of a form of proxy to a stockholder upon the unsolicited request of such stockholder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(5) INFORMATION TO BE FURNISHED TO STOCKHOLDERS. (a) No solicitation subject to this rule shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in subsection (12).

(b) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of stockholders at which directors are to be elected, each proxy statement furnished pursuant to subsection (5) (a) shall be accompanied or preceded by an annual report (in preliminary or final form) to such stockholders containing such financial statements for the last fiscal year as are referred to in Schedule SIS—Stockholder Information Supplement (Wis. Adm. Code section Ins 7.01 (24) (m) under the heading "Financial Reporting to Stockholders." Subject to the foregoing requirements with respect to financial statements, the annual report to stockholders may be in any form deemed suitable by the management.

(c) Two copies of each report sent to the stockholders pursuant to subsection (5) shall be mailed to the commissioner not later than the date on which such report is first sent or given to stockholders or the date on which preliminary copies of solicitation material are filed with the commissioner pursuant to subsection (7) (a), whichever date is later.

(6) REQUIREMENTS AS TO PROXY. (a) The form of proxy 1. shall indicate in bold-face type whether or not the proxy is solicited on behalf of the management, 2. shall provide a specifically designated blank space for dating the proxy, and 3. shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or stockholders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to subsection (6) (c).

(b) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to



matters as to which a choice is not so specified if the form of proxy states in bold-face type how it is intended to vote the shares or authorization represented by the proxy in each such case.

(c) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(d) No proxy shall confer authority 1. to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or 2. to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date, on which the proxy statement and form of proxy are first sent or given to stockholders.

(e) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to subsection (6) (b) a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(f) The information included in the proxy statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements shall be clearly and legibly presented.

(7) MATERIAL REQUIRED TO BE FILED. (a) Two preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to stockholders concurrently therewith shall be filed with the commissioner at least 10 days prior to the date definitive copies of such material are first sent or given to stockholders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

(b) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to stockholders subsequent to the proxy statements shall be filed with the commissioner at least 2 days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of this material are first sent or given to stockholders or a shorter period prior to such date as the commissioner may authorize upon a showing of good cause therefor.

(c) Two definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to stockholders, shall be filed with, or mailed for filing to, the commissioner not later than the date such material is first sent or given to the stockholders.

(d) Where any proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, 2 of the copies shall be marked to clearly show such changes.

(e) Copies of replies to inquiries from stockholders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to subsection (7).

(f) Notwithstanding the provisions of subsections (7) (a) and (b) and (11) (e), copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the commissioner as required by subsection (7) (c) not later than the date such material is used or published. The provisions of subsection (7) (a) and (b) and subsection (11) (e) shall apply, however, to any reprints or reproductions of all or any part of such material.

(9) **FALSE OR MISLEADING STATEMENTS.** No solicitation subject to this rule shall be made by means of any proxy statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(10) **PROHIBITION OF CERTAIN SOLICITATIONS.** No person making a solicitation which is subject to this rule shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the stockholder.

(11) **SPECIAL PROVISIONS APPLICABLE TO ELECTION CONTESTS.** (a) *Applicability.* Subsection (11) shall apply to any solicitation subject to this rule by any person or group for the purpose of opposing a solicitation subject to this rule by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

(b) *Participant or participant in a solicitation.* 1. For purposes of subsection (11) the terms "participant" and "participant in a solicitation" include:

a. The insurer; b. Any director of the insurer, and any nominee for whose election as a director proxies are solicited; or c. Any other person, acting alone or with one or more other persons, committees or groups, in organizing, directing or financing the solicitation.

2. For the purposes of subsection (11) the terms "participant" and "participant in a solicitation" do not include:

a. A bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of stock and who is not otherwise a participant;

b. Any person or organization retained or employed by a participant to solicit stockholders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties;

c. Any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment;

3. Any person regularly employed as an officer or employe of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or

e. Any officer or director of, or any person regularly employed by any other participant, if such officer, director or employe is not otherwise a participant.

(c) *Filing of information required by subsection (13)*. No solicitation subject to subsection (11) shall be made by any person other than the management of an insurer unless at least 5 business days prior thereto, or such shorter period as the commissioner may authorize upon a showing of good cause therefor, there has been filed, with the commissioner by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified by subsection (13) and a copy of any material proposed to be distributed to stockholders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to stockholders should be deferred until the commissioner's comments have been received and complied with.

2. Within 5 business days after a solicitation subject to subsection (11) is made by the management of an insurer, or such longer period as the commissioner may authorize upon a showing of good cause therefor, there shall be filed with the commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by subsection (13).

3. If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to subsection (11) in opposition thereto, a statement in duplicate containing the information specified in subsection (13) shall be filed with the commissioner, by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

4. If, subsequent to the filing of the statements required by subsection (11) (c) 1, 2, and 3, additional persons become participants in a solicitation subject to this rule, there shall be filed with the commissioner, by or on behalf of each such person, a statement in duplicate containing the information specified by subsection (13) within 3 business days after such person becomes a participant, or such longer period as the commissioner may authorize upon a showing of good cause therefor.

5. If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the commissioner.

6. Each statement and amendment thereto filed pursuant to subsection (11) (c) shall be part of the public files of the commissioner.

(d) *Solicitations prior to furnishing required written proxy statement*. Notwithstanding the provisions of subsection (5) (a), a solicitation subject to subsection (11) may be made prior to furnishing stockholders a written proxy statement containing the information specified in subsection (12) with respect to such solicitation, provided that:

1. The statements required by subsection (11) (c) are filed by or on behalf of each participant in such solicitation.

2. No form of proxy is furnished to stockholders prior to the time the written proxy statement required by subsection (5) (a) is furnished to such persons; provided, however, that subsection (11) (d) 2 shall not apply where a proxy statement then meeting the requirements of subsection (12) has been furnished to stockholders.

3. At least the information specified in subparagraphs 2 and 3 of the statements required by subsection (11) (c) to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to stockholders in connection with the solicitation.

4. A written proxy statement containing the information specified in subsection (12) with respect to a solicitation is sent or given stockholders at the earliest practicable date.

(e) *Solicitations prior to furnishing required written proxy statement—filing requirements.* Two copies of any soliciting material proposed to be sent or given to stockholders prior to the furnishing of the written proxy statement required by subsection (5) (a) shall be filed with the commissioner in preliminary form at least 5 business days prior to the date definitive copies of such material are first sent or given to such persons, or shorter period as the commissioner may authorize upon a showing of good cause therefor.

(f) *Application of section Ins 6.40 (11) to report.* Notwithstanding the provisions of subsection (5) (b) and (c), 2 copies of any portion of the report referred to in subsection (5) (b) which comments upon or refers to any solicitation subject to subsection (11) or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the commissioner as proxy material subject to this regulation. Such portion of the report shall be filed with the commissioner in preliminary form at least 5 business days prior to the date copies of the report are first sent or given to stockholders.

(12) **INFORMATION REQUIRED IN PROXY STATEMENT.** (a) *Revocability of proxy.* State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

(b) *Dissenters' rights of appraisal.* Outline briefly the rights of appraisal or similar rights of dissenting stockholders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such stockholders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

(c) *Persons making solicitations not subject to section Ins 6.40 (11).*

1. If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

2. If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by

whom the cost of solicitation has been or will be borne, directly or indirectly.

3. If the solicitation is to be made by specially engaged employees or paid solicitors, state:

a. The material features of any contract or arrangement for such solicitation and identify the parties, and

b. The cost or anticipated cost thereof.

(d) *Interest of certain persons in matters to be acted upon.* Describe briefly any substantial interest, direct or indirect, by stockholdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

(e) *Stocks and principal stockholders.* 1. State, as to class of voting stock of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

2. Give the date as of which the record list of stockholders entitled to vote at the meeting will be determined. If the right to vote is not limited to stockholders of record on that date, indicate the conditions under which other stockholders may be entitled to vote.

(f) *Nominees and directors.* If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

1. Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.

2. State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last 5 years, unless he is now a director and was elected to his present term of office by a vote of stockholders at a meeting for which proxies were solicited under this regulation.

3. If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

4. State, as of the most recent practicable date, the approximate amount of each class of stock of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such stocks make a statement to that effect.

(g) *Remuneration and other transactions with management and others.* Furnish the information reported or required in item 1. of Schedule SIS—Stockholder Information Supplement (Wis. Adm. Code section Ins 7.01 (24) (m) under the heading "Information Regarding Management and Directors" if action is to be taken with respect to 1. the

election of directors, 2. any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate, 3. any pension or retirement plan in which any such person will participate, or 4. the granting or extension to any such person of any options, warrants or rights to purchase any stocks, other than warrants or rights issued to stockholders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than the management information shall be furnished only as to item I.A. of the aforesaid heading of Schedule SIS.

(h) *Bonus, profit sharing and other remuneration plans.* If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

1. A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

2. The amounts which would have been distributable under the plan during the last calendar year to a. each person named in subsection (12) (g), b. directors and officers as a group, and c. to all other employees as a group, if the plan had been in effect.

3. If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in subsection (12) (h) 2 the nature of such amendments should be specified.

(i) *Pension and retirement plan.* If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

1. A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

2. State:

a. The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period;

b. The estimated annual payment to be made with respect to current services; and

c. The amount of such annual payments to be made for the benefit of each person named in subsection (12) (g), directors and officers as a group, and employees as a group.

3. If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in subsection (12) (h) 2. c., the nature of such amendments should be specified.

(j) *Options, warrants, or rights.* If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred

to herein as "warrants") to purchase stock of the insurer or any subsidiary or affiliate, other than warrants issued to all stockholders on a pro rata basis, furnish the following information:

1. The title and amount of stock called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the stock called for or to be called for by the warrants, as of the latest practicable date.

2. If known, state separately the amount of stock called for or to be called for by warrants received or to be received by the following persons, naming each such person:

a. Each person named in subsection (12) (g), and

b. Each other person who will be entitled to acquire 5% or more of the stock called for or to be called for by such warrants.

3. If known, state also the total amount of stock called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

(k) *Authorization or issuance of stock.* 1. If action is to be taken with respect to the authorization or issuance of any stock of the insurer furnish the title, amount and description of the stock to be authorized or issued.

2. If the shares of stock are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

3. If the shares of stock to be authorized or issued are other than additional shares of common stock of a class outstanding, the commissioner may require financial statements comparable to those contained in the annual report.

(l) *Mergers, consolidations, acquisitions and similar matters.* 1. If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

a. The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting stockholders in order to perfect such rights.

b. The material features of the plan or agreement.

c. The business done by the company to be acquired or whose assets are being acquired.

d. If available, the high and low sales prices for each quarterly period within 2 years.

e. The percentage of outstanding shares which must approve the transaction before it is consummated.

2. For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

- a. A comparative balance sheet as of the close of the last 2 fiscal years.
- b. A comparative statement of operating income and expenses for each of the last 2 fiscal years and, as a continuation of each statement, a statement of earning per share after related taxes and cash dividends paid per share.
- c. A pro forma combined balance sheet and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

(m) *Restatement of accounts.* If action is to be taken with respect to the restatement of any asset, capital, or surplus of the insurer, furnish the following information:

1. State the nature of the restatement and the date as of which it is to be effective.
2. Outline briefly the reasons for the restatement and for the selection of the particular effective date.
3. State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

(n) *Matters not required to be submitted.* If action is to be taken with respect to any matter which is not required to be submitted to a vote of stockholders, state the nature of such matter, the reason for submitting it to a vote of stockholders and what action is intended to be taken by the management in the event of a negative vote on the matter by the stockholders.

(o) *Amendment of charter, by-laws, or other documents.* If action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

(13) INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION IN AN ELECTION CONTEST. (a) *Insurer.* State the name and address of the insurer.

(b) *Identity and background.* 1. State the following:

- a. Your name and business address.
- b. Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

2. State the following:

- a. Your residence address.
- b. Information as to all material occupations, positions, offices or employments during the last 10 years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

3. State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the



past 10 years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

4. State whether or not, during the past 10 years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this subparagraph need not be included in the proxy statement or other proxy soliciting material.

(c) *Interest in stock of the insurer.* 1. State the amount of each class of stock of the insurer which you own beneficially, directly or indirectly.

2. State the amount of each class of stock of the insurer which you own of record but not beneficially.

3. State with respect to the stock specified in subsection (13) (c) 1. and 2. the amounts acquired within the past 2 years and the dates of acquisition and the amounts acquired on each date.

4. If any part of the purchase price or market value of any of the stock specified in subsection (13) (c) 3. is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such stock, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

5. State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any stock of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

6. State the amount of stock of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

7. State the amount of each class of stock of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly or indirectly.

(d) *Further matters.* 1. Describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

2. Describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

3. State whether or not you or any of your associates have any arrangement or understanding with any person.

a. With respect to any future employment by the insurer or its subsidiaries or affiliates; or

b. With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(e) *Signature.* The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

(Date)

(Signature of participant or  
authorized representative

History: Cr. Register, November, 1965, No. 119, eff. 12-1-65.

**Ins 6.41 Insider trading of equity securities of domestic stock insurers.** (1) **DEFINITIONS.** (a) *Insurer* means any domestic insurance company with an equity security subject to the provisions of s. 611.31, Stats., and not exempt thereunder.

(b) *Officer* means a president, vice president, treasurer, actuary, secretary, controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers.

(c) *Equity security* means any stock or similar security; or any voting trust certificate or certificate of deposit for such a security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(d) *Securities held of record.* 1. For the purpose of determining whether the equity securities of an insurer are held of record by 100 or more persons, securities shall be deemed to be "held of record" by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to the following:

a. In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance with accepted practice shall be included as a holder of record.

b. Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.

c. Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

d. Securities held by 2 or more persons as co-owners shall be included as held by one person.

e. Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if such securities were registered, they would be held of record, under the provisions of this rule, by a lesser number of persons.

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f. Securities registered in substantially similar names where the insurer has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

2. Notwithstanding subdivision 1. above:

a. Securities held, to the knowledge of the insurer, subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided, however, that the insurer may rely in good faith on such information as is received in response to its request from a nonaffiliated insurer of the certificates or evidences of interest.

b. If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent the provisions of s. 611.31, Stats., the beneficial owners of such securities shall be deemed to be the record owners thereof.

(e) *Class* means all securities of an insurer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges.

(2) TRANSACTIONS EXEMPTED FROM THE OPERATION OF s. 611.31 (4) (b), STATS. Any acquisition or disposition of any equity security by a director or officer of an insurer within 6 months prior to June 27, 1965 (the effective date of s. 201.105 (2), 1965 Stats.) shall not be subject to the operation of s. 611.31 (4) (b), Stats.

(3) REGULATIONS UNDER s. 611.31 (4) (a), STATS. (a) *Filing of statements.* Initial statements of beneficial ownership of equity securities required by s. 611.31 (4) (a), Stats., shall be filed on the form prescribed by Wis. Adm. Code section Ins 6.42. Statements of changes in such beneficial ownership required by s. 611.31 (4) (a), Stats., shall be filed on the form prescribed by Wis. Adm. Code section Ins 6.43. All such statements shall be prepared and filed in accordance with the requirements of the applicable form.

(b) *Ownership of more than 10% of an equity security.* In determining, for the purpose of s. 611.31 (4) (a), Stats., whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of any equity security, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the insurer or a subsidiary of the insurer; except that for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this subsection (3) (b) a person acting in good faith may rely on the information contained in the latest annual statement form, prescribed by Wis. Adm. Code section Ins 7.01 (5), filed with the commissioner with respect to the amount of securities of a class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(c) *Disclaimer of beneficial ownership.* Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of s. 611.31, Stats., the beneficial owner of any equity securities covered by the statement.

(d) *Exemptions from s. 611.31 (4) (a) and (b), Stats.* 1. During the period of 12 months following their appointment and qualification, securities held by the following persons shall be exempt from s. 611.31 (4) (a) and (b), Stats.:

a. Executors or administrators of the estate of a decedent;

b. Guardians or committees for an incompetent; and

c. Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

2. After the 12-month period following their appointment or qualification the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under s. 611.31 (4) (a), Stats., and shall be liable for profits realized from trading in such securities pursuant to s. 611.31 (4) (b), Stats., only when the estate being administered is a beneficial owner of more than 10% of any class of equity security of an insurer subject to s. 611.31, Stats.

3. Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from s. 611.31 (4) (a) and (b), Stats., during the time they are held by the insurer.

(e) *Exemption from 611.31, Stats., of securities purchased or sold by odd-lot dealers.* Securities purchased or sold by an odd-lot dealer in odd lots so far as reasonably necessary to carry on odd-lot transactions or in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of s. 611.31, Stats., with respect to participation by such odd-lot dealer in such transactions.

(f) *Certain transactions subject to s. 611.31 (4) (a), Stats.* The acquisition or disposition of any transferable option, put, call, spread or straddle shall be deemed such a change in the beneficial ownership of the security to which such privilege relates as to require the filing of a statement reflecting the acquisition or disposition of such privilege. Nothing in this subsection (3) (f), however, shall exempt any person from filing the statements required upon the exercise of such option, put, call, spread or straddle.

(g) *Ownership of securities held in trust.* 1. Beneficial ownership of a security for the purpose of s. 611.31 (4) (a), Stats., shall include:

a. The ownership of securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust,

b. The ownership of a vested beneficial interest in a trust, and

c. The ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

2. Except as provided in subsection (3) (g) 3, beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of s. 611.31 (4) (a), Stats., where less than 20% in market value of the securities having a readily ascertainable market value held by such trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which reports would otherwise be required. Exemption is likewise accorded from s. 611.31 (4) (a), Stats., with respect to any obligation which would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust, where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption pursuant to this subsection (3) (g) 2. shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of s. 611.31 (4) (a), Stats.

3. In the event that 10% of any class of any equity security of an insurer is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in s. 611.31 (4) (a), Stats.

4. Not more than one report need be filed to report any holdings or with respect to any transaction in securities held by a trust, regardless of the number of officers, directors or 10% stockholders who are either trustees, settlors, or beneficiaries of a trust, provided that the report filed shall disclose the names of all trustees, settlors and beneficiaries who are officers, directors or 10% stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary.

5. As used in this subsection (3) (g) the "immediate family" of a trustee means:

- a. A son or daughter of the trustee, or a descendant of either,
- b. A stepson or stepdaughter of the trustees,
- c. The father or mother of the trustee, or an ancestor of either,
- d. A stepfather or stepmother of the trustee,
- e. A spouse of the trustee.

For the purpose of determining whether any of the foregoing relations exists, a legally adopted child of a person shall be considered a child of such person by blood.

6. In determining, for the purposes of s. 611.31 (4) (a), Stats., whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation.

7. No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under s. 611.31 (4) (a), Stats., with respect to his indirect interest in portfolio securities held by:

- a. A pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan,

b. A business trust with over 25 beneficiaries.

8. Nothing in this subsection (3) (g) shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date.

(h) *Exemption for small transactions.* 1. Any acquisition of securities shall be exempt from s. 611.31 (4) (a), Stats., where:

a. The person effecting the acquisition does not within 6 months thereafter effect any disposition, otherwise than by way of gift, of securities of the same class, and

b. The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of \$3,000 for any 6 months' period during which the acquisition occurs.

2. Any acquisition or disposition of securities by way of gift, where the total amount of such gifts does not exceed \$3,000 in market value for any 6 months' period, shall be exempt from s. 611.31 (4) (a), Stats., and may be excluded from the computations prescribed in subsection (3) (h) 1.b.

3. Any person exempted by subsection (3) (h) 1. or 2. shall include in the first report filed by him after a transaction within the exemption a statement showing his acquisitions and dispositions for each 6 months' period or portion thereof which has elapsed since his last filing.

(i) *Exemption from s. 611.31 (4) (b), Stats., of transactions which need to be reported under s. 201.105 (1), Stats.* Any transaction which has been or shall be exempted from the requirements of s. 611.31 (4) (a), Stats., shall, insofar as it is otherwise subject to the provisions of s. 611.31 (4) (b), Stats., be likewise exempted from s. 611.31 (4) (b), Stats.

(4) RULES UNDER S. 611.31 (4) (b), STATS. (a) *Exemption from s. 611.31 (4) (b), Stats., of certain transactions effected in connection with a distribution.* 1. Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of s. 611.31 (4) (b), Stats., to the extent specified in this subsection (4) (a) as not comprehended within the purpose of s. 611.31 (4) (b), Stats., upon the following conditions:

a. The person effecting the transaction is engaged in the business of distributing securities and in participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

b. The security involved in the transaction is a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the insurer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities; or a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

c. Other persons not within the purview of s. 611.31 (4) (b), Stats., are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of s. 611.31 (4) (b), Stats., by this subsection (4) (a). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this subsection (4) (a).

2. The exemption of a transaction pursuant to this subsection (4) (a) with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this subsection (4) (a).

(b) *Exemption from s. 611.31 (4) (b), Stats., of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans.* Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or a stock option pursuant to an employe stock purchase plan, by a director or officer of an insurer issuing such stock or stock option shall be exempt from the operation of s. 611.31 (4) (b), Stats., if the plan meets the following conditions:

1. The plan has been approved, directly or indirectly,

a. By the affirmative votes of the holders of a majority of the securities of such insurer present, or represented, and entitled to vote at a meeting held in accordance with the applicable laws of the state of Wisconsin, or

b. By the written consent of the holders of a majority of the securities of such insurer entitled to vote: provided, however, that if such vote or written consent was not solicited substantially in accordance with Wis. Adm. Code section Ins 6.40 in effect at the time of such vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by any such rules and regulations so prescribed and in effect at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of the date s. 611.31, Stats., first applies to such insurer; or the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purposes of subsection (4) (b) 1. b., the term "insurer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

2. If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employe stock purchase plan stock options may be granted pursuant to the plan, or the

determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employe stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

a. With respect to the participation of directors

1) By the board of directors of the insurer, a majority of which board and a majority of the directors acting in the matter are disinterested persons;

2) By, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

3) Otherwise in accordance with the plan, if the plan specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employe stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

b. With respect to the participation of officers who are not directors

1) By the board of directors of the insurer or a committee of 3 or more directors; or

2) By, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons. For the purpose of this subsection (4) (b) 2., a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employe stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employe stock purchase plan stock options of the insurer or any of its affiliates.

c. The provisions of this subsection (4) (b) 2. shall not apply with respect to any option granted, or other equity security acquired, prior to June 27, 1965.

3. As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted, or employe stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by



participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

4. Unless the context otherwise requires, all terms used in this subsection (4) (b) shall have the same meaning as in s. 611.31, Stats., and in subsection (1). In addition, the following definitions apply:

a. The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

b. The definition of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in sections 442 and 423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in this subsection (4) (b). The term "restricted stock option" as defined in section 424 (b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in this subsection (4) (b), provided, however, that for the purposes of this subsection (4) (b) an option which meets all of the conditions of section 424 (b) of the Internal Revenue Code of 1954, as amended, other than the date of issuance shall be deemed to be a "restricted stock option."

(c) *Exemption from s. 611.31 (4) (b), Stats., of certain transactions in which securities are received by redeeming other securities.* Any acquisition of an equity security (other than a convertible security or right to purchase a security) by a director or officer of the insured issuing such security shall be exempt from the operation of s. 611.31 (4) (b), Stats., upon condition that

1. The equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or government bonds) consist of securities of the insurer issuing the equity security so acquired, and which

a. Represented substantially and in practical effect a stated or readily ascertainable amount of such equity security,

b. Had a value which was substantially determined by the value of such equity security, and

c. Conferred upon the holder the right to receive such equity security without the payment of any consideration other than the security redeemed;

2. No security of the same class as the security redeemed was acquired by the director or officer within 6 months prior to such redemption or is acquired within 6 months after such redemption;

3. The insurer issuing the equity security acquired has recognized the applicability of subsection (4) (c) 1. by appropriate corporate action.

(d) *Exemption of long term profits incident to sales within 6 months of the exercise of an option.*

1. To the extent specified in subsection (4) (d) 2., the commissioner hereby exempts as not comprehended within the purposes of s. 611.31 (4) (b), Stats., any transaction or transactions involving the purchase

and sale, or sale and purchase, of any equity security where such purchase is pursuant to the exercise of an option or similar right either acquired more than 6 months before its exercise; or acquired pursuant to the terms of an employment contract entered into more than 6 months before its exercise.

2. In respect of transactions specified in subsection (4) (d) 1. the profits inuring to the insurer shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within 6 months before or after the date of sale. Nothing in this subsection (4) (d) shall be deemed to enlarge the amount of profit which would inure to such insurer in the absence of this subsection (4) (d).

3. The commissioner also hereby exempts, as not comprehended within the purposes of s. 611.31 (4) (b), Stats., the disposition of a security, purchased in a transaction specified in subsection (4) (d) 1., pursuant to a plan or agreement for merger or consolidation, or reclassification of the insurer's securities, or for the exchange of its securities for the securities of another person which has acquired its assets, or which is in control, as defined in section 368 (c) of the Internal Revenue Code of 1954, of a person which has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings.

4. The exemptions provided by this subsection (4) (d) shall not apply to any transaction made unlawful by s. 611.31 (4) (c), Stats., or by any rules and regulations thereunder.

5. The burden of establishing market price of a security for the purpose of this subsection (4) (d) shall rest upon the person claiming the exemption.

(e) *Exemption from s. 611.31 (4) (b), Stats., of certain acquisitions and dispositions of securities pursuant to merger or consolidations.* 1. The following transactions shall be exempt from the provisions of s. 611.31 (4) (b), Stats., as not comprehended within its purpose:

a. The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

b. The disposition of a security, pursuant to a merger or consolidation of an insurer which, prior to said merger or consolidation, owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

c. The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, held over 85% of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

d. The disposition of a security, pursuant to a merger or consolidation, of an insurer which, prior to said merger or consolidation, held over 85% of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to merger or consolidation, as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

2. A merger within the meaning of this subsection (4) (e) shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.

3. Notwithstanding the foregoing, if an officer, director or stockholder shall make any purchase (other than a purchase exempted by this subsection (4) (e)) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this subsection (4) (e)) of a security in any other company involved in the merger or consolidation within any period of less than 6 months during which the merger or consolidation took place, the exemption provided by this subsection (4) (e) shall be unavailable to such officer, director, or stockholder.

(f) *Exemption from s. 611.31 (4) (b), Stats., of certain securities received upon surrender of similar equity securities.* Any receipt by a person from an insurer of shares of stock of a class having general voting power, upon the surrender by such person of an equal number of shares of stock of the insurer of a class which does not have general voting power, pursuant to provisions of the insurer's certificate of incorporation, for the purpose of and accompanied simultaneously or followed immediately by the sale of the shares so received, shall be exempt from the operation of s. 611.31 (4) (b), Stats., as a transaction not comprehended within its purpose, if the following conditions exist:

1. The person so receiving such shares is not an officer or director, or the beneficial owner, directly or indirectly, immediately prior to such receipt, of more than 10% of an equity security of the insurer;

2. The shares surrendered and the shares issued upon such surrender shall be of classes which are freely transferable and entitle the holders thereof to participate equally per share in all distributions of earnings and assets;

3. The surrender and issuance are made pursuant to provisions of a certificate of incorporation which requires that the shares issued upon such surrender shall be registered upon issuance in the name of a person or persons other than the holder of the shares surrendered and may be required to be issued as the right only in connection with the public offering, sale and distribution of such shares and the immediate sale by such holder of such shares for that purpose, or in connection with a gift of such shares;

4. Neither the shares so surrendered nor any shares of the same class, nor other shares of the same class as those issued upon such surrender, have been or are purchased (otherwise than in a transaction exempted by this subsection (4) (f)), by the person surrendering such shares, within 6 months before or after such surrender or issuance.

(g) *Exemption from s. 611.31 (4) (b), Stats., of certain transactions involving an exchange of similar securities.* Any acquisition or disposition of securities made in an exchange of shares of a class (or series thereof) of stock of an insurer for an equivalent number of shares of another class (or series thereof) of stock of the same insurer, pursuant to a right of conversion under the terms of the insurer's articles of incorporation or other governing instruments shall be exempt from the operation of s. 611.31 (4) (b), Stats., if

1. The shares surrendered and those acquired in exchange therefor evidence substantially the same rights and privileges except that, pursuant to the provisions of the insurer's articles of incorporation or other governing instruments, the board of directors may declare and pay a lesser dividend per share on shares of the class surrendered than on shares of the class acquired in exchange therefor, or may declare and pay no dividend on shares of the class surrendered; and

2. The transaction was effected in contemplation of a public sale of the shares acquired in the exchange; provided that this subsection (4) (g) shall not be construed to exempt from the operation of s. 611.31 (4) (b), Stats., any purchase or sale of shares of the class surrendered and any sale or purchase of shares of the class acquired in the exchange (otherwise than in the transaction of exchange exempted by this subsection (4) (g)) within a period of less than 6 months.

(5) *REGULATIONS UNDER S. 611.31 (4) (C), STATS. (a) Exemption of certain securities from s. 611.31 (4) (c), Stats.* Any security shall be exempt from the operation of s. 611.31 (4) (c), Stats., to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he has no direct or indirect interest.

(b) *Exemption from s. 611.31 (4) (c), Stats., of certain transactions effected in connection with a distribution.* Any security shall be exempt from the operation of s. 611.31 (4) (c), Stats., to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

1. The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

2. Other persons not within the purview of s. 611.31 (4) (c), Stats., are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of s. 611.31 (4) (c), Stats., by this subsection (5) (b). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this subsection (5) (b).

(c) *Exemption from s. 611.31 (4) (c), Stats., of sales of securities to be acquired.* 1. Whenever any person is entitled, as an incident to his

ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired shall be exempt from the operation of s. 611.31 (4) (c), Stats., provided that:

a. The sale is made subject to the same conditions as those attaching to the right of acquisition, and

b. Such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures, and

c. Such person reports the sale on the appropriate form for reporting transactions by persons subject to s. 611.31 (4) (a), Stats.

2. This subsection (5) (c) shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when-issued" or "when-distributed" security, if the 2 transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him pursuant to his right of acquisition.

(6) REGULATION UNDER S. 611.31 (4) (e), STATS. (a) *Arbitrage transactions under s. 611.31 (4) (e), Stats.* It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of such insurer, unless he shall include such transaction in the statements required by s. 611.31 (4) (a), Stats., and shall account to such insurer for the profits arising from such transaction, as provided in s. 611.31 (4) (b), Stats. The provision of s. 611.31 (4) (c), Stats., shall not apply to such arbitrage transactions. The provisions of s. 611.31, Stats., shall not apply to any bona fide foreign or domestic arbitrage insofar as it is effected by any person other than such director or officer of the insurer.

**Note:** Copies of UNITED STATES CODE, title 26, Internal Revenue Code of 1954 as amended to date of adoption of the above section sections 368(c), 422, 423 and 424(b), are available for inspection at the office of the Insurance Department, the Secretary of State, and the Revisor of Statutes, or the code may be procured for personal use from the U. S. Government Printing Office, Washington, D. C.

**History:** Cr. Register, August, 1966, No. 128, eff. 9-1-66; am. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) (d) 2., Register, March, 1979, No. 279, eff. 4-1-79.

#### **Ins 6.42 Initial statement of beneficial ownership of securities.**

(1) **PERSONS REQUIRED TO FILE STATEMENTS.** A statement on Form 3 (shown at the end of this rule) of initial statement of beneficial ownership of securities is required to be filed by every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance company, or who is a director of an officer of such a company.

(2) **WHEN STATEMENTS ARE TO BE FILED.** (a) Beginning September 1, 1966, persons who hold any of the relationships specified in subsection (1) are required to file a statement within 10 days after assuming such relationship. Statements are not deemed to have been filed with the commissioner until they have actually been received by him.

(b) Persons who held any of the relationships specified in subsection (1) as of January 31, 1966, or who assumed such relationship(s) during the period of January 31, 1966, through August 31, 1966, are required to file such initial statement of beneficial ownership of securities by September 10, 1966.

(3) **WHERE STATEMENTS ARE TO BE FILED.** One signed copy of each statement shall be filed with the commissioner of insurance, 123 West Washington Avenue, Madison, Wisconsin 53702.

(4) **SEPARATE STATEMENT FOR EACH COMPANY.** A separate statement shall be filed with respect to the securities of each company.

(5) **RELATION OF REPORTING PERSON TO COMPANY.** Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial owner of more than 10% of the company's stock", etc.

(6) **DATE AS OF WHICH BENEFICIAL OWNERSHIP IS TO BE GIVEN.** The information as to beneficial ownership of securities shall be given as of January 31, 1966, or, in the case of persons who subsequently assume any of the relationships specified in subsection (1), as of the date that relationship was assumed.

(7) **TITLE OF SECURITY.** The statement of the title of a security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock".

(8) **NATURE OF OWNERSHIP.** Under "Nature of ownership", state whether ownership of the securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate, in a footnote or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

(9) **STATEMENT OF AMOUNT OWNED.** In stating the amount of securities beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, the entire amount of securities owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote, or other appropriate manner, the extent of his interest in the partnership, corporation, trust or other entity.

(10) **INCLUSION OF ADDITIONAL INFORMATION.** A statement may include any additional information or explanation deemed relevant by the person filing the statement.

(11) **SIGNATURE.** If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

**History:** Cr. Register, August, 1966, No. 128, eff. 9-1-66; am. Register, September, 1976, No. 249, eff. 10-1-76.

State of Wisconsin

Commissioner of Insurance

Form 3

**INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF SECURITIES**

(Filed pursuant to Wisconsin Administrative Code section Ins 6.42)

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(Name of insurance company)

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(Name of person whose ownership is reported)

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(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See Ins 6.42 (5))

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Date of event which requires the filing of this statement. (See Ins 6.42 (6))

**Securities Beneficially Owned**

Title of Security (See Ins 6.42 (7))	Nature of Ownership (See Ins 6.42 (8))	Amount Owned Beneficially (See Ins 6.42 (9))
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Remarks: (See Ins 6.42 (10))

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Date of statement

Signature

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**Ins 6.43 Statement of changes in beneficial ownership of securities.** (1) **PERSONS REQUIRED TO FILE STATEMENTS.** Statements on Form 4 (shown at the end of this rule) of changes in beneficial ownership of securities are required to be filed by every person who at any time during any calendar month was directly or indirectly the beneficial owner of more than 10% of any class of equity security of a domestic stock insurance company, or by a director or officer of the company which is the issuer of such securities, and who during such month had any change in his beneficial ownership of any class of equity security of such company.

(2) **WHEN STATEMENTS ARE TO BE FILED.** (a) Beginning September 1, 1966, statements are required to be filed on or before the 10th day after the end of each month in which any change in beneficial ownership has occurred. Statements are not deemed to have been filed with the commissioner until they have actually been received by him.

(b) Statements for each month for the period January 31, 1966, through August 31, 1966, in which any changes in beneficial ownership have occurred shall be filed by September 10, 1966.

(3) **WHERE STATEMENTS ARE TO BE FILED.** One signed copy of each statement shall be filed with the commissioner of insurance, 123 West Washington Avenue, Madison, Wisconsin 53702.

(4) **SEPARATE STATEMENTS FOR EACH COMPANY.** A separate statement shall be filed with respect to the securities of each company.

(5) **RELATIONSHIP OF REPORTING PERSON TO COMPANY.** Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial owner of more than 10% of the company's common stock", etc.

(6) **TRANSACTIONS AND HOLDINGS TO BE REPORTED.** Every transaction shall be reported even though purchases and sales during the month are equal or the change involves only the nature of ownership; for example, from direct to indirect ownership. Beneficial ownership at the end of the month of all classes of securities required to be reported shall be shown even though there has been no change during the month in the ownership of securities of one or more classes.

(7) **TITLE OF SECURITY.** The statement of the title of the security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock".

(8) **DATE OF TRANSACTION.** The exact date (month, day and year) of each transaction shall be stated opposite the amount involved in the transaction.

(9) **STATEMENT OF AMOUNTS OF SECURITIES.** In stating the amount of the securities acquired, disposed of, or beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, i.e., through a partnership, corporation, trust or other entity, the entire amount of securities involved in the transaction or owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote, or other appropriate manner, the extent of his interest in the transaction or holdings of the partnership, corporation, trust or other entity.



(10) **NATURE OF OWNERSHIP.** Under "Nature of ownership", state whether ownership of the securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate in a footnote, or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and from those owned through a different type of indirect ownership.

(11) **CHARACTER OF TRANSACTION.** If the transaction was with the issuer of the securities, so state. If it involved the purchase of securities through the exercise of options, so state and give the exercise price per share. If any other purchase or sale was effected otherwise than in the open market, that fact shall be indicated. If the transaction was not a purchase or sale, indicate its character; for example, gift, 5% stock dividend, etc., as the case may be. The foregoing information may be appropriately set forth in the table or under "Remarks" at the end of the table.

(12) **INCLUSION OF ADDITIONAL INFORMATION.** A statement may include any additional information or explanation deemed relevant by the person filing the statement.

(13) **SIGNATURE.** If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

State of Wisconsin  
Commissioner of Insurance

Form 4

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP  
OF SECURITIES**

(Filed pursuant to Wisconsin Administrative Code section Ins 6.43)

\_\_\_\_\_  
(Name of insurance company)

\_\_\_\_\_  
(Name of person whose ownership is reported)

\_\_\_\_\_  
(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See Ins 6.43 (5))

\_\_\_\_\_  
Statement of Calendar Month of \_\_\_\_\_, 19 \_\_\_\_

**Changes During Month and Month-End Ownership (See Ins 6.43 (6))**

Title of Security	Date of Transaction	Amount Bought or otherwise acquired	Amount Sold or otherwise disposed of	Nature of Ownership	Amount Owned beneficially at end of month
Ins 6.43 (7)	6.43 (8)	6.43 (9)	6.43 (9)	6.43 (10)	Ins 6.43 (9)

Remarks: (See Ins 6.43 (11))

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Date of statement \_\_\_\_\_

Signature \_\_\_\_\_

History: Cr. Register, August, 1966, No. 128, eff. 9-1-66; am. Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.50 Kinds of individual intermediary-agents licenses. (1) PURPOSE.** This rule set forth the kinds of individual intermediary-agents licenses which may be issued.

**(2) KINDS OF LICENSES.** The following individual intermediary-agent licenses may be issued, each authorizing the solicitation of the kind or kinds of insurance indicated:

- (a) Life insurance—as described in section Ins 6.75 (1) (a);
- (b) Disability insurance—as described in section Ins 6.75 (1) (c) or (2) (c);

- (c) Property insurance—as described in section Ins 6.75 (2) (a) and (2) (b);
- (d) Casualty insurance—as described in section Ins 6.75 (2) (d) through (n);
- (e) Credit life and credit accident and sickness insurance as described in sections Ins 6.75 (1) (a) 1. and Ins 6.75 (1) (c) 1. or (2) (c) 1.;
- (f) Variable contract insurance—as described in section Ins 6.75 (1) (b);
- (g) Automobile insurance—as described in section Ins 6.75 (2) (e);
- (h) Title insurance—as described in section Ins 6.75 (2) (h);
- (i) Town mutual non-property insurance—as described in s. 612.31 (3), Stats.

**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; cr. (2) (c), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), (2), (3) (a) and (c), eff. 6-22-76; am. (1), (2), (3) (a) and (c), Register, September, 1976, No. 249, eff. 10-1-76; r. and recr., Register, August, 1977, No. 260, eff. 9-1-77.

**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 principals 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: ss. 601.045, 600.03 (34m), 601.01 (3) (b) and ch. 613.

(2) **SCOPE.** This rule shall apply to all insurance policies issued or provided by an insurance company under authority of Ins 6.75 (1) (a) or (c) or (2) (c) 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 ch. 613, 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 individual insurance policies or subscriber contracts, which meets the following conditions:

- (a) Coverage is provided through insurance policies or subscriber contracts to classes of employees or members defined in terms of conditions pertaining to employment or membership.
- (b) 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 particular organization or group.
- (c) There are arrangements for bulk payment of premiums or subscription charges to the insurer or non-profit service organization.
- (d) There is sponsorship of the plan by the employer, union, or association.

(4) **EFFECTIVE DATE OF DISCONTINUANCE FOR NON-PAYMENT OF PREMIUM OR SUBSCRIPTION CHARGES.** (a) If a policy or contract subject to this rule provides for automatic discontinuance of the policy or contract after a premium or subscription charge has remained unpaid through the grace period allowed for such payment, the carrier shall be liable for valid claims for covered losses incurred prior to the end of the grace period.

(b) If the actions of the carrier after the end of the grace period indicate that it considers the policy or contract as continuing in force beyond the end of the grace period (such as, by continuing to recognize claims subsequently incurred), the carrier shall be liable for valid claims for losses beginning prior to the effective date of written notice of discontinuance to the policyholder or other entity responsible for making premium payments or submitting subscription charges to the carrier. The effective date of discontinuance shall not be prior to midnight at the end of the third scheduled work day after the date upon which the notice is delivered.

(5) **REQUIREMENTS FOR NOTICE OF DISCONTINUANCE.** (a) Any notice of discontinuance so given by the carrier shall include a request to the group policyholder or other entity involved to notify employees covered under the policy or subscriber contract of the date as of which the group policy or contract will discontinue and to advise that, unless otherwise provided in the policy or contract, the carrier shall not be liable for claims for losses incurred after such date. Such notice of discontinuance shall also advise, in any instance in which the plan involves employee contributions, that if the policyholder or other entity continues to collect contributions for the coverage beyond the date of discontinuance, the policyholder or other entity may be held solely liable for the benefits with respect to which the contributions have been collected.

(b) The carrier will prepare and furnish to the policyholder or other entity at the same time a supply of a notice form to be distributed to the employees or members concerned indicating such discontinuance and the effective date thereof, and urging the employees or members to refer to their certificates or contracts in order to determine what rights, if any, are available to them upon such discontinuance.

(6) **EXTENSION OF BENEFITS.** (a) Every group policy or other contract subject to this rule hereafter issued, or under which the level of benefits is hereafter altered, modified, or amended, must provide a reasonable provision for extension of benefits in the event of total disability at the date of discontinuance of the group policy or contract during the continuance of total disability as required by the following paragraphs of this section.

(b) In the case of a group or group type life plan which contains a disability benefit extension of any type (e.g., premium waiver extension, extended death benefit in event of total disability, or payment of income for a specified period during total disability), the discontinuance of the policy shall not operate to terminate such extension.

(c) In the case of a group or group type plan providing benefits for loss of time from work or specific indemnity during hospital confinement, discontinuance of the policy during a disability shall have no effect on benefits payable for that disability or confinement.

(d) In the case of hospital or medical expense coverages other than dental and maternity expense, a reasonable extension of benefits or accrued liability provision is required. Such a provision will be considered reasonable if it provides an extension of at least 12 months under major medical and comprehensive medical type coverages, and under other types of hospital or medical expense coverages provides either an extension of at least 90 days or an accrued liability for expenses incurred during a period of disability or during a period of at least 90 days starting with a specific event which occurred while coverage was in force (e.g., an accident).

(e) Any applicable extension of benefits or accrued liability shall be described in any policy or contract involved as well as in group insurance certificates. The benefits payable during any period of extension or accrued liability must be subject to the policy's or contract's regular benefit limits (e.g., benefits ceasing at exhaustion of a benefit period or of maximum benefits).

(7) CONTINUANCE OF COVERAGE IN SITUATIONS INVOLVING REPLACEMENT OF ONE CARRIER BY ANOTHER. (a) This section shall indicate the carrier responsible for liability in those instances in which one carrier's contract replaces a plan of similar benefits of another.

(b) Liability of prior carrier. The prior carrier remains liable only to the extent of its accrued liabilities and extensions of benefits. The position of the prior carrier shall be the same whether the group policyholder or other entity involved secures replacement coverage from a new carrier, self-insures, or foregoes the provisions of coverage.

(c) Liability of succeeding carrier:

1. Each person who is eligible for coverage in accordance with the succeeding carrier's plan of benefits (in respect of classes eligible and actively at work and non-confinement rules) shall be covered by that carrier's plan of benefits.

2. Each person not covered under the succeeding carrier's plan of benefits in accordance with subparagraph 1. above must nevertheless be covered by the succeeding carrier in accordance with the following rules if such individual was validly covered (including benefit extension) under the prior plan on the date of discontinuance and if such individual is a member of the class or classes of individuals eligible for coverage under the succeeding carrier's plan. Any reference in the following rules to an individual who was or was not totally disabled is a reference to the individual's status immediately prior to the date the succeeding carrier's coverage becomes effective.

a. The minimum level of benefits to be provided by the succeeding carrier shall be the applicable level of benefits of the prior carrier's plan reduced by any benefits payable by the prior plan.

b. Coverage must be provided by the succeeding carrier until at least the earliest of the following dates:

i) The date the individual becomes eligible under the succeeding carrier's plan as described in subparagraph 1. above.

ii) For each type of coverage, the date the individual's coverage would terminate in accordance with the succeeding carrier's plan provisions

applicable to individual termination of coverage (e.g., at termination of employment or ceasing to be an eligible dependent, as the case may be).

iii) In the case of an individual who was totally disabled, and in the case of a type of coverage for which subsection (6) requires an extension or accrued liability, the end of any period of extension or accrued liability which is required of the prior carrier by subsection (6) or, if the prior carrier's policy or contract is not subject to that section, would have been required of that carrier had its policy or contract been subject to subsection (6) at the time the prior plan was discontinued and replaced by the succeeding carrier's plan.

3. In the case of a pre-existing conditions limitation included in the succeeding carrier's plan, the level of benefits applicable to pre-existing conditions of persons becoming covered by the succeeding carrier's plan in accordance with this subsection during the period of time this limitation applies under the new plan shall be the lesser of

a. The benefits of the new plan determined without application of the pre-existing conditions limitation; and

b. The benefits of the prior plan.

4. The succeeding carrier, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior carrier's plan during the 90 days preceding the effective date of the succeeding carrier's plan but only to the extent these expenses are recognized under the terms of the succeeding carrier's plan and are subject to a similar deductible provision.

5. In any situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request the prior carrier shall furnish a statement of the benefits available or pertinent information, sufficient to permit verification of the benefit determination or the determination itself by the succeeding carrier. For the purposes of this section, benefits of the prior plan will be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior plan rather than those of the succeeding plan. The benefit determination will be made as if coverage had not been replaced by the succeeding carrier.

(8) **EFFECTIVE DATE.** This rule shall apply to all insurance policies and subscriber contracts subject to the rule which are issued or renewed on or after January 1, 1973.

**History:** Cr. Register, October, 1972, No. 202, eff. 11-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (7) (c), Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.52 Biographical data relating to company officers and directors.** (1) **PURPOSE.** This rule is intended to implement and interpret ss. 611.13 (2), 611.54 (1) (a), 611.57, 618.11 (4) and 618.21 (1) (b), Stats., for the purpose of setting standards for the reporting of biographical data relating to company officers, directors, promoters and incorporators, or other persons similarly situated.

(2) **SCOPE.** This rule shall apply to all persons proposing to form an insurer under the laws of this state and to all nondomestic insurers applying for admission to this state and to all insurers authorized to do business in this state except as follows:

(b) Domestic fraternal benefit societies.

(c) Nonprofit service plans, cooperatives sickness care plans organized or operating under ss. 185.981 to 185.985, Stats., voluntary benefit plans organized or operating under s. 185.991 and motor club service companies organized or operating under ss. 616.71 to 616.74 and 616.76 to 616.82, Stats., and donor annuity societies.

(3) **REPORT OF ORGANIZATION OF A DOMESTIC INSURER OR ADMISSION OF A NONDOMESTIC INSURER.** Biographical information in form and substance substantially in accordance with Form A, shown at the end of this rule, shall be furnished to the commissioner of insurance by all promoters, incorporators, directors, trustees and principal officers or proposed directors and principal officers, as the case may be, of an insurer being organized or of an insurer applying for admission. Financial and character reports of any such persons may be ordered by the commissioner and the cost or expense of such reports shall be paid by the incorporators as an organization expense or by the insurer applying for admission.

(4) **DEFINITION OF OFFICERS.** The term "officer" as used in this rule shall include the president, one or more vice presidents, secretary, treasurer, chief actuary, general counsel, comptroller and any person, however described, who enjoys in fact the executive authority of any such officers.

(5) **REPORTING WITH RESPECT TO NEW OFFICERS AND DIRECTORS SUBSEQUENT TO ORGANIZATION OR ADMISSION.** A report shall be provided by each insurer to which this rule applies with respect to the appointment or election of any new director, trustee or officer elected or appointed within 15 days after such appointment or election. Such report shall be prepared by the company in form and substance substantially in accordance with Form B, shown at the end of this rule.

(6) **SUBSEQUENT REPORTS.** When such a report has been provided to the commissioner by a company in accordance with subsections (3) and (5) of this rule, no further report concerning subsequent changes in his status as an officer or director of such company need be reported to the commissioner provided, however, the company shall promptly report to the commissioner any information concerning the conviction of an officer or director for a felony or the naming of a director, trustee or officer, other than as a party plaintiff or complainant, in any criminal action or in a civil action in which fraud was an issue.

(7) **ADDITIONAL INFORMATION.** The commissioner may request from any company such additional information with respect to any of its officers or directors as he may deem necessary and such request shall be promptly complied with by the company to which such request is directed.

FORM A  
STATEMENT OF EDUCATION, PRIOR OCCUPATION,  
BUSINESS EXPERIENCE AND SUPPLEMENTARY  
INFORMATION

STATE OF \_\_\_\_\_ :

ss:

COUNTY OF \_\_\_\_\_ :

The undersigned, being first duly sworn upon oath deposes and says:

1. The affiant's full name is (initials not acceptable):
2. The affiant's official title and principal duties with the insurance company is or will be:
3. The affiant's business address is:  
Telephone: \_\_\_\_\_
4. The affiant's residence address is:  
Telephone: \_\_\_\_\_
5. The affiant's age is:  
Sex \_\_\_\_\_ Birthplace \_\_\_\_\_  
Birthdate \_\_\_\_\_ Social Security No. \_\_\_\_\_

6. The affiant was never known by any other name (s) other than that shown above, except as follows (state such other name (s), when used, reason for change, and date of adoption of present name):

7. The affiant will subscribe to or owns, beneficially or of record the following amount of shares of stock of the insurance company and the consideration given for same:

8. The affiant states that his capital investment in the insurance company was not obtained from borrowed funds, except as follows:

9. The nature and tenure of each occupation or employment of the affiant for the last ten years prior to the date of this statement is as follows (present a continuous schedule, including time spent at educational institutions, and period of employment):

Beginning Date	Name and Address of Employer or School	Business Capacity or Title	Termination Date	Reasons for Termination
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10. The affiant's educational history is as follows (include all schools attended of the college or graduate level):

Name and Address of Institution	Course	Attendance No. Years/Dates	Degree Received	Date of Degree
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11. The affiant has never been convicted of a felony, except as follows:

12. The affiant has never been named in a criminal or civil action in which fraud was an issue, except as follows:

13. The affiant is not an officer or director and has no other relationship with any other insurer which has the effect of lessening competition substantially or in which such insurers have material adverse interests except as follows:

\_\_\_\_\_  
(Signature of Affiant)



Subscribed and sworn before me,  
a Notary Public, this \_\_\_\_\_  
day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(SEAL)

My commission expires: \_\_\_\_\_

FORM B  
BIOGRAPHICAL SKETCH  
DIRECTOR OR OFFICER

NAME OF COMPANY (OR COMPANIES):

ADDRESS OF COMPANY:

NAME:

RESIDENCE ADDRESS:

TITLE AND FUNCTIONS:

DATE OF APPOINTMENT OR ELECTION:

AGE \_\_\_\_\_ SEX \_\_\_\_\_ SOCIAL SECURITY NO.

DATE OF BIRTH \_\_\_\_\_ PLACE OF BIRTH \_\_\_\_\_

DURATION OF EMPLOYMENT WITH COMPANY:

LAST PREVIOUS OCCUPATION OR EMPLOYMENT: (1)

RELATIONSHIPS WITH OTHER INSURERS WHICH HAVE THE  
EFFECT OF LESSENING COMPETITION SUBSTANTIALLY OR  
IN WHICH THIS INSURER AND SUCH INSURERS HAVE MATE-  
RIAL ADVERSE INTERESTS:

OTHER: (2)

- (1) In the case of a director who is not otherwise an employe ("outside director") so indicate under "TITLE AND FUNCTIONS" and show here the principal occupation.
- (2) Add any additional information, such as the use of aliases or a conviction of an officer for a felony or the naming of an officer, other than as a party plaintiff or complainant in any criminal action or in a civil action in which fraud was an issue.

\_\_\_\_\_  
Signature of person reporting for the company

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Title

**History:** Cr. Register, June, 1973, No. 210, eff. 7-1-73; emerg. r. (2) (a), eff. 6-22-76; r. (2) (a), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) (c), Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.53 Insurance consumers advisory council.** (1) **PURPOSE.** The purpose of this rule is to create an insurance consumers advisory council to be appointed by the commissioner pursuant to ss. 15.04 (3), 227.018, and 601.20 (1), Stats.

(2) **MEMBERSHIP.** The council shall consist of the commissioner or a member of his staff designated by him and at least 6 but no more than 12 other citizen members. Members will be appointed with due consideration given to representation of all income levels, ethnic and racial groups and without discrimination as to sex. In addition, at least one, and no

more than 3 members, shall be appointed who have expertise in the insurance business.

(3) **TERM.** Members of the council shall be appointed to serve for a term of 2 years except that one-half of the initial appointments under this rule shall be for a one-year term and the remaining members for a two-year term.

(4) **DUTIES.** It shall be the duty of the council to advise the commissioner on matters relating to:

- (a) Consumer education in insurance.
- (b) Insurance advertising, solicitation and deceptive practices.
- (c) Insurance availability, insurance policy exclusions, and other market problems.
- (d) Possible standardization and simplification of insurance contracts.

(5) **OFFICERS.** The council shall annually elect a chairman and a vice-chairman. The commissioner or his designee shall act as secretary and keep a record of all proceedings, transactions, communications, and other official acts of the council. The files and records of the council shall be maintained at the office of the commissioner.

(6) **MEETINGS.** The council shall meet at least twice a year when called by the commissioner and at such other times when requested by the commissioner or by 3 or more members.

(7) **EXPENSE REIMBURSEMENT.** Members of the council shall receive no salary or compensation for service on the council but shall be reimbursed for their actual and necessary expenses in attending meetings or while performing other duties as directed by the commissioner.

**History:** Cr. Register, June, 1975, No. 234, eff. 7-1-75; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.54 Prohibited classification of risks for rating purposes. (1) PURPOSE.** This rule interprets and implements ss. 601.01 (3) (b), 625.02, 625.11, 625.12 (2), 625.13, and 625.21 (2), and ch. 628, Stats., for the purpose of prohibiting certain practices.

(2) **SCOPE.** This rule applies to all contracts issued, renewed or amended in Wisconsin affording automobile insurance coverage and all contracts issued, renewed or amended in Wisconsin affording coverage for loss or damage to real property used for residential purposes for not more than four living units or affording coverage for loss or damage to personal property used for residential purposes.

(3) **PROHIBITED PRACTICES.** (a) No insurance company shall refuse, cancel or deny insurance coverage to a class of risks solely on the basis of any of the following factors (taken individually or in combination), nor shall it place a risk in a rating classification on the basis of any of the following factors without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses and expenses and unless such information is filed in accordance with ss. 625.12, 625.13 and 625.21 (2), Stats.:

1. The applicant's or insured's past criminal record;

2. The applicant's or insured's physical condition or developmental disability as defined in s. 51.01 (5) (a), Stats.;

3. The applicant's or insured's past mental disability;

4. The applicant's or insured's age;

5. The applicant's or insured's marital status;

6. The applicant's or insured's sexual preference;

7. The applicant's or insured's "moral" character.

(b) Nothing in paragraph (a) shall be construed as including within the definition of prohibited practices any of the following:

1. Denying, cancelling or non-renewing the automobile or property insurance of a person convicted of an offense if the offense which resulted in the conviction is directly related to the risk to be insured;

2. Establishing a classification system merely for the purpose of developing statistical data;

3. Underwriting only the class of risks which are specified in the insurer's articles of incorporation;

4. Establishing a rate based on the record of all drivers of an insured automobile;

5. Establishing a rate based on the number of people residing in a household.

(c) Nothing in paragraph (a) or (b) shall be interpreted in any way as limiting the prohibitions contained in ss. 632.35 and 942.04 (1) (c), Stats.

(d) No insurer shall require an applicant or insured to undergo a physical examination to obtain or continue coverage unless the cost of such physical examination is borne by the insurer.

(4) **PENALTY.** Violation of this rule may subject the insurer to the penalties set forth in s. 601.64, Stats.

*History:* Cr. Register, March, 1976, No. 243, eff. 4-1-76; emerg. am. (1) and (3) (c), eff. 6-22-76; am. (1) and (3) (c), Register, September, 1976, No. 249, eff. 10-1-76; am. (3) (a) 2, Register, April, 1977, No. 256, eff. 5-1-77; am. (3) (a) 2., and cr. (3) (d), Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.55 Discrimination based on sex — unfair trade practice.** (1) **PURPOSE.** The purpose of this rule is to eliminate the act of denying benefits or refusing coverage on the basis of sex, to eliminate unfair discrimination in underwriting criteria based on sex, and to eliminate any differences in rates based on sex which cannot be justified by credible supporting information. This rule interprets and implements s. 601.01 (3) and ch. 628, Stats.

(2) **DEFINITIONS.** (a) Insurer has the meaning defined in s. 600.03 (27), Stats., and in addition includes nonprofit service plans or service insurance corporations.

(b) Contract means any insurance policy, plan, certificate, subscriber agreement, statement of coverage, binder, rider or endorsement offered by an insurer subject to Wisconsin insurance law.

(3) **APPLICABILITY AND SCOPE.** (a) This rule shall apply to all contracts delivered in Wisconsin, or issued for delivery in Wisconsin on or after the effective date of this rule and to all existing group contracts subject to Wisconsin insurance law which are amended or renewed on or after the effective date of this rule.

(b) This rule shall not affect the right of fraternal benefit societies to determine eligibility requirements for membership.

(4) **AVAILABILITY REQUIREMENTS.** (a) It is an unfair trade practice for an insurer to:

1. Refuse or cancel coverage or deny benefits on the basis of the sex of the applicant or insured;

2. Restrict, modify, or reduce the benefits, term, or coverage on the basis of the sex of the applicant or insured.

(b) Examples of unfair trade practices defined by paragraph (a) and prohibited by this rule are:

1. Denying coverage to females gainfully employed at home, employed part-time, or employed by relatives when coverage is offered to males similarly employed;

2. Denying benefits offered by policy riders to females when the riders are available to males;

3. Denying, under group contracts, dependent coverage to husbands of female employees, when dependent coverage is available to wives of male employees;

4. Denying disability income coverage to employed women when coverage is offered to men similarly employed;

5. Treating complications of pregnancy differently from any other illness or sickness under a contract;

6. Restricting, reducing, modifying, or excluding benefits payable for treatment of the genital organs of only one sex;

7. Offering lower maximum monthly benefits to women than to men who are in the same underwriting, earnings or occupational classification under a disability income contract;

8. Offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same underwriting, earnings or occupational classification under a disability income contract;

9. Establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract.

(5) **RATES.** When rates are differentiated on the basis of sex, the insurer must:

(a) File a brief letter of explanation along with a rate filing.

(b) Maintain written substantiation of such rate differentials in its home office.

(c) Justify in writing to the satisfaction of the commissioner the rate differential upon request.

(d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) **PENALTY.** Violation of this rule shall subject the insurer to the penalties set forth in s. 601.64, Stats.

*History:* Cr. Register, May, 1976, No. 245, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.57 Listing of insurance agents by insurers.** (1) Submission of an application for an intermediary-agent appointment shall constitute the initial listing of such agent in accordance with s. 628.11, Stats., and such application shall be submitted to the office of the commissioner of insurance on or before the date of appointment on forms 11-1 and 11-9 for resident individual intermediary-agents and on form 11-17 for non-resident individual intermediary-agents.

(2) Notice of termination of appointment of individual intermediary-agent in accordance with s. 628.11, Stats., shall be filed prior to or within 15 calendar days of the termination date with the office of the commissioner of insurance on form 11-11. Prior to or within 7 days of filing this termination notice, the insurer must provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

(3) In addition, each insurer shall pay once each year, in accordance with an assigned billing schedule, the annual listing fee defined in s. 601.31 (16), Stats., within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individual intermediary-agents serving as agents for such insurer, according to the commissioner's records as of the end of the month prior to the notice date. A billing schedule shall be adopted by the commissioner under which listing notices will be sent to insurers. This schedule will also designate the calendar month of billing for the various insurers and/or insurer groups.

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats., are hereby established to be:

Resident individual intermediary-agents	\$ 5.00
Nonresident individual intermediary-agents	15.00

(5) No insurer shall accept business directly from any intermediary unless that intermediary is a licensed intermediary-agent listed with that company or unless the intermediary holds a valid license as an intermediary-broker.

(6) No intermediary-agent shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer unless the agent is listed with that insurer.

*History:* Cr. Register, December, 1976, No. 252, eff. 1-1-77; r. and recr. Register, March, 1978, No. 287, eff. 4-1-78; cr., (5) and (6), Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.58 Insurance marketing individual intermediary-agent examination and licensing.** (1) The purpose of this rule is to establish procedures for a currently authorized insurance agent to be examined

and to become licensed as an individual intermediary-agent under subchapter II, Licensing of Intermediaries, ch. 628, Insurance Marketing, Stats.

(2) Any resident or non-resident insurance agent holding a valid certification of registration or valid non-resident insurance agent's license issued in conformance with section Ins 6.56 can make application that his or her experience and performance to date should be considered as primary evidence that he or she is competent and trustworthy to qualify to be licensed as an individual intermediary-agent under the conditions and qualifications of s. 628.04, Stats.

(3) Such application by a currently authorized agent must be received by the commissioner of insurance by January 31, 1977, if that agent wants his or her experience and performance to date to be considered as primary evidence to be utilized for issuance of an individual intermediary-agent license on or before May 31, 1977.

(4) Examination and investigation of currently authorized agents will be based, in part, on information completed on such application.

(5) Examination and investigation activities may include a review of correspondence and complaints involving individual agents, a review of insurance company records and experience on selected agents, a review of data submitted in the application, individual interviews, and other steps prescribed in advance, in accordance with appropriate standards established by rule, to determine the competence and trustworthiness of the applicants.

(6) The application by a currently authorized agent for issuance of an individual intermediary-agent license shall be made on Office of the Commissioner of Insurance Form 11-40.

(7) An examination and investigation fee of \$25.00, authorized by s. 601.31 (17), Stats., reflecting the estimated average cost of investigation and review, shall be submitted along with such application from a currently authorized insurance agent.

(8) Those applicants who satisfy the standards established by the office of the commissioner of insurance for determining the competence and trustworthiness of individual intermediary-agents will be notified prior to May 15, 1977, and upon timely payment of a license issuing fee of \$10.00, as authorized by s. 601.31 (15), Stats., will receive an individual intermediary-agent license for those lines of insurance for which they are authorized.

(9) Any currently authorized insurance agent not making application as provided in this rule by January 31, 1977, will be subject to the same licensing procedure as any new applicant for a permanent individual intermediary-agent license.

(10) Applicants subject to subsection (2) who do not receive an individual intermediary-license will have hearing or appeal rights in accordance with law.

**Note:** Chapter 371, Laws of 1975, established a permanent individual intermediary-agent license. This rule outlines the method whereby agents holding licenses subject to annual renewal (i.e. agents who have a "track-record" and have been subject to some screening for competence under prior law) are to make application, be examined and investigated, and where standards of trust and competence are met, be issued a permanent license in accordance with the requirements of the law.

To determine competence and trustworthiness, as required by ch. 628, Stats., any new applicant for a permanent individual intermediary-agent license will be subject to a comprehensive written qualifying examination as well as such personal investigation as may be appropriate. The above rule does not cover procedures to be established for new (i.e. previously unlicensed) individual intermediary-agents. For these applicants, examination and investigation fees may be adjusted by rule to provide for the extra cost of a written examination.

**History:** Cr. Register, December, 1976, No. 252, eff. 1-1-77.

**Ins 6.59 Licensing procedures - individual intermediary-agent.**

(1) Application for individual intermediary-agent license shall be made on Insurance Forms 11-41 (resident) or 11-42 (non-resident) and filed with the commissioner of insurance, Madison, Wisconsin. The determination by the commissioner as to the trustworthiness of the applicant shall be based, in part, on data contained on the application form. Determination on the competence of the applicant shall be based on results of an examination process, which shall include a written examination, as well as a review of the application form in accordance with Ins 6.62.

(2) Applications shall be filed with the commissioner of insurance, Madison, Wisconsin, at least 30 days prior to the scheduled date of the written examination. Written examinations can be scheduled for one or more kinds of individual intermediary-agent license authority on the same date.

(3) The following fee schedule is established, in accordance with s. 601.31 (17), Stats., for investigation and examination of an individual intermediary-agent:

(a) Individual not holding any kind of individual intermediary-agent authority as part of a license listed in Ins 6.50 (2):

Examination for one kind of authority	\$25.00
Examinations for two kinds of authority	29.00
Examinations for three kinds of authority	33.00
Examinations for four kinds of authority	37.00

(b) Individual holding one or more kinds of individual intermediary-agent authority as part of a license listed in Ins 6.50 (2), or individual seeking re-examination within four months of failure to attain a passing grade for the same kind or kinds of authority.

Examination for one additional kind of authority	\$16.00
Examinations for two additional kinds of authority	20.00
Examinations for three additional kinds of authority	24.00
Examinations for four additional kinds of authority	28.00

(4) The fee schedule in (3) shall be applicable to applications by non-residents seeking to become individual intermediary-agents. Where the commissioner determines that a non-resident has passed an examination as stringent as that of Wisconsin, the written examination requirement may be waived.

(5) A written examination shall be required for each kind of individual intermediary-agent license authority listed in Ins 6.50 which the applicant must personally take and pass to the satisfaction of the commissioner. Each such written examination shall be designed to effectively test the applicant's basic knowledge of the kinds of insurance for which he or she intends to solicit coverage, and the applicant's basic understanding of the applicable laws and regulations, necessary for service as a competent individual intermediary-agent.

(6) If the applicant fails an examination twice in a 6 months' period, a third application will not be accepted from that applicant prior to 6 months after the second examination date.

(7) An applicant obtaining a passing grade on the written examination who submits a satisfactory application and meets all requirements of Ins 6.62 (3) shall be issued an individual intermediary-agent license for those kinds of authority for which he or she is qualified upon timely payment of a license issuing fee of \$10.00 as authorized by s. 601.31 (15), Stats. The same fee and procedure shall apply to an enlargement of authority for which an individual intermediary-agent qualified by the current examination.

(8) Written examinations for each kind of individual intermediary-agent authority will be administered at least once a month in accordance with a schedule adopted by the commissioner at the following examination centers: Eau Claire, Green Bay, LaCrosse, Oshkosh, Madison, Rhinelander, Racine, Superior, and Stevens Point. Written examinations will be administered twice a month in Milwaukee and at least one other center.

(9) Any applicant who otherwise satisfies the standards for intermediary competence and trustworthiness who receives a grade on the written examination of at least 70% of the passing grade, can within 20 days of receiving the examination result notice, make application for an apprentice permit. An apprentice permit shall be issued when such applicant complies with the requirements established by Ins 6.60 (1), (2) and (3) and a permanent intermediary-agent license shall be issued when such applicant meets the requirement of Ins 6.60 (7).

(10) A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3 and 612.33 (2) (a), Stats., who provides windstorm or hail insurance to the town mutual's members through an insurance policy issued by another authorized insurer operating on an assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with section Ins 6.57.

*History:* Cr. Register, March, 1977, No. 265, eff. 4-1-77; am. (8), Register, June, 1978, No. 270, eff. 7-1-78; cr. (10), Register, September, 1978, No. 273, eff. 10-1-78.

**Ins 6.60 Apprentice permit procedure - individual intermediary-agent apprentice.** (1) Applications for an individual intermediary-agent apprentice permit shall be made on Insurance Form 11-43 signed by the applicant and his or her sponsor and filed with the Commissioner of Insurance, Madison, Wisconsin. No individual may apply for an apprentice permit unless he or she has obtained a grade of at least 70% of the passing grade on the written test administered in accord with Ins 6.59.

(2) A licensing fee of \$10.00 shall be payable with the application for an apprentice permit.

(3) An apprentice permit shall be issued for a three-month period if the application and other information provided the commissioner establishes that the applicant:



(a) Is embarked on a recognized study program acceptable to the commissioner for each kind of authority for which the permit is requested, and

(b) Is sponsored by:

1. An individual intermediary-agent who has been licensed in Wisconsin for 2 or more years, or

2. A licensed insurer conducting an apprentice training program approved by the commissioner. In such a program a supervisory employe must serve as the individual sponsor of the apprentice.

(4) The sponsor of an apprentice shall supervise his or her study and work activities and assumes full legal responsibility for all insurance intermediary acts and omissions of the apprentice.

(5) An individual intermediary-agent sponsor or supervisory employe of an insurer sponsor shall have no more than two apprentices during each supervision period.

(6) The requirement of insurer filing of listing and termination of appointment notices for individual intermediary-agents, established by Ins 6.57, shall be applicable to individual intermediary-agent apprentices. Each insurer listing an apprentice in accordance with Ins 6.57 shall also be responsible for the insurance intermediary acts and omissions of the apprentice.

(7) An individual intermediary-agent license shall be issued to an individual intermediary-agent apprentice upon conclusion of the three-month apprentice period upon receipt in the Office of the Commissioner of Insurance of completed Insurance Form 11-44 which shall include certification by the sponsor as to the competence and trustworthiness of the applicant, and certification that 40 hours of study in a recognized study course for each kind of individual intermediary-agent license authority have been completed.

- History: Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**Ins 6.61 Intermediary records.** (1) Each intermediary shall maintain or have maintained, for a 3 year period, unless a specific period is provided elsewhere, records of the intermediary's policyholder financial transactions and records of transactions with brokerage clientele which occur in the regular course of business or are prescribed by rule, in accordance with accepted accounting principles. Such records shall include an accounting of such billings to and receipts from purchasers of insurance and payments to insurers or others for coverage provided, as have passed through the hands of the intermediary, or comparable records on an agency or partnership-wide basis. An insurer may by written agreement assume the responsibility to maintain these records for an individual intermediary-agent if the records can be made immediately available to the commissioner of insurance on demand.

(2) Each individual intermediary-agent shall maintain records for a 3 year period giving the effective date of the coverage on all newly issued contracts and indicating that the necessary suitability inquiry and replacement procedures required by Ins 2.07, Ins 2.14 (5) (f), Ins 3.27 (7), and Ins 3.29 were followed for each individually-issued life and accident and health contract written and/or replaced.

(3) Records required by subsection (1) and (2) are to be maintained at the business address of the intermediary or the insurer recorded with the commissioner of insurance, or at another location only if notice has been provided the commissioner of insurance of such alternate location.

(4) Each agent intermediary shall, within 30 days, notify the commissioner of insurance in writing of any change in the intermediary's business or residence address or any change of address of location of the intermediary's records.

**Note:** Individual intermediary-agent records which are to be maintained and subject to examination by the commissioner of insurance, are limited to transactions where the individual intermediary-agent serves in a fiduciary capacity (i.e., collects or handles premiums from his clients and remits that amount of the premium due the carrier providing the coverage). This record maintenance requirement is not intended to apply to individual intermediary-agent office expense accounts, general office management records, income tax returns, or any other individual intermediary-agent financial transactions other than financial and other records directly pertaining to the individual intermediary-agent insurance transactions between clients and providers of coverage. Amendments to the rule comprehend the records of account and disclosure set forth in Ins 6.64 which are to be maintained by intermediary-brokers and do not alter the previous requirements for intermediary-agents. Some intermediary-broker records are required to be maintained for 5 years as opposed to 3 years for intermediary-agent.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77; am., Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.62 Competence and trustworthiness standards.** (1) The standards of competence and trustworthiness as applied to an insurance intermediary in s. 628.04 (1) (b) 2., Stats., are determined to provide that intermediaries shall:

(a) Be well-informed on the kinds of insurance they are qualified to write.

(b) Thoroughly analyze the insurance needs of their clients and recommend the forms of coverage best suited to their needs.

(c) Make no intentional false statements nor any material misrepresentations by omission of facts, inference or subterfuge in their relations with their clients, insurance companies, or other insurance agents.

(d) Take all reasonable steps so clients are informed on the extent and limitation of coverage provided by their contracts.

(e) Manage agency financial affairs in accordance with the high standards applicable to a fiduciary.

(f) Conform to all applicable insurance statutes and regulations.

(2) Standards of competence and trustworthiness established by subsection (1) shall be applied to all applicants for individual intermediary-agent licenses.

(3) The following screening standards and procedures for determination of competence and trustworthiness of individual intermediary-agents submitting applications under the provisions of Ins 6.58 and 6.59 are adopted:

(a) *Accuracy of application.* Material misrepresentation in completing an application form (e.g. Insurance Form 11-40, 11-41 or 11-42) shall be considered evidence of untrustworthiness and cause for not issuing a permanent license.

(b) *Complaint review.* Information developed through consumer complaints involving an intermediary's activities during the prior three years (where applicable) shall be reviewed to determine whether the allegation, if proven, concerns a violation of the standards of competence and trustworthiness in subsection (1).

(c) *Application data.* Information reported in the application form (e.g. Insurance Form 11-40, sections 16, 22-25) shall be reviewed and investigated through correspondence with insurance companies, affected consumers, appropriate regulatory and law enforcement agencies, and, where necessary, follow-up investigation in the field to determine if the standards of competence and trustworthiness have been met.

(d) *Competence.* Where 2 or more verifiable instances of incompetence of an applicant making application under Ins 6.58 are developed through the procedures in (b) and (c), a license shall not be issued until the person makes application for and passes the written examination prescribed by Ins 6.59 for the kind or kinds of authority involved. Review under this paragraph will be in accordance with the standards for competence in subsection (1).

(e) *Trustworthiness.* Where information developed through the procedures in pars. (b) and (c) indicates that there has been substantial violation of the standards in pars. (b) through (f) of subsection (1) sufficient for the commissioner to institute proceedings to revoke a license, an intermediary-agent license shall not be issued.

(f) *Notice.* Applicants under Ins 6.58 shall be notified by May 1, 1977 where a determination has been made not to issue a permanent license.

1. Applicants shall have the right to request a review of such determination by a review committee designated by the Insurance Agent's Advisory Council established by Ins 6.10. Such request shall be made to the commissioner of insurance who shall proceed in a timely manner to arrange for a review by the council designated committee. The committee conclusion shall be transmitted to the applicant by the commissioner.

2. Applicants shall also have the right to a hearing to appeal a decision not to license. Such hearing and appeal shall be in accordance with procedures set forth in ch. 227, Stats., and rules of the commissioner.

**Note:** The standards of competence and trustworthiness listed are not meant to be exclusive, nor are they intended to suggest that insurance intermediaries will never make mistakes. Professionals exercising broad discretion are always subject to second-guessing, in circumstances where there is no single "right" answer. The primary concern here is with substantial or persistent violations, or with a pattern of behavior which may endanger the legitimate interests of customers or the public.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**Ins 6.63 Annual regulation charge.** (1) The annual regulation amount to be paid by each licensed individual intermediary-agent, in accordance with s. 601.31 (15m), Stats., is established to be as follows:

Resident intermediary	\$ 5.00
Non-resident intermediary	15.00

(2) The commissioner shall mail notification of the annual regulation charge due and payable to each individual intermediary-agent to the resident address on file with the office of the commissioner of insurance.

(3) The annual regulation charge is due annually after the year in which the initial license is issued in the month of the birth date of the individual intermediary-agent and shall be paid within 30 days after the mailing by the office of the commissioner of insurance of a notification that the charge is due.

(4) The license of any individual intermediary-agent not making timely payment of the annual regulation amount may, by order of the commissioner, be suspended.

(5) Any suspended individual intermediary-agent can, within one year of the license suspension date, make application for termination of the suspension by payment of double the regulation fee as authorized by s. 628.10 (4), Stats.

(6) Any individual intermediary-agent whose license has been suspended for a period of longer than one year for non-payment of fees may be required to:

(a) Satisfy the examination and licensing requirements established by Ins 6.59, and

(b) In addition to any other charges required, make payment of double the regulation fees which would have been payable if the license had not been suspended.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78.

**Ins 6.64 Insurance marketing intermediary-broker.** (Ss. 628.01 to 628.04, 628.07, 628.32, 628.34, 628.40, 628.45, 628.51 and 628.61, Stats.)

(1) **PURPOSE.** The purpose of this rule is to define the powers and responsibilities of a licensed intermediary-broker, to describe acceptable practices in the conduct of a brokerage business and to ensure fulfillment of the fiduciary obligation of an intermediary-broker to the client through disclosure agreements, bonding, trust accounts, fee regulation and record keeping. An intermediary-broker not also licensed pursuant to ss. 618.41 and 628.04 (2), Stats., may not engage in direct placement of surplus lines insurance. This rule implements sections of chapter 628, Stats., entitled Insurance Marketing.

(2) **INTERMEDIARY-BROKER.** (a) An intermediary-broker is a person engaged in searching out, negotiating or procuring contracts of insurance with insurers with which the intermediary is not listed as an intermediary-agent, with the consent and on behalf of the insured.

(b) An intermediary-broker licensed in this state pursuant to section Ins 6.65 Wis. Adm. Code shall be responsible in a fiduciary capacity to the insured or prospective insured for all representations and promises, all funds received or collected in the capacity of a broker, and all funds received or collected from the insurer on the policy.

(c) An intermediary-broker shall not be empowered to bind an insurer or an insured and shall disclose the lack of binding authority to the insured.

(d) An application for insurance that is brokered by an intermediary-broker directly to an insurer or through a listed intermediary-agent or that is brokered upon receipt from an intermediary-agent shall be signed by the intermediary-broker as well as by any other intermediaries involved.

Register, March, 1979, No. 279

(3) PROHIBITIONS. (a) An intermediary-broker acting as such shall not also act as an intermediary-agent in the placement of a particular piece of business with any insurer with which that intermediary is also listed as an intermediary-agent, nor shall the intermediary-broker utilize an affiliate to place business with an insurer with which the affiliate is listed or associated, if the business involved is the same brokered risk or group of risks. "Affiliate" is defined in s. 600.03 (1), Stats.

(b) An intermediary-broker shall not engage in any insurance transaction involving a particular risk which benefits the intermediary-broker or an affiliate financially, where that intermediary-broker has provided service or advice as another type of intermediary in a related transaction within the recent past.

(c) Examples of prohibited practices defined by paragraph (b) include but are not limited to the following:

1. An intermediary who is requested to review a complete life and health insurance program for a brokerage or a consultant's fee recommends the purchase of certain coverage and suggests that this coverage be obtained from another intermediary-agent working in the same agency.

2. An intermediary-broker places a risk with one insurer, and then two weeks later recommends that he rewrite the risk with one of his own companies as an intermediary-agent.

(4) CLIENT PRE-AGREEMENT. (a) Every licensed intermediary-broker shall maintain in his files for 5 years a copy of an agreement signed by the intermediary-broker and the prospective insured-client, certifying that the named intermediary is acting in the capacity of an intermediary-broker obligated to act in the client's best interest with regard to procuring insurance specified therein according to general type (s), quantity and the nature of the risk. A copy of the pre-agreement shall accompany each application for insurance to cover the risks described in that pre-agreement.

(b) The following format shall be followed:

WISCONSIN INSURANCE BROKER PRE-AGREEMENT

\_\_\_\_\_ hereby engages the services of \_\_\_\_\_  
(Principal) (Broker)  
of \_\_\_\_\_, an insurance broker licensed by the state of  
(Firm)

Wisconsin, to seek, negotiate and/or procure the following insurance coverages:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A broker shall secure insurance which in his or her professional judgment is deemed to be most appropriate for the insured.

An individual acting in the capacity of an intermediary-broker shall not place insurance business with an insurer for which he or she is also listed as an intermediary-agent.

A broker is NOT EMPOWERED TO BIND an insurer. No valid contract of insurance exists until the risk is accepted by an insurer and a policy or written binder is issued.

**THIS IS NOT AN INSURANCE POLICY.**

If applicable, the parties hereby agree on the following brokerage fee: \_\_\_\_\_ payable (at this signing) (upon completion of brokerage services). Such brokerage fee is (waived) (refunded to the insured) (applied to premium) if the broker received any commission from an insurer.

\_\_\_\_\_  
Intermediary-Broker

\_\_\_\_\_  
License No.

\_\_\_\_\_  
Date

Original - Client

Copies - Broker's file/Insurance application

\_\_\_\_\_  
Principal-Client

(5) COMPENSATION. (a) An intermediary-broker shall not receive or collect from any insured or prospective insured in connection with the actual procurement of insurance from an authorized or unauthorized insurer any sum greater than the premium (s) and policy and inspection fees fixed by such insurer (s), except for brokerage fee (s) in par. (b).

(b) An intermediary-broker may charge the prospective insured a brokerage fee for the services of the intermediary-broker in searching for appropriate insurance coverage, provided that prior to the performance of the service the charged insured shall consent in writing to pay the fee pursuant to sub. (4).

(c) The contractual right to a brokerage fee shall be forfeited and any brokerage fee collected shall be returned to the insured or applied to the premium charged for the brokered insurance coverage, if:

1. The intermediary-broker originally entitled to the fee or an affiliate of the intermediary-broker receives a commission or portion of a commission from an insurer; or

2. The insured pays a premium which includes a commission charge not refundable to the insured. The intermediary-broker shall inform the insured that the premium includes a commission charge.

(d) Acceptance of a commission or portion of a commission by the intermediary-broker may include rights to any renewal commissions resulting from continuance of the brokered insurance by the insured, pursuant to the agreement of the insurer and the intermediary-broker.

(6) TRUST ACCOUNTS AND BOOKKEEPING. (a) Every intermediary-broker shall maintain one or more appropriately identified demand deposit trust accounts in a Wisconsin bank for the deposit and disbursement of all insurance premiums, commissions, brokerage fees and other funds entrusted by an insurer or insured to the intermediary-broker acting in

that capacity. Operating accounts shall be maintained separately from premium trust accounts.

(b) Certification by a bank official of the creation of a demand deposit trust account for purposes noted herein must accompany the intermediary-broker license application, unless it is otherwise certified by an employer-company that all funds submitted by the accounts of such intermediary-broker shall be maintained in a separate trust account administered by the employer company.

(c) Withdrawal of commissions, broker fees or any other portion of deposited trust funds rightfully belonging to the intermediary-broker shall be at regular weekly or monthly intervals and properly identified with receipts or collections in books of account.

(d) Every intermediary-broker shall maintain books of account according to accepted principles of accounting. Such books shall record all trust deposits and disbursements, the names of all parties from whom money is received or to whom it is paid, the insurance purpose for which the funds are to be used, and current balances of premiums and commissions remaining in trust account (s), if applicable. All regular bank statements are to be retained by the intermediary-broker for at least 5 years.

(7) Bonding. (a) Every individual intermediary-broker shall supply a license (and permit surety) bond in favor of the people of the state of Wisconsin executed by an authorized surety insurer and payable to any party injured under the terms of the bond. The bond shall be conditioned upon full accounting and due payment to the person or company entitled thereto of funds coming into the possession of the intermediary-broker as an incident to insurance transactions under the intermediary-broker license and compliance with Wisconsin laws regarding fair representation and fiduciary responsibility. Liability of the surety under the bond is limited, in the aggregate, to the penal sum and extends only to funds entrusted to the broker.

(b) The bond shall be continuous in form and shall remain in force and effect until the surety is released from the bond by the commissioner or until the bond is canceled by the surety. The surety may cancel the bond and be relieved of continued bond coverage upon 45 days' written notice to the commissioner prior to cancellation. Coverage under the bond continues until the 46th day after receipt of the notification of cancellation by the commissioner. The surety and the commissioner shall notify the licensee of the bond termination.

(c) All claims against the licensee for debt, default or miscarriage in violation of Wisconsin law or a fiduciary obligation shall be subject to administrative hearing by the commissioner at the request of the aggrieved party, the surety or the state. Judicial review is available under ss. 227.15 and 227.16, Stats. The surety shall have the privilege of participation in administration dispositions which affect its obligations under this section.

(d) Upon expiration or cancellation of the bond, the commissioner shall suspend the license of the intermediary-broker unless or until comparable bonding is secured by the intermediary-broker.

(e) Bonds shall be supplied in the following amounts:

- |                                      |  |
|--------------------------------------|--|
| 1. Resident Intermediary-Brokers     | \$5,000 initially, or 20% of gross premium written annually as an intermediary-broker, whichever is greater, up to a \$50,000 bond limit.  |
| 2. Non-resident Intermediary-Brokers | \$10,000 initially or 20% of gross premiums written annually as an intermediary-broker, whichever is greater up to a \$100,000 bond limit. |

(f) Every intermediary-broker shall submit an affidavit of gross premium written as an intermediary-broker for the previous calendar year by each February 1 and shall secure additional bonding if appropriate.

(g) Bond forms shall be supplied by the commissioner at the time of application. The original bond shall be retained during its life by the commissioner.

(h) Any intermediary-broker insured by errors and omissions or other form of professional liability insurance in the licensee's role as an intermediary-broker and in an amount at least commensurate with the bond amounts of this section may, upon approval by the commissioner supply a surety bond in an amount one-half (1/2) that required in par. (e).

**History:** Cr. Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.65 Licensing and examination of intermediary-broker** (ss. 601.31 (17), 628.01 to 628.04, and 628.07, Stats.)

(1) Intermediary-broker licenses shall be issued for: property and casualty insurance broker; life and disability insurance broker; or both.

(2) No individual applicant shall be licensed as an intermediary-broker unless he or she:

(a) Has had at least 3 years experience as a licensed intermediary-agent in the same lines of insurance immediately prior to the application as a broker, or has an educational equivalent approved by the commissioner, including achievement of the designation Chartered Property and Casualty Underwriter (CPCU) or Chartered Life Underwriter (CLU), or a masters degree or its equivalent in insurance;

(b) Has passed the written examinations for property and casualty insurance authority; and/or life and disability insurance authority; subsequent to March 1, 1979;

(c) Supplies certification of a demand deposit trust account pursuant to Ins 6.64 (6);

(d) Supplies a surety bond or evidence of its equivalent pursuant to Ins 6.64 (7);

(e) Has been determined trustworthy and competent to the satisfaction of the commissioner pursuant to sub. (3).

(3) Application for the intermediary-broker licenses shall be made on insurance form 11-45 (Resident and Non-resident) and filed with the Commissioner of Insurance, Madison, Wisconsin. The determination by the commissioner as to the trustworthiness and competence of the applicant shall be based upon data contained on the application form; the

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results of a written examination; a review of the application form in accordance with section Ins 6.62 and all other pertinent records of the office of the commissioner of insurance.

(4) Applications shall be filed with the commissioner of insurance, Madison, Wisconsin, at least 22 days prior to the scheduled day of the written examination.

(5) The following fee schedule is established in accordance with s. 601.31 (17), Stats., for investigation and examination of an individual intermediary-broker:

Examination for one kind of authority	\$25.00
Examination for two kinds of authority	30.00

(6) An individual applicant who obtains a passing grade on the written examination and submits a satisfactory application and meets all the requirements of Ins 6.62 (3) and the bonding and trust requirements of Ins 6.64 shall be issued an individual intermediary-broker license for that kind of authority for which he or she is qualified upon timely payment of a license issuing fee of \$10.00 as authorized by section 601.31 (15), Stats.

(7) Written examination will be administered pursuant to section Ins 6.59 (6) and (8).

(8) An annual regulation charge will be required for each licensed individual intermediary-broker in accordance with s. 601.31 (15m), Stats.

**History:** Cr. Register, March, No. 279, eff. 4-1-79.

**Ins 6.66 Proper exchange of business.** (s. 628.61, Stats.). (1) Proper exchange of business means the forwarding of insurance business from one intermediary-agent who cannot, after due consideration, place the business with any of the insurers for which the agent is listed because of capacity problems, the refusal of the company to accept the risk or the onerous conditions it imposes on the insured, to an intermediary-broker or another intermediary-agent licensed for those lines of insurance whose insurers are able to accommodate the risk under conditions more favorable to the insured. The intermediary-agent forwarding the business is entitled to split the commission involved. Proper exchange of business is not the regular course of business and such forwarding of business is thereby distinguished from brokerage by its occasional and exceptional nature.

(2) No intermediary-agent may properly exchange business with another intermediary-agent or an intermediary-broker, unless:

(a) The soliciting intermediary-agent completes and signs an Exchange of Business Form; leaves one copy of the form with the insured prior to binding coverage, or if not feasible, notifies the insured of the contents of the form and subsequently gives the form to the insured; and retains one copy for his or her files;

(b) The intermediary-agent forwarding the business to a listed intermediary-agent or an intermediary-broker is licensed for the lines of business that are being exchanged;

(c) The intermediary-agent who receives the business and agrees to place it is licensed in the line or lines of insurance involved in the exchange; and

(d) Both the intermediary-agent forwarding the business and the intermediary-agent or intermediary-broker who places the business with the insurer sign the insurance application, or if no application is completed, the names of the intermediaries involved in the transaction appear on the policy issued.

(3) No intermediary-agent shall accept business solicited by another intermediary-agent which he or she knows, or has reason to know, is not exchanged in compliance with the provisions of this rule.

(4) The Exchange of Business Form shall contain statements:

(a) That such exchange is occasional within the meaning of this section;

(b) That the exchanged business originated in the normal course of business which, in the case of personal solicitations, means during solicitation for a particular insurer or group of insurers with whom the intermediary-agent is listed; and

(c) That after investigation it was found or demonstrated that the insurer (s) with whom the agent is listed is not capable of providing the desired coverage for any of the reasons set forth in sub (1).

(d) The following format shall be followed:

COMMISSIONER OF INSURANCE  
WISCONSIN EXCHANGE OF BUSINESS FORM

303

Client \_\_\_\_\_

Risk to be insured \_\_\_\_\_

Coverage desired \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, hereby states that:

(Soliciting agent)

1. After investigation it was found or demonstrated that the coverage desired could not be placed, either in total or a portion thereof, with any of the insurers for which the agent is listed because of: (check applicable box)

- Capacity problems
- Refusal of the insurer (s) to accept the risk
- Terms unacceptable to the potential insured (briefly explain)

\_\_\_\_\_

2. This exchange is occasional and originated in the normal course of business;

3. Unless the client fails to object, the coverage requested will be obtained, if possible, from

\_\_\_\_\_  
(agent or broker)

\_\_\_\_\_  
(soliciting agent)

\_\_\_\_\_  
Date

Original - Client

Copy - Soliciting Agent's File

(5) **LIMITATIONS.** (a) In the absence of evidence to the contrary, an intermediary-agent shall be presumed to have exceeded the occasional exchange of business if he or she places more than 5 insurance risks per calendar year with any single insurer with which he or she is not listed as an intermediary-agent, or exchanges in total more than 25 insurance risks per calendar year.

(b) The burden of showing that speciality lines, non-standard and professional liability business placed through surplus lines intermediaries in accordance with s. 618.41, Stats., or written on an excess rate or other individually rated risk basis beyond the limits prescribed for other exchanges of business in par. (a) is occasional and otherwise in compliance with this rule, shall be upon the intermediary-agent soliciting and forwarding such business.

(6) The forwarding of business from an intermediary-agent to an intermediary-broker shall be deemed an exchange of business within this section. This section shall not limit in any way the amount of business that an intermediary-broker may place or forward to an intermediary-agent.

(7) The exchange of business among intermediary-brokers and participation by intermediaries in risk sharing plans approved according to ch. 619, Stats., shall not be limited in any way by this section.

**History:** Cr. Register, March, 1979, No. 279, eff. 4-1-79.

**Ins 6.70 Combinations of lines and classes of insurance.** This rule defines and delimits the permissible combinations of the lines and classes of insurance defined and delimited by Ins 6.75 which may be written in the same policy. Except as provided in this rule, lines and classes of insurance may not be combined in the same policy.

(1) **COMBINATION WITH SEPARATE PREMIUM CHARGES.** Subject to Ins 2.05, any combination of the lines and classes of insurance defined and delimited by Ins 6.75, except for those described in Ins 6.75 (2) (h), (i) and (k), may be written in the same policy if a statement of separate premium charge is shown on the declarations page or on the face of the policy or in a separate written statement furnished to the policyholder. The requirement for a statement of separate premium charge does not prohibit such charges equitably reflecting differences in expected losses or expenses as contemplated by s. 625.11 (4), Stats.

(2) **COMBINATION WITH OR WITHOUT SEPARATE PREMIUM CHARGES.** Any combination of the lines and classes of insurance defined and delimited by Ins 6.75 (2) (a), (b), (d), (e), (f) and (j) may be written in the same policy with or without showing separate premium charges.

**History:** Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1977, No. 260, eff. 9-1-77.

**Ins 6.72 Risk limitations.** The provisions of s. 201.16, 1973 Stats., are incorporated herein by reference in their entirety, all statutory references therein being to 1973 Wisconsin Statutes.

**History:** Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.73 Reinsurance.** The provisions of ss. 201.27 and 201.31, 1973 Stats., are incorporated hereby by reference in their entirety.

**History:** Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.74 Suretyship and risk limitations of surety obligations.** (1) **PURPOSE.** The purpose of this rule is to establish minimum requirements for the transaction of surety obligations.

(2) **SCOPE.** This rule shall apply to the limitations on bond penal amounts imposed on insurers engaged in the business of suretyship.

(3) **DEFINITIONS.** (a) For purposes of this rule suretyship shall be construed to be insurance.

(b) An insurance corporation authorized to write fidelity insurance may guarantee the fidelity of, or become the surety for: 1. persons holding positions of public or private trust; 2. the performance of any act, duty or obligation or the refraining from any act; 3. the performance of any contract; 4. bonds of insurance companies required by law as a condition of transacting business; 5. indemnifying banks, brokers and other financial or moneyed associations or corporations, against the loss of documents and money, except against loss caused by marine risks or risks of transportation or navigation; 6. indemnifying any federal land bank against loss by reason of defective title to or incumbrances on real property on which such bank may have a mortgage.

(c) As used in this rule any one surety risk shall be equivalent to the penal amount established on the surety bond.

(4) **RISK LIMITATIONS ON SURETYSHIP OBLIGATIONS.** (a) No corporation shall execute any suretyship obligation or expose itself to any loss on any one surety bond in an amount in excess of one-tenth of its capital and surplus as reported in its most recent filed annual statement, unless it shall be protected in the excess of that amount: 1. by reinsurance in a corporation licensed to transact surety business where the risk is located; or 2. by the cosuretyship of a surety corporation likewise licensed.

(b) A surety corporation may execute transportation or warehousing bonds for United States internal revenue taxes to an amount equal to 5 times the underwriting limitation specified in subsection (4) (a) of this rule.

(c) No corporation writing surety shall guarantee the deposits of any single financial institution in an aggregate amount in excess of the underwriting limitation set forth in subsection (4) (a) unless it shall be protected in excess of that amount by reinsurance or cosuretyship as specified in subsection (4) (a).

(d) A surety corporation shall not issue multiple bonds on a single contract (splitting bonds) and a surety corporation's liability on a single contract shall not be in excess of the limitations established in subsection (4) (a).

(e) No domestic corporation writing surety business shall execute, re-insure or be cosurety on a suretyship obligation in favor of the U.S. government, or any other obligee, whereby a surety issues a bond to an obligee for a penal amount which is 10%, or an amount substantially less than, the total contract amount, unless the surety reinsures or obtains a cosurety for at least 50% of the bond penal amount with a corporation licensed to transact surety business where the risk is located. This is tantamount to a maximum exposure for any single loss on any one

surety bond of this type of not more than one-twentieth of a domestic surety corporation's capital and surplus.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.75 Classifications of insurance.** This rule defines and delimits lines and classes of insurance for any purposes within the commissioner's regulatory power unless the language or context of a statute or rule otherwise provides.

(1) **LIFE AND DISABILITY INSURANCE.** Life and disability insurance includes the following:

(a) **Life insurance and annuities**—insurance or annuities upon the lives of persons, except insurance or annuities included in par. (b);

1. **Credit life insurance**—insurance on the lives of borrowers or purchasers of goods in connection with specific loans or credit transactions when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(b) **Variable life insurance and variable annuities**—insurance or annuities which provide for immediate or future benefits, the cost of which is funded and the payment of which is computed on the basis of experience factors derived from one or more segregated investment accounts established and managed as provided in s. 611.24, s. 611.25, and s. 620.02, Stats.;

(c) **Disability insurance**—insurance covering injury or death of persons caused by accident, or insurance covering health of persons;

1. **Credit accident and sickness insurance**—insurance in connection with specific loans or credit transactions against loss of time of debtors resulting from accident or sickness when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(2) **PROPERTY AND CASUALTY INSURANCE.** Property and casualty insurance includes all lines or classes of insurance which may lawfully be the subject of insurance other than those classes defined in subsections (1) (a) or (1) (b), including but not limited to the following:

(a) **Fire, inland marine and other property insurance**—insurance against loss or damage to real and personal property, while stationary or in transit, arising out of fire or any other peril but not including any insurance defined in any other paragraph of this rule;

(b) **Ocean marine insurance**—insurance against the perils of seas and other related perils usually insured against by ocean marine insurance;

(c) **Disability insurance**—insurance covering injury or death of persons caused by accident, or insurance covering health of persons;

1. **Credit accident and sickness insurance**—insurance in connection with specific loans or credit transactions against loss of time of debtors resulting from accident or sickness when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(d) **Liability and incidental medical expense (other than automobile) insurance**—insurance against liability for damages to persons or property, and incidental insurance for medical expenses when written in the same policy, but not including any liability insurance defined in other paragraphs of this rule;

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(e) Automobile and aircraft insurance—insurance against loss, medical or other expense, and liability for damages arising out of the ownership, maintenance or use of any automobile, aircraft or other vehicle;

(f) Fidelity insurance—insurance against loss arising out of the acts or defaults of persons in positions of trust;

(g) Surety insurance—payment for loss arising out of failure to perform contracts or obligations;

(h) Title insurance—insurance against loss by reason of defects in titles to property;

(i) Mortgage guaranty insurance—insurance against loss arising from failure of debtors to meet financial obligations to creditors under evidences of indebtedness secured by a lien or charge on real estate;

(j) Credit insurance—insurance against loss arising from failure of debtors to meet financial obligations to creditors, except as defined in paragraph (i) of this rule;

(k) Worker's compensation insurance—insurance against obligations under ch. 102, Stats., or any similar law, and including employers' liability insurance when written in the same policy;

(l) Legal expense insurance—insurance against expense for the professional services of licensed lawyers;

(m) Credit unemployment insurance—insurance against loss of income of debtors resulting from either labor disputes or involuntary unemployment;

(n) Miscellaneous—insurance against any other property or casualty insurance risk which lawfully may be the subject of insurance not specifically defined in any other paragraph of this rule.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

**Ins 6.76 Grounds for disapproval of and authorized clauses for fire, inland marine and other property insurance forms.** (1) **PURPOSE.** The purpose of this rule is to set out characteristics and provisions of fire, inland marine and other property insurance forms, as defined by Wis. Adm. Code section Ins 6.75 (2) (a), which may constitute grounds for disapproval of such forms under the provisions of s. 631.20 (2), Stats., and to promulgate authorized clauses for such forms under s. 631.23 because it has been found that: (a) price or coverage competition is ineffective because diversity in language or content makes comparison difficult; (b) provision of language, content or form of these specific clauses is necessary to provide certainty of meaning of them; (c) regulation of contract forms will be more effective and litigation will be substantially reduced if there is increased standardization of certain clauses; and (d) reasonable minimum standards of insurance protection are needed for policies to serve a useful purpose.

(2) **GROUND FOR DISAPPROVAL.** A fire, inland marine or other property insurance form may be considered misleading, deceptive or obscure within the meaning of s. 631.20 (2), Stats., if it does not clearly state the perils covered, the limitations, and the conditions, or if it contains provisions contrary to the law, or if it does not include clauses covering the following provisions where appropriate:

- (a) Location and description of the property covered;
  - (b) Effect of other insurance on the coverage provided;
  - (c) Conditions suspending, restricting or voiding the coverage provided;
  - (e) Termination of the contract;
  - (f) Mortgagee interests and obligations;
  - (g) Obligations in case loss occurs.
- (3) **AUTHORIZED CLAUSES.** The following clauses, or any of them, shall be considered authorized clauses pursuant to s. 631.23, Stats. Appropriate liberalization of the prescribed language shall also be permitted.

(a) *Insuring clause.*

**IN CONSIDERATION OF THE PROVISIONS AND  
STIPULATIONS HEREIN OR ADDED HERETO**

and of the premium above specified this Company, for the term of

from \_\_\_\_\_ at [noon (12:01 a.m.) (choose one)] Standard  
Time to \_\_\_\_\_ at location of property involved, to an  
amount not exceeding the amount (s) above specified does insure

and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured against all **DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED**, to the property described herein while located or contained as described in this policy, or pro rata for 5 days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

(b) *Uninsurable and excepted property.* This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

(c) *Perils not included.* This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: 1. enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; 2. invasion; 3. insurrection; 4. rebellion; 5. revolution; 6. civil war; 7. usurped power; 8. order of any civil authority except



acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; 9. neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; 10. nor shall this company be liable for loss by theft.

(d) *Other insurance.* Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

(e) *Conditions suspending or restricting insurance.* Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring 1. while the hazard is increased by any means within the control or knowledge of the insured; or

2. while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

3. as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

(f) *Other perils or subjects.* Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

(g) *Added provisions.* The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

(h) *Waiver provisions.* No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

(i) *Mortgagee interests and obligations.* If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation. If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

(j) *Pro rata liability.* This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

(k) *Requirements in case loss occurs.* The insured shall give written notice as soon as reasonably possible to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this property, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

(l) *Appraisal.* In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

(m) *Company's options.* It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

(n) *Abandonment.* There can be no abandonment to this Company of any property.

(o) *When loss payable.* The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein

provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

(p) *Suit.* No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

(q) *Subrogation.* This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

*History:* Cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (3) (a), Register, November, 1978, No. 276, eff. 12-1-78.

**Ins. 6.77 Exemption from midterm cancellation requirements.**

(1) **PURPOSE.** This rule is intended to exempt certain classes of insurance contracts from s. 631.36 (2) (a), Stats., in accordance with the provisions of s. 631.36 (1) (c), Stats.

(2) **SCOPE.** This rule shall apply to all insurers authorized to write umbrella or excess liability insurance policies in Wisconsin.

(3) **DEFINITIONS.** (a) *Umbrella liability policy* means an insurance contract providing at least \$1,000,000 of liability coverage per person or per occurrence in excess of certain required underlying liability insurance coverage or a specified amount of self-insured retention.

(b) *Excess Liability policy* means an insurance contract providing at least \$1,000,000 of liability coverage per person or per occurrence in excess of certain required underlying liability insurance coverage.

(4) **EXEMPTION.** Any umbrella or excess liability insurance policy as defined in subsection (3) is exempt from the requirements of s. 631.36 (2) (a), Stats.

(5) **NOTICE.** An insurer cancelling any umbrella liability policy or excess liability policy shall notify the commissioner of the grounds for such cancellation not later than the time at which the insurer notifies the policyholder of such cancellation.

*History:* Emerg. cr. eff. 7-1-77; cr. Register, November, 1977, No. 263, eff. 12-1-77.