Chapter Ins 6

GENERAL

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

acted the business of insurance for at least 2 years immediately prior to the making of such application for license.

Ins 6.02 Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application; for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided into kinds of insurance according to the provisions of s. 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 s. Ins 6.75 (2) (a).

(b) Life insurance includes the kinds in s. 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 s. Ins 6.70.

(c) Casualty insurance includes the kinds in s. 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 6.05 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), Stats., 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.

(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 governments but the aggregate of such investments shall not exceed 1% of the insurer's 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 insurer's assets;

(l) Direct obligations of the international bank for reconstruction and development, the inter-American development bank and the Asian development bank but the aggregate of such investments shall not exceed 2% of the insurer's 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, 15 U.S.C. s. 80a-1 et seq., as amended — regarded as part of the common stock portfolio of the insurer; and

(o) Financial futures contracts and financial options contracts, provided that:

1. Such contracts shall be entered into to protect the investment portfolio of an insurer against the risk of changing asset values or interest rates, to enhance its liquidity, to aid in cash flow management, as a substitute for cash market transactions, and for any other purpose consistent with the investment objectives for the assets of insurers stated in s. 620.01, Stats.;

2. The aggregate market value of all financial futures contracts outstanding may not exceed 10% of the insurer's admitted assets;

3. An insurer may purchase put options or sell call options only with regard to financial futures contracts or financial instruments owned by, or which may be obtained through exercise of warrants or conversion rights held by the insurer;

4. An insurer may purchase call options or sell put options on financial futures contracts or financial instruments only if the amount of the instrument which may be acquired upon exercise of the option, when ag-

gregated with current holdings, would be an authorized investment under s. 620.22 (1) to (7), Stats., or this subsection, and would not exceed the limitations specified in s. 620.23, Stats., or this section;

5. The board of directors or its authorized committee shall first approve the insurer's plan relating to such investments, which plan must contain specific policy objectives and strategies, establish aggregate maximum limits in such investments and internal control procedures, and identify the duties, expertise and limits of authority of personnel authorized by the board of directors to engage in such transactions on behalf of the insurer; and

6. A copy of the insurer's plan shall be filed with the commissioner 30 days prior to its effective date. The commissioner may disapprove the plan within the 30-day period.

(9) CHANGES IN QUALIFICATION OF INVESTMENTS. Any investment originally made under s. 620.22 (9), 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 sub. (8) (g) 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 sub. (8) (h), 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; am. (8) (intro.), (b), (c), (e), (j), (k) and (l), Register, August, 1981, No. 308, eff. 9-1-81; reprinted to correct printing error in (8) (f), Register, March, 1983, No. 327; correction in (9) made under s. 13.93 (2m) (b) 7, Stats., Register, December, 1984, No. 348; renum. (3) (a) to (e) to be (3) (e) to (h) and (j), cr. (3) (a) to (d), (i), (4) (c) and (8) (o), am. (4) (a) and (b) and (8) (n), Register, April, 1987, No. 376, eff. 5-1-87.

Ins 6.25 Joint underwriting and joint reinsurance associations. (1) PURPOSE. This section, 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. Subsection (3) applies 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.

(f) Commercial property policies insuring property damage, business interruption, extra expense, rents and other time element coverages, for any policy whose total property damage limit is an amount not less than $50,000,000.

(g) Excess and umbrella liability with limits in excess of $25 million to risks with underlying coverage or self-insured for a minimum of $25 million.

(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
(h) American excess insurance association.

(4) LIMITATION ON MEMBERSHIP DISCIPLINARY ACTION. No person may 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 the insurer is a member, except termination of or expulsion of the insurer from membership in the association.

(5) PENALTY. Violations of this section 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. 275, eff. 12-1-78; cr. (2) (f), Register, January, 1983, No. 325, eff. 2-1-83; emerg. cr. (2) (g) and (3) (h), eff. 12-12-86; am. (1), (2) (intro.) to (e), (4) and (5), cr. (2) (g) and (3) (h), Register, May, 1987, No. 377, eff. 6-1-87.

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

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tion under sub. (4) as insurance intermediaries, those standards as set forth in s. Ins 6.59 (5), shall apply in lieu of the standards set forth in this subsection.

(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, the following criteria may be used in assessing trustworthiness and competence:

1. Criminal record. The conviction for crimes which are substantially related to insurance marketing.

2. Accuracy of information. Any material misrepresentation in the information submitted on form 11-50.

3. Regulatory action. Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

4. Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(5) FEES. (a) Biennially, on or before January 1 of even numbered years, a regulation fee of $10.00 for resident and $30.00 for non-resident intermediaries will be billed as authorized by s. 601.31 (1) (m), Stats.

(b) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(c) The license will be revoked if payment is not made within 60 days after suspension.

(6) NOTIFICATION OF CHANGES. Each intermediary corporation or partnership shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, location of the business records, or a change in the name and address of the designated representative.

Note: Intermediary corporations and partnerships are subject to the recordkeeping requirements as set forth in Ins 6.61 (1).

Application for the licensing of corporations and partnerships is made on form 11-50. Copies can be obtained at the office of the commissioner of insurance.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (5) (a), Register, September, 1981, No. 309, eff. 10-1-81; cr. (6), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (2), r. (3) and (8), renum. (4) to (7) to be (3) to (6), Register, April, 1982, No. 316, eff. 5-1-82; r. form 11-50, Register, October, 1982, No. 322, eff. 11-1-82; am. (3) (a) to (f), Register, December, 1984, No. 348, eff. 1-1-85; correction in (5) made under s. 13.93 (am) (b) 7, Stats., Register, December, 1984, No. 348.

Ins 6.59 Licensing of individuals as agents. (s. 628.04, Stats.) (1) PURPOSE. The purpose of this rule is to establish procedures for original licensure and license enlargement of an individual as an insurance agent.

(2) EXAMINATION. An examination is required of each resident applicant for each kind of agent license authority listed in s. Ins 6.50. Each examination will test the applicant's basic knowledge of the kinds of insurance to be solicited and the applicant's basic understanding of the applicable laws and regulations.

(3) FEES. The following fee schedule is established for residents and non-residents:

Application for one or 2 lines of authority	$40
Application for 3 or 4 lines of authority	$80

(4) PROCEDURE. (a) *Application.* Application for a permanent agent license or an enlargement of authority shall be made on form OCI 11-41 (rev.) and filed with the testing vendor. The testing vendor shall forward a copy of the application to the office of the commissioner of insurance. A completed application consists of receipt by the office of the commissioner of insurance of required forms and examination score report.

(b) *Time of filing.* Applications and appropriate fees shall be filed with the testing vendor, at least 30 days prior to the scheduled date of the written examination.

(c) *Issuance of license.* An applicant for an original license or a license enlargement who passes the written examination, pays the fees, submits a satisfactory application and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued an agent license for those kinds of authority for which the applicant is qualified. Determination of the acceptance or rejection of a completed application shall be made within 60 business days.

(5) COMPETENCE AND TRUSTWORTHINESS. The following criteria may be used in assessing trustworthiness and competence:

(a) *Criminal record.* The conviction for crimes which are substantially related to insurance marketing.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on form 11-41.

(c) *Regulatory action.* Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(6) FREQUENCY AND LOCATION. Examinations for each kind of 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. Examinations will be administered twice a month in Milwaukee and at least one other center.

(7) EXEMPTIONS. 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 s. Ins 6.57.

(8) CHANGE IN RESIDENCY STATUS. (a) A licensed nonresident agent, after becoming a Wisconsin resident, may retain authority under the nonresident agent license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease.

(b) A licensed resident agent, after becoming a resident of another state, may retain authority under the resident agent license for a maximum of 60 days, at which time all authority granted under the resident license shall cease.

(c) If an agent changes residency status and becomes licensed under the new status, all authority granted by the license issued under the former status shall terminate on the date the new license is issued.

(d) Criteria used by the insurance commissioner to establish residency shall include, but not be limited to:

1. Jurisdiction for payment of state taxes.

2. Jurisdiction for automobile driver's license and motor vehicle registration.

3. Location of voter registration.

4. Location of principal residence, such as owned or rented dwelling, condominium or apartment.

History: Cr. Register, March, 1977, No. 255, 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; am. (3) and (7), Register, February, 1980, No. 290, eff. 3-1-80; r. (6) and (9), renum. (7), (8) and (10) to be (6), (7) and (8), Register, August, 1980, No. 296, eff. 9-1-80; r. and recr. Register, September, 1981, No. 309, eff. 10-1-81; am. (4), cr. (8), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), (3), (4) (a) and (b) and (6), Register, May, 1987, No. 377, eff. 7-1-87.

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, 2.14 (5) (f), 3.27 (7), and 3.29 were followed for each individually-issued life and accident and health contract written and/or replaced.

(2m) After March 31, 1987, each intermediary who is employed by, or is, an affiliate of a producer of title insurance shall maintain records for 3 years for each application or order for title insurance accepted in this state. The records shall state whether the application or order was directly or indirectly referred as provided by s. Ins 3.32 (5) by a producer of title insurance which is an affiliate as defined by s. Ins 3.32 (3) (a),

(bm) and (c) and the name of each producer of title insurance who is an affiliate and acts as broker, agent, lender, representative or attorney in the transaction which resulted in the application or order. After March 31, 1987, each intermediary who is an affiliate of a producer of title insurance shall maintain a record of gross revenue from operations in this state from title insurance by quarter calendar year which shall separately show gross revenue from operations in this state derived from applications or orders for title insurance directly or indirectly referred by the affiliate.

(3) Records required by subs. (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.

(5) Each Wisconsin licensed agent must notify the commissioner within 30 days of any felony conviction or any formal disciplinary action against the agent taken by any state's insurance regulatory agency, commission or board, excepting action taken by the Wisconsin office of the commissioner of insurance. Formal disciplinary action means consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, forfeitures or actions limiting the agent's method of conducting an insurance business. The notification must be in writing and give a description of the conviction or disciplinary action.

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 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; cr. (5), Register, September, 1981, No. 309, eff. 10-1-81; cr. (2m), Register, November, 1986, No. 371, eff. 12-1-86.

Ins 6.63 Regulation charge. (1) The regulation amount to be paid biennially, by each licensed individual intermediary-agent is established to be as follows:

Resident agent	$ 10.00
Non-resident agent	$ 30.00

(2) The commissioner shall mail notification on form OCI 11-51 of the biennial regulation charge due and payable to each agent to the resident address on file with the office of the commissioner of insurance.

(3) Biennially on or before January 1 of each even numbered year the regulation fee is billed, 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.

Note: A copy of form OCI 11-51 can be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707.

(4) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(5) The license will be revoked if payment is not made within 60 days after suspension.

(6) Any individual intermediary-agent whose license has been revoked shall, in order to be relicensed, satisfy the examination and licensing requirements established by Ins 6.59.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) to (3), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (4) to (6), Register, October, 1981, No. 310, eff. 11-1-81.

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Ins 6.66 Proper exchange of business. (s. 628.61, Stats.). (1) Proper exchange of business means the forwarding of insurance business from one 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 another agent licensed for those lines of insurance whose insurers are able to accommodate the risk under conditions more favorable to the insured. The 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 agent may properly exchange business with another agent, unless:

(a) The agent forwarding the business to a listed agent is licensed for the lines of business that are being exchanged;

(b) The agent who receives the business and agrees to place it is licensed in the line or lines of insurance involved in the exchange; and

(c) Both the agent forwarding the business and the agent who places the business with the insurer sign the insurance application, or if no application is completed, the names of the agents involved in the transaction appear on the policy issued.

(3) No 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.

(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 that 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 specialty 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 witnin this section. This section shall not limit in any way the amount of business that an intermediary-broker may place or forward to any 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; am. (4) (d), Register, May, 1979, No. 281, eff. 6-1-79; am. (1), (2) (intro.) and (3), r. (2) (a) and (4), renum. (2) (b), to (d) to be (2) (a) to (c) and am., Register, September, 1982, No. 321, eff. 10-1-82.

Ins 6.67 Unfair discrimination in life and disability insurance. (1) PURPOSE. The purpose of this rule is to identify specific acts or practices in life and disability insurance found to be unfairly discriminatory under s. 628.34 (3) (b), Stats.

Note: The need for a rule has arisen because of questions as to whether life and disability insurers are in all cases fairly "charging different premiums or offering different terms of coverage except on the basis of classifications related to the nature and degree of the risk covered." (s. 628.34 (4), Stats.) The main purpose of the rule is to make clear that life and disability insurers cannot classify individuals arbitrarily—without a rational basis for each decision.

(2) APPLICABILITY AND SCOPE. This rule shall apply to all life and disability insurance policies delivered or issued for delivery in Wisconsin on or after January 1, 1980 and to all existing life and disability group, blanket and franchise insurance policies subject to Wisconsin insurance law which are amended or renewed on or after January 1, 1980.

(2m) DEFINITIONS. In this section:

(a) "Disability insurance" has the meaning given under s. Ins 6.75 (1) (c).

(b) "Territorial classification" means an arrangement of persons into categories based upon geographic characteristics other than zip code.

(3) SPECIFIC EXAMPLES. The following are specific examples of unfair discrimination under s. 628.34 (3) (b), Stats.

(a) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual or charging a different rate for the same coverage solely because of physical or mental impairment, other than blindness or partial blindness, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(b) Except as provided in par. 1. and 2., refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

1. Individuals who are blind or partially blind may be subject to standards based on sound actuarial principles or actual or reasonably anticipated experience with respect to any other condition they may have, including a condition which is the cause of the blindness or partial blindness.

2. Refusal to insure under sub. (3) includes a denial of disability insurance on the basis that the policy presumes disability if the insured loses his or her eyesight. However, an insurer may exclude from coverage, or apply a waiting period, to coverage of treatment of blindness or partial blindness if that condition exists at the time the policy is issued.

(4) INSURER RESPONSIBILITY. An insurer has the burden of proof to show that an act, standard or practice of the insurer is based on sound actuarial principles or is related to actual or reasonably anticipated experience in any action to enforce s. 628.34 (3) (b), Stats. For the anticipated experience to be reasonable it must be based on medical or actuarial research on morbidity or mortality.

(5) SEXUAL ORIENTATION. (a) An insurer may not use sexual orientation in the underwriting process or in the determination of insurability, premium, terms of coverage, or nonrenewal.

(b) No insurer may include any inquiry about the applicant's or insured's sexual orientation in an application for disability or life insurance coverage or directly or indirectly investigate in connection with an application for disability or life insurance coverage the applicant's or insured's sexual orientation.

(c) No insurer may use the marital status, occupation, gender, medical history, beneficiary designation, or the zip code or territorial classification of an applicant or insured or any other factor to establish, or aid in establishing, the applicant's or insured's sexual orientation.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; r. (4) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; am. (1), r. and recr. (3), cr. (4), Register, April, 1987, No. 376, eff. 5-1-87; correction in (2), (3) (b) 2. and (4) made under s. 13.93 (2m) (b) 14, 12 and 1 Stats., Register, April, 1987, No. 376; cr. (5), Register, May, 1987, No. 377, eff. 6-1-87.

Ins 6.68 Unfair discrimination based on geographic location or age of risk. (s. 628.34, Stats.) (1) PURPOSE. The purpose of this rule is to identify specific acts or practices found to be unfair trade practices that are unfairly discriminatory under s. 628.34, Stats.

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(i) *Mortgagee interests and obligations.* If loss hereunder is made payable, in whole or in part, to a designated mortagee 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 as 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 portion 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 12 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. 275, eff. 12-1-78.

Ins 6.77 Exemption from mid-term cancellation requirements and required uninsured motorist and medical payments coverages. (1) PURPOSE. This section is intended to exempt certain classes of insurance contracts from ss. 631.36 (2) (a) and 632.32 (4), Stats., in accordance with the provisions of ss. 631.01 (5) and 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 sub. (3) is exempt from the requirements of ss. 631.36 (2) (a) and 632.32 (4), 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. Insurers shall provide notice to the insured as set forth in s. 631.36 (2) (b), Stats.

History: Emerg. cr. eff. 7-1-77; cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (1), (4) and (5), Register, May, 1987, No. 377, eff. 6-1-87.

Ins 6.78 Exemption from filing of rates. (1) PURPOSE. The purpose of this rule is to exempt from the filing requirements of s. 625.13, Stats., those rates for risks which have been customarily written on a consent-to-rate basis, it having been determined that such filing is not necessary to protect policyholders and the public. This rule implements and interprets ss. 625.04, 625.13 and 625.15, Stats.

(2) SCOPE. This rule shall apply to 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) EXEMPT FILINGS. If a specific risk in a line or class of insurance set forth in (2) above is of a type which is customarily written on a consent-to-rate basis wherein the insured agrees to accept a rate that is different from the insurer's filed rates, the consent-to-rate shall not be filed with the commissioner, provided:

(a) The insurer keeps for a least 1 year after the expiration date of the policy;

1. Record of the rate development; and

2. The written application signed by the insured stating the insured's reason for requesting the rate.

(b) Prior to entering into such insurance agreements in Wisconsin the insurer has notified the commissioner of insurance of its intention so to do, identifying the contemplated lines and classes of insurance.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

Ins 6.79 Advisory councils. (1) PURPOSE. The purpose of this rule is to create advisory councils under s. 15.04 (1) (c) to assist in dealing with regulatory problems pursuant to ss. 227.017 and 601.20 (1), Stats.

(2) COUNCILS. This rule creates the following councils:

(a) Life and Disability.

(b) Property and Casualty.

(c) Financial.

(3) MEMBERSHIP. Each council shall consist of 9 members and the commissioner of insurance or a designated member of the staff of the office of the commissioner of insurance. Members shall include representatives of licensed insurers, licensed insurance marketing intermediaries and members of the public not affiliated with licensed insurers or licensed intermediaries. The membership of each council shall include 4 representatives of licensed insurers, 3 public representatives and 2 insurance marketing intermediaries.

(4) TERM. Members of each 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, 3 members for a 2-year term, and 3 members for a 3-year term.

(5) DUTIES. It shall be the duty of each council to advise the commissioner on matters relating to subjects presented to members for study and review by the commissioner of insurance.

(6) OFFICERS. The commissioner shall annually select a chairperson and a vice-chairperson from among the council members. The commissioner or a designee shall act as secretary and keep a record of all proceedings, transactions, communications, and other official acts of the councils. The files and records of the councils shall be maintained at the office of the commissioner of insurance.

(7) MEETINGS. The councils 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 of each council.

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

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; correction in (1) under s. 13.93 (2m) (b) 7, Stats., Register, September, 1984, No. 348.

Ins 6.80 Retention of records. (1) PURPOSE. The purpose of this section is to establish standards for record retention by insurers and other persons subject to the regulation of the commissioner.

(2) SCOPE. (a) This section shall apply to all insurers licensed under chs. 611, 612, 613, 614, 615 and 618, Stats., and including the Local Property Insurance Fund, the State Life Insurance Fund, and the State Indemnity Fund.

(b) The following sections also apply:

1. Ins 1.01 (3) applies to fraternals.

2. Ins 2.07 (5) (a) 2.d. and (b) 2.b. aply to life insurance.

3. Ins 3.25 (9) (d) applies to credit life and accident and sickness insurance.

4. Ins 3.27 (28) applies to disability insurance.

5. Ins 6.17 (3) (d) and (e) apply to surplus lines.

6. Ins 6.03 (2) (a) 1.e., 6.30 (3) (a) 3.e., (4) (a) 2.e. and (5) (a) 3. apply to property and casualty insurers.

7. Ins 6.55 (5) (b) applies to all insurers.

8. Ins 6.61 applies to intermediaries.

9. Ins 8.09 applies to employe welfare funds.

(3) DEFINITIONS. (a) "Domestic insurer" has the meaning set forth in s. 600.03 (27) (c), Stats.

(b) "Insurer" has the meaning set forth in s. 600.03 (27) (a), Stats.

(c) "Nondomestic insurer" has the meaning set forth in s. 600.03 (27) (e), Stats.

(d) "Hard copy" means any information which is procured from an alternate storage facility such as microfilm, microfische or electronic data processing and reproduced into proper form.

(4) DOMESTIC INSURERS. (a) Corporate records such as minute books, articles and by-laws, and stock and membership records shall be retained as permanent records.

1. General ledgers shall be retained as permanent records.

2. Rate books, agents' handbooks, underwriting manuals, specimen forms, and related actuarial material, as well as reinsurance contracts, shall be retained as long as the related insurance coverage remains in force.

(b) Records of insurance company operations and other financial records reasonably related to insurance operations for the preceding 3 years shall be maintained and be available to the commissioner.

(c) Records maintained under par. (b) may be in written form or in any other form capable of being converted to written form within a reasonable period of time.

1. Original documents, such as claim files, invoices, cancelled checks, underwriting information and other similar materials may be maintained on microfilm or microfische so long as the records thus maintained are readily available to the commissioner and can be reproduced in hard copy.

2. Accounting records, policy master files, reserve inventories, and other similar records normally produced in hard copy may be maintained or electromagnetic tape provided such tapes are preserved and that the company can and will reproduce the appropriate hard copy within a reasonable period of time at the request of the commissioner.

(d) The statutes of limitations, escheat laws, and statutes regarding minors of the various jurisdictions in which the insurer does business shall control the retention of pertinent records, other than permanent records, beyond the period mentioned in par. (b). These records may include, but shall not be limited to, claims files, supplementary contract files, records of uncashed checks, and underwriting files.

(e) Subject to this rule and applicable statutes and rules or regulations of this and other jurisdictions in which the insurer is licensed to do business, the insurer may set its retention or records to conform to its storage facilities.

(5) NONDOMESTIC INSURERS. (a) Records with regard to insurance company operations in the state of Wisconsin for the preceding 3 years shall be maintained in the form specified under (4) and be available to the commissioner, or the insurance regulatory agency of the insurer's state of domicile.

(b) The requirements of this rule pertaining to an insurer's operations in the state of Wisconsin may be met by compliance with the record retention law of its state of domicile. If no such law or regulation exists, an insurer may comply with this rule by presenting a statement attesting to

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the fact that its record retention system is acceptable to its state of domicile.

(7) PENALTY. Violations of this rule by any person shall subject the person to the penalties set forth in s. 601.64, Stats.

(8) EFFECTIVE DATE. As provided in s. 227.22 (2). (intro), this rule shall take effect on the first day of the month following its publication.

History: Cr. Register, June, 1981, No. 306, eff. 7-1-81; r. (6) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; correction in (8) made under s. 13.93 (2m) (b) 7, Stats., Register, May, 1987, No. 377.