

Chapter Ins 2

LIFE INSURANCE

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Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 2.02 Stock life insurance corporations writing participating policies. (1) **PURPOSE.** The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including ss. 601.04, 601.42, 601.43, 628.34, 632.62, Stats., and chs. 611 and 618, Stats.

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by s. Ins 6.75 (1) (a) in the form of participating policies.

(3) **LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS.** The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of a) 10% of such profits or b) 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) **LICENSE REQUIREMENTS.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the

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surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

(a) No profits on participating policies and contracts in excess of the larger of 10% of such profits or 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(b) The profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company.

(c) Such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually.

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) **EXCEPTIONS.** In accordance with s. 632.62, Stats., the agreement required by sub. (4) (e) may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) **ANNUAL FILING.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by s. 601.42, Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by ss. 201.045 and 201.34, Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, s. 206.36, Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. SS. 206.51 (1) and

holders and the public which is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this rule.

(9) **AGENT QUALIFICATIONS.** Any person selling or offering for sale a variable contract must have a valid license as described in s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a); and have passed any one of the following alternative security examinations administered by the National Association of Securities Dealers:

1. General Securities Registered Representative Examination
2. Investment Company Products/Variable Contracts Limited Representative Qualification Examination
3. SECO/NASD Non-Member General Securities Examination
4. General Securities Principal Qualification
5. Investment Company Products/Variable Contracts Limited Principal Qualification Examination

History: Cr. Register, October, 1968, No. 154, eff. 11-1-68; emerg. am. (1), (2) (a), (4) (a) and (g), eff. 6-22-76; am. (1), (2) (a), (4) (a) and (g), Register, September, 1976, No. 249, eff. 10-1-76; am. (6) (e), Register, March, 1979, No. 279, eff. 4-1-79; r. (2) (d) 5., (9) (g), to (m) and (p), am. (2) (b) to (d) (intro.), (6) (a), (9) (a) to (f), cr. (9) (g) to (i), renum. (9) (n) and (o) to be (9) (j) and (k), Register, May, 1979, No. 281, eff. 6-1-79; r. and recr. (2) and (9), Register, October, 1981, No. 310, eff. 11-1-81.

Ins 2.14 Life insurance solicitation. (1) The purpose of this section is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for his or her needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This section does not prohibit the use of additional material which is not in violation of this section or any other Wisconsin statute or rule. This section interprets ss. 628.34 and 628.38, Stats. This section is in addition to and not a substitute for the requirements set forth in s. Ins 2.16.

(2) **SCOPE.** (a) Except as hereafter exempted, this section shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This section shall apply to any issuer of life insurance contracts including fraternal benefit societies and the State Life Insurance Fund.

(b) Unless otherwise specifically included, this section shall not apply to:

1. Annuities.
2. Credit life insurance.
3. Group life insurance.

4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employee retirement income security act of 1974 (ERISA), 29 U.S.C. ss. 1001 to 1461.

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5. Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

(3) DEFINITIONS. For the purposes of this section, the following definitions shall apply:

(a) *Cash dividend*. A cash dividend is the current illustrated dividend which can be applied toward payment of the gross premium.

(b) *Equivalent level death benefit*. The equivalent level death benefit of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years, respectively.

2. Divide each accumulation of step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step 1 over the respective periods stipulated in step 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(c) *Generic name*. Generic Name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(d) *Life insurance indexes*. 1. Surrender Cost Index. The Surrender Cost Index is calculated by applying the following steps:

a. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

b. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in step a.

c. Divide the result of step b (step a for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that if paid at the beginning of each year, would accrue to the value in step b (step a for guaranteed-cost policies) over the respective periods stipulated in step a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

d. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider (if the annual premium includes supplemental benefits without separate identifiable charge, a reasonable adjustment may be made) at 5% interest compounded annually to the end of the period stipulated in step a and dividing the result by the respective factors stated in step c. (This amount is the annual premium payable for a level premium plan).

e. Subtract the result of step c from step d.

f. Divide the result of step e by the number of thousands of the Equivalent Level Death Benefit to arrive at the Surrender Cost Index.

2. Net Payment Cost Index. The Net Payment Cost Index is calculated in the same manner as the comparable Surrender Cost Index except that the cash surrender value and any terminal dividend are set at zero.

3. Equivalent Level Annual Dividend. The Equivalent Level Annual Dividend is calculated by applying the following steps:

a. Accumulate the annual cash dividends at 5% interest compounded annually to the end of the tenth and twentieth policy years.

b. Divide each accumulation of step a by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in step a over the respective periods stipulated in step a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

c. Divide the results of step b by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

(e) *Policy summary*. 1. For the purposes of this section, Policy Summary means a written statement in substantially the same format for all companies and describing the elements of the policy including but not limited to:

a. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

b. The name and address of the insurance intermediary, or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.

c. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

d. The Generic Name of the basic policy and each rider.

e. The following amounts, where applicable, for the first 5 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including but not necessarily limited to, the years for which the Surrender Cost Index is displayed and at least one age from 60 through 65 or maturity whichever is earlier:

i. The annual premium for the basic policy.

ii. The annual premium for each optional rider.

iii. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

iv. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

v. Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

vi. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

f. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in ad-

vance or in arrears. If the policy loan interest is variable, the Policy Summary shall include the maximum annual percentage rate.

g. Surrender Cost Indexes for 10 and 20 years. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

h. A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed.

i. A statement in close proximity to the Surrender Cost Index (and other cost indexes) as follows: A further explanation of the intended use of this (these) index(es) is provided in the *Buyer's Guide to Life Insurance*.

j. The date on which the Policy Summary is prepared.

2. The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subd. 1. e. above shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

(4) DISCLOSURE REQUIREMENTS. (a) The insurer shall provide a Policy Summary upon delivery of the policy.

(am) The insurer shall provide to all prospective purchasers of any policy subject to this section a copy of the *Buyer's Guide to Life Insurance*, at the time the application is taken, except that insurers which do not market policies through an intermediary may provide the *Buyer's Guide to Life Insurance* at the time the policy is delivered provided they guarantee to the policyholder a 30-day right to return the policy for a full refund of premium.

(b) The insurer may provide information concerning life insurance cost indexes other than the surrender cost index so long as the information and its method of presentation is in conformance with this section.

(c) For policies already issued and paying premiums on the effective date of this section, policyholders shall have the right to obtain a Policy Summary at cost. The company may charge a reasonable fee for preparing this summary, not to exceed \$5, and may utilize reasonable assumptions in providing the cost disclosure information, so long as they are clearly disclosed.

(5) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of 3 years

following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30).

(b) An intermediary shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance intermediary and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name.

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(d) Any reference to policy dividends must include a statement that dividends are not guaranteed.

(e) Any sales presentation subject to this section shall comply with the requirements of s. Ins 2.16 (7) (b) and (c).

(f) Recommendations made by a person subject to this section concerning the purchase or replacement of any life insurance policy are subject to the requirements of s. Ins 2.16 (6);

(g) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of 2 or more life insurance policies.

(h) No presentation of benefits may display guaranteed and nonguaranteed benefits as a single sum unless the guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21).

(i) A statement regarding the use of the Surrender Cost Index shall include an explanation to the effect that the index is useful only for the comparison of the relative costs of 2 or more similar policies.

(j) A Life Insurance Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.

(k) For the purposes of this section, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

(6) UNUSUAL CIRCUMSTANCES. Insurers with unique difficulties in implementing provisions of this section may petition the commissioner for allowance to meet the requirements of the section through alternative approaches.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1978, No. 275, eff. 1-1-79; am. (3) (a) and (6), r. and recr. appendices, Register, January, 1980, No. 289, eff. 2-1-80; r. (3) (a) and (f), (4) (a) and (c), Appendices 1, 2 & 3, renum. (3) (b) to (e) and (g) to be (3) (a) to (e), (4) (b), (d) and (e) to be (4) (a) to (c), Register, May, 1984, No. 341, eff. 6-1-84; r. (10) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; am. (1) and (3) (e) 1. i, cr. (4) (am) and appendix 1, Register, October, 1986, No. 370, eff. 11-1-86; am. (1), (2) (a) and (b) (intro.) and 4., (3) (intro.), (e) 1., (4) (b) and (c), (5) (a), (h) and (k), r. (3) (d) 4., (6), (8) and (9), r. and recr. (5) (e) and (f), renum. (7) to be (6) and am. Register, July, 1989, No. 403, eff. 8-1-89.

APPENDIX I
BUYER'S GUIDE
TO
LIFE INSURANCE

State of Wisconsin
Office of the Commissioner
of Insurance
P.O. Box 7873
Madison WI 53707-7873

Adapted from the 1983 Life Insurance Buyer's Guide prepared by the National Association of Insurance Commissioners

BUYER'S GUIDE TO LIFE INSURANCE

This guide can help you get the most for your money when you shop for life insurance. It can help you answer questions about:

- Buying Life Insurance
- Deciding How Much You Need
- Choosing the Right Kind
- Finding a Low Cost Policy

Buying Life Insurance

When you buy life insurance, you want coverage that fits your needs and does not cost too much.

First, decide how much you need — and for how long — and what you can afford to pay.

Next, find out what kinds of policies are available to meet your needs and pick the one that suits you best.

Then, find out what different companies charge for the kind of policy and the amount of insurance you want. You can find important cost differences between life insurance policies by using the *cost comparison indexes* described in this guide.

Ask a life insurance agent or company to help you. An agent can be particularly useful in reviewing your insurance needs and in giving you information about the kinds of policies that are available. If one kind does not seem to fit your needs, ask about others.

This guide provides only basic information. You can get more facts from a life insurance agent or company or at your public library.

What About Your Present Policy? Think twice before dropping a life insurance policy you already have to buy a new one.

It can be costly because much of what you pay in the early years of a policy is used for the company's expense of selling and issuing the policy. This expense will be incurred again for a new policy.

If you are older or your health has changed, premiums for the new policy will often be higher.

You may have valuable rights and benefits in your present policy that are not in the new one.

You might be able to change your present policy or even add to it to get the coverage or benefits you now want.

Check with the agent or company that issued your present policy — get both sides of the story. In any case, do not give up your present policy until you are covered by a new one.

How Much Do You Need?

To decide how much life insurance you need, figure out what your dependents would have if you were to die now, and what they would actually need. Your new policy should come as close to making up the difference as you can afford.

In figuring this out, think of the income your dependents will need for family living expenses, educational costs and any other future expenses. Think also of cash needs — for the expenses of a final illness and for paying taxes, mortgages or other debts.

What is the Right Kind?

All life insurance policies agree to pay an amount of money when you die. But all policies are not the same. Some provide permanent coverage and others temporary coverage. Some build up cash values and others do not. Some policies combine different kinds of insurance, and others let you change from one kind of insurance to another. Your choice should be based on your needs and what you can afford.

Many different plans are offered today. Here is a brief description of two basic kinds — term and whole life — and some combinations and variations.

Term Insurance covers you for a *term* of one or more years. It pays a death benefit only if you die in that term. Term insurance generally provides the largest immediate death protection for your premium dollar.

Most term insurance policies are *renewable* for one or more additional terms, even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. Check the premiums at older ages and how long the policy can be continued.

Many term insurance policies can be *converted* to a whole life policy — even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance covers you for as long as you live. The most common type is called *straight life* or *ordinary life* insurance — you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay at first for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Whole life policies develop cash values. If you stop paying premiums, you can take the cash or you can use the cash value to buy continuing insurance protection for a limited time or for a reduced amount. (Some term policies that provide coverage for a long period also have cash values.)

You may borrow against the cash values by taking a policy loan. Any loan and interest on the loan that you do not pay back will be deducted from the benefits if you die or from the cash value if you stop paying premiums.

Combinations and Variations. You can combine different kinds of insurance. For example, you can buy whole life insurance for lifetime coverage and add term insurance for the period of your greatest insurance need. Usually the term insurance is on your life — but it can also be bought for your spouse or children.

Endowment insurance policies pay a sum or income to you if you live to a certain age. If you die before then, the death benefit is paid to the person you named as beneficiary.

Other policies may have special features which allow flexibility as to premiums and coverage. Some let you choose the death benefit you want and the premium amount you can pay. The kind of insurance and coverage period are determined by these choices.

One kind of flexible premium policy, often called *universal life*, lets you vary your premium payments every year, and even skip a payment if you wish. The premiums you pay (less expense charges) go into a policy account that earns interest and charges for the insurance are deducted from the account. Here, insurance continues as long as there is enough money in the account to pay the insurance charges.

Variable life is a special kind of insurance where the death benefits and cash values depend upon investment performance of one or more separate accounts. Be sure to get the prospectus provided by the company when buying this type of policy. The method of cost comparison outlined in this Guide does not apply to policies of this kind.

Finding a Low Cost policy

After you have decided which kind of life insurance is best for you, compare similar policies from different companies to find which one is likely to give you the best value for your money. A simple comparison of the premiums is not enough. There are other things to consider. For example:

- Do premiums or benefits vary from year to year?
- How much cash value builds up under the policy?
- What part of the premiums or benefits is not guaranteed?
- What is the effect of interest on money paid and received at different times on the policy?

Cost Comparison Index numbers, which you get from life insurance agents or companies, take these items into account and can point the way to better buys.

Cost Comparison Indexes. There are two types of cost comparison index numbers. Both assume you will live and pay premiums for the next 10 or 20 years.

1. *The Surrender Cost Comparison Index* helps you compare costs over a 10 or 20 year period assuming you give up (surrender) the policy and take its cash value at the end of the period. It is useful if you consider the level of cash values to be of special importance to you.

2. *The Net Payment Cost Comparison Index* helps you compare costs over a 10 or 20 year period assuming you will continue to pay premiums on your policy and do not take its cash value. It is useful if your main concern is the benefits that are to be paid at your death.

The two index numbers are the same for a policy without cash values.

Guaranteed and Illustrated Figures. Many policies provide benefits on a more favorable basis than the minimum guaranteed basis in the policy. They may do this by paying dividends or by charging less than the maximum premium specified. Or they may do this in other ways, such as by providing higher cash values or death benefits than the minimums guaranteed in the policy. In these cases the index numbers are shown on both a guaranteed and currently illustrated basis. The currently illustrated basis reflects the company's current scale of dividends, premiums or benefits. These scales can be changed after the policy is issued, so that the actual dividends, premiums or benefits over the years may be higher or lower than those assumed in the indexes on the currently illustrated basis.

Some policies are sold only on a *guaranteed* or *fixed cost* basis. These policies do not pay dividends; the premiums and benefits are fixed at the time you buy the policy and will not change.

Using Cost Comparison Indexes. The most important thing to remember is that a policy with smaller index numbers is generally a better buy than a similar policy with larger index numbers.

Compare index numbers only for similar policies — those which provide essentially the same benefits, with premiums payable for the same length of time. Make sure they are for your age and for the kind of policy and amount you intend to buy. Remember that no one company offers the lowest cost at all ages for all kinds and amounts of insurance.

Small differences in index numbers should be disregarded, particularly when there are dividends or nonguaranteed premiums or benefits. Also, small differences could easily be offset by other policy features or differences in the quality of service from the agent or company. When you find small differences in the indexes, your choice should be based on something other than cost.

Finally, keep in mind that index numbers cannot tell you the whole story. You should also consider:

The pattern of policy benefits. Some policies have low cash values in the early years that build rapidly later on. Other policies have a more level cash value build-up. A year by year display of values and benefits can be very helpful. (The agent or company will give you a Policy Summary that will show benefits and premiums for selected years.)

Any special policy features that may be particularly suited to your needs.

The methods by which nonguaranteed values are calculated. For example, interest rates are an important factor in determining policy dividends. In some companies dividends reflect the average interest earnings on all policies whenever issued. In others, the dividends for policies issued in a recent year or a group of years reflect the interest earnings on those policies; in this case, dividends are likely to change more rapidly when interest rates change.

Things to Remember

Review your particular insurance needs and circumstances. Choose the kind of policy with benefits that most closely fit your needs. Ask an agent or company to help you.

Be sure that the premiums are within your ability to pay. Do not look only at the initial premium but take account of any later premium increase.

Ask about cost comparison index numbers and check several companies which offer similar policies. Remember, smaller index numbers generally represent a better buy.

Do not buy life insurance unless you intend to stick with it. It can be very costly if you quit during the early years of the policy.

Read your policy carefully. Ask your agent or company about anything that is not clear to you.

Review your life insurance program with your agent or company every few years to keep up with changes in your income and your needs.

Ins 2.15 Annuity benefit solicitation. (1) FINDINGS. Information on file in the office of the commissioner of insurance and submitted as Exhibit 4 at the hearing February 28, 1980 shows that some of the brochures, presentations, illustrations and other sales material which have been used by insurers and their representatives to sell annuity contracts to Wisconsin residents are confusing, misleading and incomplete, and that annuity purchasers are not receiving the information needed to make sound purchase decisions. The commissioner of insurance finds that such presentations and sales material are misleading, deceptive and restrain competition unreasonably as considered by s. 628.34 (12), Stats., and that their continued use would constitute an unfair trade practice under s. 628.34 (12), Stats. and would result in misrepresentation as defined and prohibited in s. 628.34 (1), Stats.

(2) (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or annuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute. This section is in addition to and not a substitute for the requirements set forth in s. Ins. 2.16.

(b) This section interprets and implements s. 628.34 (12), Stats.

(3) **SCOPE.** (a) Except as specified in par. (b), this section shall apply to any solicitation, negotiation or procurement of annuity or deposit fund arrangements occurring within this state. This section shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies.

(b) This section shall not apply to:

1. Variable annuities;
2. Contracts registered with the federal securities and exchange commission;
3. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or both;
4. Immediate annuity contracts (arrangements under which payments begin within 13 months of the issue date);
5. Policies or contracts issued in connection with employe benefit plans as defined by 29 U.S.C. s. 1002 (3) of the federal employe retirement income security act of 1974 (ERISA), except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 U.S.C. s. 403 (b) of the internal revenue code;
6. Individual retirement accounts and individual retirement annuities as described in 26 U.S.C. s. 408 of the internal revenue code;
7. A single advance payment of specified premiums equal to the discounted value of such premiums;
8. A policyholder's deposit account established solely to facilitate payment of regular premiums;
9. Settlement options under life insurance or annuity contracts.

(4) **DEFINITIONS.** (a) "Contract Summary" means a written statement to be provided to the buyer at the time of contract delivery describing the elements of the annuity contract or deposit fund in the manner set out in sub. (6).

(b) "Preliminary Contract Summary" means a written statement to be provided to the buyer prior to sale which describes the elements of the annuity contract or deposit fund in the manner set out in sub. (5).

(c) "Wisconsin Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in Appendix I to this section.

(d) "Yields" means those effective annual interest rates at which the accumulation of 100% of all gross considerations would be equal to the guaranteed and illustrated cash surrender values at the points specified. For contracts without surrender values the yields shall be figured on the basis of the contract values used to determine annuity payments at the points specified.

(5) **PRELIMINARY CONTRACT SUMMARY.** The Preliminary Contract Summary shall include:

(a) A prominently placed title, **PRELIMINARY CONTRACT SUMMARY**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) A statement as to whether the arrangement provides any guaranteed death benefits during the deferral period;

(e) A prominent statement that the contract does not provide cash surrender values, if such is the case;

(f) For arrangements under which guaranteed cash surrender values at any duration are less than the total scheduled considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years;

(g) Any minimum or maximum premium limitations;

(h) A prominent description of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to, any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees;

(i) In the event any sales promotion literature or oral representation illustrates values or annuity payments which are based on dividends, excess interest credits, or current annuity rates, then the Preliminary Contract Summary shall contain a statement that such dividends, excess interest credits, and current annuity purchase rates are not guaranteed and that any corresponding values and annuity amounts are illustrations only and are not guaranteed;

(j) A statement that the insurer shall provide the prospective customer a Contract Summary upon request.

(6) **CONTRACT SUMMARY.** The Contract Summary shall include:

(a) A prominently placed title, **CONTRACT SUMMARY**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) Any guaranteed death benefits during the deferral period, and the form of annuity payment selected for pars. (f), (g) and (i);

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement thereof, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the arrangement and no indebtedness to the insurer on the contract;

(g) Illustrative annuity payments on a current basis, if shown, must be on the same basis as for par. (f) except for guarantees, and may not be greater in amount than those based on:

1. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements, or the current excess interest rate credited by the insurer, and

2. Current annuity purchase rates;

(h) For arrangements under which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years and showing the number of years such a relationship exists, together with a reference to the schedule of guaranteed cash surrender values required by par. (i) 3.;

(i) The following amounts, where applicable, for the first 5 years and representative years thereafter sufficient to illustrate clearly the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments:

1. The gross consideration for the arrangement;

2. Any minimum or maximum premium limitation;

3. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year;

4. If other than guaranteed cash values are shown, the total illustrative cash value or paid-up annuity at the end of the year may not be greater in amount than that based on:

- a. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements or the current excess interest rate credited by the insurer, and

- b. Current annuity purchase rates.

(im) If the annuity payments have not yet commenced, the yield on gross considerations at the end of 10 years and at the scheduled commencement of annuity payments. For contracts without surrender values, only the yield at the scheduled commencement of annuity payments need be shown. The yield shall be figured on the basis of the contract value used to determine the annuity payments. These yield figures shall be shown on a guaranteed basis and, if current annuity payments or cash surrender values are shown, on an illustrative basis also.

(in) A statement of the interest rates used in calculating the guaranteed and illustrative contract or fund values.

(j) For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed;

(k) The date on which the Contract Summary is prepared.

(7) PREPARATION OF PRELIMINARY CONTRACT SUMMARY AND CONTRACT SUMMARY. The following must be considered in preparing the Preliminary Contract Summary and the Contract Summary:

(a) The Preliminary Contract Summary and the Contract Summary must be separate documents;

(b) All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure;

(c) Any amounts which remain level for 2 years or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year;

(d) Amounts in sub. (6) (d), (f), (g) and (i) shall, in the case of flexible premium annuity arrangements, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be a specified level amount, such as \$100 or \$1,000 per year;

(e) If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later;

(f) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or a current excess interest rate.

(8) DISCLOSURE REQUIREMENTS. (a) The insurer and its intermediaries shall provide, to all prospective purchasers of any contract or arrangement subject to this section, a copy of the current edition of the Wisconsin Buyer's Guide to Annuities and a properly completed Preliminary Contract Summary or Contract Summary prior to accepting the applicant's initial consideration for the annuity contract, or, in the case of a rider or provision, prior to acceptance of the applicant's initial consideration for the associated insurance policy or annuity contract. Insurers which do not market contracts through an intermediary may provide the Contract Summary, and the Wisconsin Buyer's Guide to Annuities at the point of contract delivery provided they:

1. Guarantee to the contractholder the right to return the contract for a full refund of premium any time during a 30 day period commencing on the date such contractholder receives the Contract Summary and the Wisconsin Buyer's Guide to Annuities;

2. Alert the prospective contractholder, in advertisements or direct mail solicitations, of his or her right to obtain a copy of the Wisconsin Buyer's Guide to Annuities and a Preliminary Contract Summary prior to the sale.

(b) The insurer and its intermediaries shall provide a Contract Summary upon delivery of the contract, if it has not been delivered beforehand;

(c) The insurer and its intermediaries shall provide a Wisconsin Buyer's Guide to Annuities and a Contract Summary to individual prospective purchasers upon reasonable request;

(d) Any statement provided subsequent to sale to a contractholder which purports to show the then current value of an arrangement subject to this section shall show the then current guaranteed cash surrender value or, if no guaranteed cash surrender value is provided the then current guaranteed paid-up annuity.

(9) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of at least 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30);

(b) An intermediary shall inform the prospective purchaser, prior to commencing a sales presentation, that the intermediary is acting as an insurance intermediary and shall inform the prospective purchaser of the full name of the insurer which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name;

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;

(d) Any reference to dividends or to excess interest credits must include a statement that such dividends or credits are not guaranteed;

(f) Recommendations made by any person subject to this section concerning the purchase or replacement of any arrangement subject to this section are subject to the requirements of s. Ins 2.16 (6);

(g) No presentation of benefits may display guaranteed and non-guaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21);

(h) Sales promotion literature and contract forms shall not state or imply that annuity arrangements are the same as savings accounts or deposits in banking or savings institutions. The use of policies or certificates which resemble savings bank passbooks is prohibited. If savings accounts or deposits in banking and savings institutions are utilized in connection with such annuity arrangements, this shall not prohibit the use of an accurate description of the annuity arrangement.

History: Cr. Register, October, 1980, No. 298, eff. 1-1-81; am. (1) and (2) (b) and appendix I, Register, June, 1982, No. 318, eff. 7-1-82; r. (11) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; r. and recr. (4) and appendix I, am. (5) (intro.), (a), (i) and (j), (6) (intro.), (a), (i) and (k), (7) (intro.), (a), (8) (a), (b) and (c), cr. (6) (im) and (in), r. (9) (e) and (12), Register, July, 1987, No. 379, eff. 8-1-87; reprinted to correct error in appendix I, Register, October, 1987, No. 382; am. (2) (a), (3) (b) 5. and 6., (9) (a) and (g), r. and recr. (9) (f), r. (10), Register, July, 1989, No. 403, eff. 8-1-89.

APPENDIX I**WISCONSIN BUYER'S GUIDE TO ANNUITIES****WHAT IS AN ANNUITY?**

An annuity is a written contract between you and a life insurance company. In return for your premiums, the company will pay you an annuity which is a series of payments made at regular intervals. An annuity contract is not a life insurance policy or a health insurance policy. It is not a savings account or savings certificate and it should not be bought for short term purposes.

- AN ANNUITY IS NOT "RISK FREE" OR "GUARANTEED SAFE." IT IS ONLY AS SOUND AS THE INSURANCE COMPANY WHICH ISSUES IT.
- IF YOU TAKE YOUR MONEY OUT AFTER A SHORT TIME PENALTY PROVISIONS OF MANY CONTRACTS MEAN THAT YOU MAY GET BACK LESS THAN YOU PUT IN.

TYPES OF ANNUITY CONTRACTS

Annuity contracts vary in a number of ways. The following are some of the more important ways:

WHEN BENEFITS ARE RECEIVED

- Annuities may be either immediate or deferred. Immediate annuities provide income payments that start shortly after you pay the premium. Deferred annuities provide income payments that start at a later date. The main reason for buying an immediate annuity is to obtain an immediate income, most frequently for retirement purposes. The main reason for buying a deferred annuity is to accumulate money on a tax-deferred basis, which can then provide an income at a later date.

HOW PREMIUMS ARE PAID

- Annuities may be either single premium or installment premium. Single premium contracts require you to pay the company only one premium. Installment premium contracts are designed for a series of premiums. Most of these are flexible premium contracts. You pay as much as you wish whenever you wish, within specified limits. Some are scheduled premium contracts that specify the size and frequency of your premiums.

FIXED OR VARIABLE

- Annuities may be fixed, variable, or a combination of both. During the deferred period of a fixed annuity contract, interest is paid on the accumulated premiums (minus charges) at a rate set by the company. The amount of each annuity payment is determined when payments begin. During the deferred period of a variable annuity, interest is paid on the accumulated premiums (minus charges) at a rate that varies with the performance of a specified pool of investments. The amount of each annuity payment also varies with the performance of the pool. Combination annuities allow you to put

part of your premium in a fixed annuity and part in a variable annuity.

ANNUITY CONTRACT FEATURES

The value of your annuity consists of the premiums you have paid, less charges, plus interest credited. This value is used to calculate the amount of benefits that you will receive. Charges, interest, surrender rights, and benefits are explained below.

CHARGES

There are many types and amounts of charges. Companies may refer to these charges by different names. Some annuities are "front loaded", which means that most of the costs to the company are charged to you in the beginning. Some are "back loaded", which means that most of these costs are charged to you later on. Others spread their charges evenly throughout the life of the annuity. Some charges will be fixed by the contract while some may be changed by the company from time to time.

Before buying an annuity you should know all of the charges that you will pay and when you will pay them. Also, you should understand how these charges might affect the actual amount of money that will accumulate from your premium payments. A typical contract might contain one or more of the following types of charges:

- **Percentage of Premium Charge.** This charge, often called a "load," is deducted from each premium before any interest is added. The percentage may reduce after the contract has been in force for a certain number of years or after the total premiums paid have reached a certain level.
- **Contract Fee.** This is a flat dollar amount charged either once at the time of issue, or charged once each year.
- **Transaction Fee.** This is a fixed charge per premium payment or other transaction.
- **Surrender Charge.** This charge is usually a percentage of the value of the contract or of premiums paid. The percentage may be reduced or eliminated after the contract has been in force for a certain number of years. Sometimes the charge is a reduction in the interest rate credited. Sometimes the charge is eliminated if the interest rate declared by the company falls below a certain level.

INTEREST

The interest rate used to accumulate contract values may never be less than the guaranteed rate stated in the contract. In practice, the interest rate actually used by a company, usually referred to as the "current" rate, is often higher. The company may change the current rate from time to time, but it cannot be lower than the guaranteed rate. Companies differ substantially in their methods of determining the current rate.

SURRENDER RIGHTS

Most annuities allow you to surrender your contract if income payments have not yet started. Upon surrender, the contract terminates.

The surrender value is equal to your contract value less the surrender charge, if any. This amount could be less than you paid in.

Many annuities also provide that you may withdraw a portion of your contract value, under certain conditions, without terminating the contract. A charge may be deducted from the amount withdrawn. This charge is usually a percentage of either the accumulated value of the contract, the premiums paid or the portion withdrawn.

There may be certain tax penalties for early surrenders. Be sure you understand any tax implications before surrendering an annuity contract.

BENEFITS

Annuity contracts provide a number of benefits. While the annuity income benefit is the primary one, other benefits are also important. Some of the more important ones are described below:

Annuity Income Benefit

Income payments are usually made monthly, although other frequencies are available. The amount of the annuity payments is based on both the value of the contract and the contract's "benefit rate" when the first payment is made. The benefit rate depends on your age, sex, and the specific features of the annuity you chose.

Annuity contracts contain a table of guaranteed benefit rates. Most companies periodically develop "current" benefit rates as well. These rates are subject to change by the company at any time. When annuity payments begin, the company will determine the amount of each payment according to the current benefit rates then in effect. If the guaranteed benefit rates would provide higher income payments, those rates will be used. Once payments begin, they are unaffected by any future benefit rate changes.

The most commonly available annuity income benefits are:

- **Straight Life.** The annuity is paid as long as you are alive. There are no further payments to anyone after your death.
- **Life With Period Certain.** The annuity is paid as long as you are alive. If you die before the end of the period referred to as the "certain period," the annuity will be paid to your beneficiary for the rest of that period. Typical certain periods are 10 to 20 years.
- **Joint and Survivor.** The annuity is paid as long as either you or another named annuitant is still alive. In some variations, the annuity is decreased after the first death. A period certain may also be available with this form.

Death Benefit

Most contracts provide that, if you die before the annuity payments start, the contract value will be paid to your beneficiary. Some contracts provide that the death benefit will be the total premiums paid if that amount is greater than the value of the contract at death.

Waiver of Premium Benefit

Some companies offer a benefit which will pay premiums for you if you become disabled. A charge is made for this benefit.

HOW MUCH SHOULD I BUY?

Before buying, ask yourself these questions:

1. How much annuity income will I need in addition to social security, pension savings and investments?
2. Will I need an income only for myself or also for someone else?
3. How much can I afford to pay in premiums?
4. How will the annuity contract fit in with my total financial planning?

HOW TO BUY AN ANNUITY

Buying an annuity contract is a major financial decision which should be considered carefully. The prospective purchaser of an annuity contract should consider the offerings of as many different companies and agents as possible.

CONTRACT SUMMARY

In addition to receiving this Buyer's Guide, you must receive either a Preliminary Contract Summary or a Contract Summary prior to the time you pay the initial premium. If you did not receive a Contract Summary with this Buyer's Guide, you must receive one when the contract is delivered or you can ask for one. You should review the contract summary thoroughly.

Accumulated values and surrender values under the contract are illustrated for various years on this summary. During the first few years, these values may be less than premiums paid. This is why an annuity contract should not be purchased for short term purposes.

Also illustrated are the yields on gross premiums at specified times. Yields take into account not only the interest credited under the contract, but also the effect of all charges. The yield on gross premiums is a figure you can use to compare annuity contracts. Be careful in comparing this yield with yields available on other investments. The tax treatment of annuity earnings is usually substantially different from that of earnings from other investments.

One reason for buying an annuity contract is to obtain an income, so you should review the life income figures.

Values and income figures may be shown on both a "guaranteed" and an "illustrated" basis. The guaranteed basis shows the minimum values and income which would be paid under the contract. The "illustrated" basis shows the values and income which would be paid if the current interest and benefit rates were to continue in effect. Since it is impossible to predict future interest and benefit rates, you will have to decide whether to rely on any illustrated basis values when making your purchase decision.

OTHER POINTS TO CONSIDER

Be certain you understand all charges that will be made and how they may reduce the value of the annuity.

Be certain you can afford the premium payments.

Check whether the annuity contract allows you to change the amount and frequency of your premium payments. Find out what happens if you stop paying premiums.

You may want to obtain and compare Contract Summaries for similar contracts from several companies. Comparing these should help you in your selection.

If you are buying an annuity contract for an Individual Retirement Account (IRA) or another tax deferred retirement program, make sure that you are eligible. Make sure that you understand any restrictions and tax implications connected with the program.

If you are shown a presentation which illustrates tax savings, be sure the assumptions, such as the tax bracket, apply in your case.

Some companies offer deposit fund arrangements with their life insurance policies or annuity contracts. These arrangements allow you to pay amounts in addition to your premiums that will be accumulated at interest in much the same way as under a deferred fixed annuity contract.

READ THE CONTRACT

When you receive your new annuity contract read it carefully. Ask the agent or the company for an explanation of anything you do not understand.

If you have a specific complaint or cannot get the answers you need from the agent or company, please contact the

Office of the Commissioner of Insurance
123 West Washington Avenue

Mailing Address
P.O. Box 7873
Madison, WI 53707-7873

Phone: (608) 266-0103

This Guide Does Not Endorse Any Company Or Policy

Ins 2.16 Advertisements of and deceptive practices in life insurance and annuities. (1) **PURPOSE.** This section safeguards the interests of prospective purchasers of life insurance and annuities by providing the prospective purchasers with clear and unambiguous statements, explanations, advertisements and written proposals concerning the life insurance policies and annuity contracts offered to them. The commissioner may best achieve this purpose by establishing certain minimum standards of and guidelines for conduct in the advertising and sale of life insurance and annuities. These minimum standards and guidelines prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies or contracts of life insurance and annuities. This section interprets and implements, including but not limited to, the following Wisconsin statutes: ss. 601.01 Register, July, 1989, No. 403

(2) and (3) and 628.34. The requirements of this section are in addition to and not a substitute for the requirements set forth in ss. Ins 2.14 and 2.15.

(2) SCOPE. (a) Unless otherwise provided under a particular provision of this section, the section applies to any person who makes, directly or indirectly on behalf of an insurer, fraternal benefit society, or intermediary, an advertisement, representation, or solicitation in this state of any insurance specified in s. Ins 6.75 (1) (a).

(b) This section does not apply to:

1. Credit life insurance.

2. Group life insurance purchased, established, or maintained by an employer including a corporation, partnership, or sole proprietorship, or by an employe organization, or both, except for group life insurance purchased, established or maintained by these persons in connection with a multiple employer welfare arrangement as defined under 29 U.S.C. s. 1002 (40).

3. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employe retirement income security act of 1974 (ERISA), 29 U.S.C. ss. 1001 to 1461.

4. Variable life insurance policies under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

5. Variable annuities.

6. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employe organization, or both.

7. Immediate annuity contracts, which are arrangements under which payments begin within 13 months of the issue date.

8. Annuity contracts issued in connection with employe benefit plans as defined by 29 U.S.C. s. 1002 (3) of the federal employe retirement income security act of 1974 (ERISA), except annuity contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 U.S.C. s. 403 (b) of the internal revenue code.

9. A policyholder's deposit account established solely to facilitate payment of regular premiums.

10. Settlement options under life insurance or annuity contracts.

(3) DEFINITIONS. In this section:

(a) 1. "Advertisement" means:

a. Printed and published material, audio visual material and descriptive literature of an insurer or intermediary used in direct mail, newspapers, magazines, other periodicals, radio and TV scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employes, intermediaries or agencies;

b. Descriptive literature and sales aids of all kinds authored, issued, distributed or used by an insurer, intermediary or third party for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters. Descriptive literature and sales aids do not include material in house organs of insurers, communications within an insurer's own organization not intended for dissemination to the public, individual communications of a personal nature, and correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket policy, and general announcements from group or blanket policyholders to eligible individuals that a contract has been written;

c. Prepared sales talks, presentations and material for use by intermediaries and representations made by intermediaries in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employees or intermediaries; and

d. Packaging, including but not limited to envelopes, used in connection with subpar. a, b, and c.

2. Advertisement does not include a policy summary as defined in s. Ins 2.14 (3) (e), the "Buyer's Guide to Life Insurance" as set forth in s. Ins 2.14, APPENDIX I, a contract summary as defined in s. Ins 2.15 (4) (a), a preliminary contract summary as defined in s. Ins 2.15 (4) (b), and the "Wisconsin Buyer's Guide to Annuities" as defined in s. Ins 21.5 (4) (c).

(b) "Analysis" means the separation of a life insurance policy or annuity contract into constituent parts for comparison, special emphasis, or other purposes.

(c) "Appraisal" means an evaluation or estimate of the quality or other features of a life insurance policy or annuity contract. Appraisal does not include a statement which is also an endorsement or testimonial.

(d) "Endorsement" means any statement promoting the insurer, its policy, or both, made by an individual, group of individuals, society, association or other organization which makes no reference to the endorser's experience under the policy.

(e) "Guaranteed interest rate" means the lowest rate of interest which an insurer may pay under the terms of a policy during the duration of the policy.

(f) "Illustrated rate" means a rate shown in an advertisement, representation, or solicitation which an insurer may guarantee for a limited period of time, but not guarantee for the duration of the policy.

(g) "Individual policy issued on a group basis" means an individual policy issued for which:

1. Coverage is provided to employees or members or classes of employees or members defined in terms of conditions pertaining to employment or membership in an association or other group which is eligible for franchise or group insurance as defined in s. 600.03 (22) and (23), Stats.;

2. 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 group;

3. The employer, association or other group, or a designated person acting on behalf of one of these persons, pays premiums or subscription charges to the insurer; and

4. The employer, association or other group sponsors the insurance plan.

(h) "Institutional advertisement" means an advertisement which is prepared solely to promote the reader's or listener's interest in the concept of life insurance or annuities, or of promoting the insurer sponsoring the advertisement, or both.

(i) "Intermediary" has the meaning provided in s. 628.02 (1), Stats.

(j) "Policy" means any document, including a policy, plan, contract, agreement, rider or endorsement, used to set forth in writing life insurance or annuity benefits.

(k) "Representation" means any communication, other than an advertisement or solicitation, relating to an insurance policy, the insurance business, any insurer, or any intermediary.

(l) "Solicitation" means an attempt to persuade a person to make an application for an insurance policy.

(m) "Testimonial" means any statement made by a policyholder, certificate holder or other person covered by the insurer which promotes the insurer and its policy or contract by describing the person's benefits, favorable treatment or other experience under the policy or contract.

(4) APPLICATION OF THIS SECTION. (a) The commissioner shall construe this section in a manner which does not unduly restrict, inhibit or retard the promotion, sale and expansion of life insurance policies or annuity contracts. The commissioner shall consider differences in the purposes served by various advertisements and in the insurance product being advertised when interpreting this section. When applying this section to a specific advertisement, the commissioner shall consider the detail, character, purpose, use and entire content of the advertisement.

(b) The extent to which a person subject to this section shall disclose policy provisions in an advertisement will depend on the content, detail, character, purpose and use of the advertisement and the nature of any qualifications involved. The principle criterion is whether the advertisement has the capacity or tendency to mislead or deceive if such a provision is not disclosed.

(c) The commissioner shall determine whether an advertisement has the capacity or tendency to mislead or deceive from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(5) ADVERTISEMENTS, REPRESENTATIONS, AND SOLICITATIONS IN GENERAL. (a) Advertisements, representations, and solicitations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy, the insurance business, any insurer, or any intermediary to which they apply. No advertisement may contain words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology.

(b) Oral representations and solicitations shall conform to the requirements of this section.

(6) **SUITABILITY OF POLICIES.** No insurer or intermediary may recommend to a prospective buyer the purchase or replacement of any individual life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The insurer or intermediary shall make all necessary inquiries under the circumstances to determine that the purchase of the insurance is not unsuitable for the prospective buyer. This subsection does not apply to an individual policy issued on a group basis.

(7) **DECEPTIVE WORDS, PHRASES OR ILLUSTRATIONS.** (a) No person subject to this section may use an advertisement that exaggerates a benefit or minimizes cost by overstatement, understatement or incompleteness. No advertisement may omit information or contain words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable or state or federal tax consequences. An advertisement referring to any policy benefit payable, loss covered, premium payable, or state or federal tax consequences shall be sufficiently complete and clear as to avoid deception or the capacity or tendency to mislead or deceive.

(b) No advertisement may state or imply that life insurance arrangements are the same as savings accounts or deposits in banking or savings institutions. No person subject to this section may use policies which resemble savings bank passbooks. If savings accounts or deposits in banking and savings institutions are utilized in connection with life insurance arrangements, this paragraph does not prohibit the use of an accurate description of the life insurance arrangement.

Note: Annuity contracts are subject to the same limitations under s. Ins 2.15 (9) (h).

(c) No advertisement may contain the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of the policy to believe that he or she will receive, or that it is possible that he or she will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(d) An advertisement may refer to immediate coverage or guaranteed issuance of a policy only if suitable administrative procedures exist so that the policy is issued within a reasonable time after the application is received.

(e) No advertisement may refer to a policy or coverage as "special" unless a person subject to this section can show that a reasonable basis exists for the use of this term.

(8) **IDENTITY OF INSURER.** (a) Each advertisement shall clearly identify the insurer. If an application is a part of the advertisement, the application shall show the name of the insurer.

(b) No advertisement may contain a trade name, an insurance group designation, the name of the parent company of the insurer, the name of a government agency or program, the name of a department or division of an insurer, the name of an agency, the name of any other organization, a service mark, a slogan, a symbol or any other device which has the capacity or tendency to mislead or deceive as to the identity of the insurer or create the impression that an entity other than the insurer has any responsibility for the financial obligation under any policy.

(c) No advertisement may contain any combination of words, symbols or materials which, by its content, phraseology, shape, color, nature or other characteristics, is so similar to combinations of words, symbols or materials used by federal, state or local government agencies that it tends to confuse or mislead prospective buyers into believing that the solicitation is in some manner connected with such a government agency.

(d) No advertisement may refer to an affiliate of the insurer without disclosing that the 2 organizations are separate legal entities.

(e) No advertisement may indicate an address for an insurer in any manner that may mislead or deceive as to the insurer's identity or licensing status. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify the address other than that of its home office and clearly disclose the actual city and state of domicile of the insurer.

(9) TESTIMONIALS, ENDORSEMENTS, APPRAISALS, ANALYSIS OR COMMENDATIONS BY THIRD PARTIES. (a) No advertisement may contain a testimonial, endorsement or other commendatory statement concerning the insurer, its policies or activities by any person who receives any pay or remuneration, directly or indirectly, from the insurer in connection with the testimonial, endorsement or statement unless the advertisement, testimonial or endorsement includes a full and prominent disclosure therein of the relationship, direct or indirect, including but not limited to the existence of any financial interest, remuneration, or both, between the insurer and the person making the testimonial, endorsement or statement. The provisions of this paragraph do not apply to any person holding a Wisconsin intermediary's license nor to any radio or television announcer or other person employed or compensated on a salaried or union wage scale basis.

(b) A testimonial, endorsement, appraisal, or analysis used in an advertisement shall be genuine, represent the current opinion of the author, apply to the policy advertised and be accurately reproduced.

(c) No person subject to this section may use a testimonial, endorsement, appraisal or analysis:

1. Which is fictional;
2. If the insurer has information indicating a substantial change of view on the part of the author;
3. If a reasonable person would conclude that the views expressed do not correctly reflect the current opinion of the author;
4. For more than 2 years after the date on which it was originally given or 2 years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion;

5. Which does not accurately reflect the present practices of the insurer;

6. To advertise a policy other than the policy for which the author gave the statement, unless the statement clearly has some reasonable application to the second policy;

7. Which effects a change or omission which alters or distorts its meaning or intent as originally written; or

8. Which does not disclose the true nature of the insurance coverage under which the benefits were paid if it contains a description of benefit payments.

(d) No advertisement may state or imply, unless true, that an individual, group of individuals, society, association or other organization approves or endorses an insurer or a policy. An advertisement shall disclose any affiliated relationship between the society, association or other organization and the insurer. If the insurer or the person or persons who own or control the insurer has formed or owns or controls the society, association or other organization, the advertisement shall clearly disclose this fact.

(e) If a testimonial refers to benefits received under a policy, the insurer shall retain a summary of the pertinent claim information including claim number and date of loss with the advertisement in the advertising file required by sub. (30).

(f) No advertisement may state or imply that a government publication commends or recommends the insurer or its policy.

(10) JURISDICTIONAL LICENSING; APPROVAL BY GOVERNMENTAL AGENCY. (a) No advertisement which may be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed may state or imply licensing beyond those limits.

(b) In any advertisement any reference to licensing shall contain an appropriate disclaimer that the viewer, listener, or reader should not construe the reference as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.

(c) No advertisement may state or imply that the insurer, its financial condition or status, the payment of its claims, its policy forms or the merits or desirability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any agency of this state or the federal government.

(d) No advertisement may contain a reproduction of a portion of a state insurance department report of examination.

(11) INTRODUCTORY, INITIAL OR SPECIAL OFFERS AND LIMITED ENROLLMENT PERIODS. (a) No advertisement may state or imply, unless true, that a policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages not available at a later date by accepting the offer, that only a limited number of policies will be sold, that a time is fixed for the discontinuance of the sale of the policy advertised because of special advantages available in the policy, or that an individual will receive special advantages by enrolling within an open enrollment period or by a deadline date.

(b) No advertisement may state or imply that enrollment under a policy is limited to a specific period unless the advertisement discloses the period of time permitted to enroll. This period of time may not be less than 10 days and not more than 40 days from the date of the advertisement.

(c) If the insurer making an introductory, initial or special offer has previously offered the same or similar policy on the same basis or intends to repeat the current offer for the same or similar policy, the advertisement shall disclose this fact.

(d) No insurer may establish for residents of this state a limited enrollment period within which a person may purchase an individual policy less than 6 months after the close of an earlier limited enrollment period for the same or similar policy. The restriction shall apply to all advertisements in newspapers, magazines and other periodicals circulated in this state, all mail advertisements sent to residents of this state and all radio and TV advertisements broadcast in this state. This restriction does not apply to the solicitation of enrollments under individual policies issued on a group basis.

(e) Where an insurer is an affiliate of a group of insurers under common management and control, the word "insurer" for the purposes of this subsection means the insurance group. The requirements and restrictions applicable to an insurer shall apply to the insurance group.

(12) MAIL ORDER REFUSAL FORM. No person subject to this section may use a mail order advertisement which requires the recipient, in order to refuse a policy, to sign a refusal form and return it to a specified person or insurer.

(13) GROUP, QUASI-GROUP OR SPECIAL CLASS IMPLICATIONS. No advertisement may state or imply, unless true, that prospective policyholders or members of a particular class of individuals become group or quasi-group members or are uniquely eligible for a special policy or coverage and will be subject to special rates or underwriting privileges or that a particular coverage or policy is exclusively for preferred risks, a particular segment of people, or a particular age group or groups.

(14) INSPECTION OF POLICY. (a) An offer in an advertisement of free inspection of a policy or an offer of a premium refund shall not be a cure for misleading or deceptive statements contained in such advertisement.

(b) An advertisement which refers to the provision in the policy advertised regarding the right to return the policy shall disclose the time limitation applicable to this right.

(15) IDENTIFICATION OF PLAN OR NUMBER OF POLICIES. (a) When an advertisement refers to a choice regarding benefit amounts, it shall disclose that the benefit amounts provided will depend upon the plan selected and that the premium will vary with the amount of the benefits.

(b) When an advertisement refers to various benefits, all of which can be obtained only by purchasing 2 or more policies, it shall disclose that the benefits are provided only through a combination of such policies.

(16) USE OF STATISTICS. (a) An advertisement which sets out the dollar amounts of claims paid, the number of persons insured or other statistical information shall identify the source of the statistical information.

No person subject to this section may use an advertisement unless it accurately reflects all of the relevant facts. No advertisement may contain irrelevant statistical data.

(b) No advertisement may imply that the statistical information given is derived from the insurer's experience under the policy advertised unless true. The advertisement shall specifically so state if the information applies to other policies or plans.

(c) An advertisement which sets out the dollar amounts of claims paid shall also indicate the period during which such claims have been paid.

(17) CLAIMS. No advertisement may:

(a) Contain untrue statements with respect to the time within which claims are paid;

(b) State or imply that claim settlements will be liberal or generous or use words of similar import;

(c) State or imply that claim settlements will be beyond the actual terms of the policy; or

(d) Contain a description of a claim which involves unique or highly unusual circumstances.

(18) STATEMENTS ABOUT AN INSURER. No advertisement may contain untrue statements or statements that by implication mislead with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.

(19) DISPARAGING COMPARISONS AND STATEMENTS. No advertisement may directly or indirectly contain unfair or incomplete comparisons of policies or benefits or falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.

(20) PREMIUMS. (a) An advertisement for a policy with nonlevel premiums shall contain a prominent description of the premium changes.

(b) No person subject to this section may describe in an advertisement a life insurance policy under which the insurer reserves the right to change the amount of the premium during the policy term unless this feature is prominently described in the advertisement.

(c) Except as otherwise allowed under this paragraph, no advertisement may contain a statement or representation that an insured may withdraw under the terms of the policy any premiums paid for a life insurance policy. The advertisement may refer to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. The advertisement may also refer to withdrawal rights under any unconditional premium refund offer.

(d) No advertisement may state or imply that a pure endowment benefit is a "profit" or "return" on the premium paid rather than a policy benefit for which a specified premium is paid.

(21) NONGUARANTEED POLICY ELEMENTS. (a) No advertisement may contain a description of or otherwise refer to nonguaranteed policy ele-

ments in a manner which is misleading or has the capacity or tendency to mislead.

(b) No advertisement may state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If an insurance policy's or annuity contract's nonguaranteed policy elements are illustrated, they may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, mortality tables, and other variable components currently used by the insurer for that insurance policy or annuity contract. The illustration shall contain a statement to the effect that the viewer, listener, or reader should not construe the nonguaranteed policy elements as guarantees or estimates of amounts to be paid in the future.

(c) No advertisement may state or imply that illustrated nonguaranteed policy elements will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at the future time and under what conditions this would occur.

(d) 1. No advertisement may refer to dividends as "tax free" or contain words of similar import, unless the tax treatment of dividends is accurately explained and the nature of the dividend as a return of premium is indicated clearly.

2. The requirements of this subsection are in addition to the requirements set forth in ss. Ins 2.14 (5) (h) and 2.15 (9) (g).

(22) POLICIES SOLD TO STUDENTS. (a) A person subject to this section may address an advertisement for policies sold to students to the parents of students. No address on the advertisement may include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless true.

(b) All advertisements, including but not limited to information flyers used in the solicitation of insurance, shall contain clear identification that the advertisement comes from an insurer or intermediary, if this is the case, and these entities shall be clearly identified as insurers or intermediaries.

(c) No return address on the advertisement may state or imply that the soliciting insurer or insurance intermediary is affiliated with a university, college, school, or other educational or training institution, unless true.

(23) INDIVIDUAL DEFERRED ANNUITY PRODUCTS OR DEPOSIT FUNDS. For individual deferred annuity products or deposit funds, the following shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates for the annuity product or deposit fund shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. No higher interest rate may be greater than those currently being credited by the insurer unless the higher rate has been publicly declared by the insurer with an effective

date for new issues not more than 2 months subsequent to the date of declaration.

(b) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and net premiums.

(c) If any policy does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning the policy shall prominently state that cash surrender benefits are not provided.

(24) ADVERTISEMENTS SHOWING A SPECIFIC RATE OF RETURN ON PREMIUMS OR CASH VALUES. All life insurance or annuity solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence, the following:

(a) A general statement describing the existence of first-year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied.

(b) The guaranteed rate of interest paid on the cash value.

(c) The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, an advertisement, representation, or solicitation shall disclose if interest on the first \$1,000 of cash value is limited to the guaranteed rate.

(d) An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case.

(e) An indication of any other significant factors which affect the manner in which cash values are computed.

(25) GRADED OR MODIFIED BENEFITS AFTER A POLICY IS ISSUED. (a) An advertisement, representation, or solicitation for a policy containing graded or modified benefits shall prominently disclose this fact. If applicable, an advertisement, representation, or solicitation shall prominently disclose the fact that the premium is level and coverage decreases or increases with age or duration. Graded or modified benefits shall include, but are not limited to, life insurance policies that, within a specified period after the policy is issued, may pay no death benefits or death benefits that are less than premiums paid should the insurer pay the death benefits.

(b) The prominent disclosure required in par. (a) shall mean the following for the specified type of advertisement:

1. For television advertisements, an announcement describing the graded or modified benefits to be displayed during the advertisement for at least 10 seconds.

2. For radio advertisements, an announcement describing the graded or modified benefits.

3. For pre-printed advertisements intended for general distribution, a written description of the graded or modified benefits printed on the first page of the advertisement and in at least 12 point bold type.

(26) MISCELLANEOUS DISCLOSURE REQUIREMENTS. (a) In the event an advertisement uses "Nonmedical," "No Medical Examination Required," or similar terms where issue is not guaranteed, the terms shall be accompanied by a further disclosure in close proximity thereto and with equal prominence to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(b) No advertisement may contain as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.

(c) An advertisement shall prominently describe the type of policy advertised.

(d) No advertisement of an insurance policy marketed by direct response techniques may state or imply, unless the condition is true, that because there is no intermediary or commission involved there will be a cost saving to prospective purchasers.

(e) No advertisement may state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(f) If nonforfeiture values are shown in any advertisement, the advertisement shall show the values either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

(g) No advertisement may contain the words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import with respect to any benefit or service being made available with a policy, unless the insured is not charged for any benefit or service. If the insured is not charged, then the advertisement shall prominently disclose the identity of the payor.

(27) METHOD OF DISCLOSURE OF REQUIRED INFORMATION. (a) A person subject to this section shall set out all information required to be disclosed by this section clearly, conspicuously and in close proximity to the statements to which the information relates or under appropriate captions of sufficient prominence that it shall be readily noticed and not minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

(b) No person subject to this section may set out information required by this section under inappropriate captions or headings or under inappropriate questions where a question and answer format is used.

(28) FORM NUMBER. A person subject to this section shall identify by form number an advertisement other than an institutional advertisement defined in sub. (3) (h) which is mass-produced. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

(29) **INSURER'S RESPONSIBILITY FOR ADVERTISEMENTS.** (a) The insurer whose policy is advertised has responsibility for the content, form and method of dissemination of all advertisements, regardless of by whom designed, created, written, printed or used.

(b) An insurer shall require its intermediaries and all other persons or agencies acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

(30) **INSURER'S ADVERTISING FILE.** Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its policies hereafter disseminated in the state. With respect to group, blanket and franchise policies, all proposals prepared on the same printed form need not be included in the file; only typical examples of these proposals shall be included. A notation shall be attached to each such advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised. The file shall be subject to regular and periodic inspection by the office of the commissioner of insurance. A person subject to this section shall maintain all of these advertisements in the file while in use and for a period of 3 years after an advertisement's authorized use. If applicable, a person subject to this section shall also maintain files in accordance with ss. Ins 2.14 (5) (a) and 2.15 (9) (a).

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. (5) (b) 1. and 2. and (6) (b), Register, May, 1984, No. 341, eff. 6-1-84; r. (7) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; r. and recr. Register, July, 1989, No. 403, eff. 8-1-89.

Ins 2.20 Unisex nonforfeiture values in certain life insurance policies. (1) **PURPOSE.** The purpose of this section is to allow insurers who have elected an operative date under s. 632.43 (6m) (h), Stats., to provide for cash surrender and paid-up nonforfeiture benefits which do not vary with the sex of the life insured. Some life insurance policies are subject to the decision of the United States supreme court in *Arizona Governing Committee v. Norris*, 103 Supreme Court Reporter 3492, which makes it illegal for an employer to make contributions after August 1, 1983, to a defined contribution pension plan if the benefits derived from those contributions differ by sex. Separate provisions are set forth in this section for unisex policies that may be subject to that decision and for unisex policies in general.

(2) **SCOPE.** Except as provided for in sub. (4) (b), this section applies only to those policies issued in this state for which the insurer or employer has determined that the implications of *Norris* would prohibit the use of cash surrender and paid-up nonforfeiture benefits which vary with the sex of the insured.

(3) **DEFINITIONS.** (a) "lx" means the number of lives surviving to age x.

(b) "1000 qx" means the yearly death rate per thousand at age x.

(c) 1. "Table A" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for male lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, for these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

Register, July, 1989, No. 403

2. "Tables NA and SA" means the corresponding 1980 nonsmoker and smoker mortality tables for male lives.

(d) 1. "Table G" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for female lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, $1000 q_x$, from these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NG and SG" means the corresponding 1980 nonsmoker and smoker mortality tables for female lives.

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