

Chapter Ins 6

GENERAL

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Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign

insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continuously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

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

(a) Fire insurance includes the kinds in s. Ins 6.75 (2) (a).

(b) Life insurance includes the kinds in s. Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and s. Ins 6.70.

(c) Casualty insurance includes the kinds in s. Ins 6.75 (2) (c) through (n).

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c).

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

Ins 6.03 Domestication of nondomestic insurer. (1) **PURPOSE.** Under s. 611.223 (1) (a), Stats., a nondomestic insurer may apply to the commissioner to become a domestic insurer. In accordance with s. 611.223 (1) (b), Stats., this section specifies the contents of the application needed from a nondomestic insurer to obtain a certificate of incorporation and certificate of authority to be a domestic insurer.

(2) **SCOPE** This section applies to each nondomestic insurer which submits to the commissioner under s. 611.223 (1) (a), Stats., an application for a certificate of incorporation and a certificate of authority for domestic insurers.

(3) **REQUIRED CONTENTS OF THE APPLICATION.** The application for a certificate of incorporation and a certificate of authority shall be filed in accordance with s. 611.223 (1) (a), Stats., and shall include the following information:

(a) Information on the corporation and officers and directors, including all of the following:

Livestock Insurance Office
 Logging Underwriting & Inspection Association
 Multiple Location Service Office
 Mutual Corporation Inter-Reinsurance Fund
 Oil Insurance Association
 Railroad Insurance Association
 Railway Underwriters
 Registered Mail Central Bureau
 Reinsurance Clearing House
 Reinsurance Exchange
 Southern Reinsurance Exchange
 Stock Companies Association
 The Tugboat Underwriting Syndicate
 Underwriters Grain Association
 Underwriters Service Association

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

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

Ins 6.35 Petroleum storage environmental cleanup fund; exclusions from reimbursement. (1) PURPOSE. This section interprets s. 101.143 (1) (ad) and (gm) and (4) (b) 15, Stats., by defining the liabilities that are excluded from coverage in liability insurance policies for bodily injury and property damage for the purpose of specifying costs paid by an owner or operator to a 3rd party which are ineligible for reimbursement from the fund.

(2) DEFINITIONS. In this section:

- (a) "Discharge" has the meaning given in s. 144.76 (1) (a), Stats.
- (b) "Fund" means the petroleum storage environmental cleanup fund under s. 20.445 (1) (v), Stats.
- (c) "Operator" has the meaning given in s. 101.143 (1) (d), Stats.
- (d) "Owner" has the meaning given in s. 101.143 (1) (e), Stats.
- (e) "Petroleum product storage system" has the meaning given in s. 101.143 (1) (fg), Stats.

(3) EXCLUSIONS. In addition to the exclusions specified in s. 101.143 (4) (c), Stats., and the claims which shall be denied under s. 101.143 (4) (g), Stats., an owner or operator is not eligible for reimbursement under s. 101.143 (4) (b) 15, Stats., for compensation paid by the owner or operator to a 3rd party for any of the following:

- (a) Costs for which the owner or operator is not legally liable.
- (b) Bodily injury or property damage arising out of any of the following:
 1. A discharge expected or intended from the standpoint of the owner or operator.
 2. A discharge based on or attributable to a criminal act by the owner or operator.

3. The owner's or operator's intentional, wilful or deliberate noncompliance with any statute or administrative rule administered by the department of industry, labor and human relations or the department of natural resources which directly relates to the storage and handling of flammable liquid or combustible liquid, as defined by the department of industry, labor and human relations by rule.

Note: See s. ILHR 10.01 (22) and (37) for definitions of combustible and flammable liquid.

4. The owner's or operator's assumption of the liability of a 3rd party under a contract or agreement, unless the owner or operator would have had the liability in the absence of the contract or agreement.

5. The ownership, maintenance, use, operation or entrustment to another person of an automobile, aircraft, watercraft or rolling stock belonging to the owner or operator, except that this exclusion does not apply if the bodily injury or property damage is caused by the use of the automobile, aircraft, watercraft or rolling stock during the loading or unloading of the owner's or operator's petroleum products storage system.

6. War, invasion, act of a foreign enemy, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power, strike, riot or civil commotion.

(c) Bodily injury to any of the following, whether the owner or operator is liable as an employer or in any other capacity, and regardless of whether the owner or operator is obligated to share damages with or to repay someone else who must pay damages because of the bodily injury:

1. An employe of the owner or operator for an injury occurring during and in the course of the employment.

2. The spouse, child, parent, brother or sister of an employe of the owner or operator arising as a consequence of the bodily injury to the employe under subd. 1.

(d) Property damage to any of the following:

1. Property owned or occupied by or rented or lent to the owner or operator.

2. Personal property in the care, custody or control of the owner or operator.

(e) An obligation of the owner or operator under a workers' compensation, disability benefits, unemployment compensation or other similar law.

(f) Punitive or exemplary damages.

(g) Federal, state or local fines, forfeitures or other penalties.

(h) Amounts recoverable by the owner or operator under s. 101.143 (4) (b) 1 to 14, Stats., or by a 3rd party as a claimant under s. 101.143, Stats.

History: Cr. Register, April, 1991, No. 424, eff. 5-1-91.

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

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

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

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

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

1. Any request for a proxy, whether or not accompanied by or included in a form of proxy; or
2. Any request to execute or not to execute, or to revoke, a proxy; or
3. The furnishing of a proxy or other communication to stockholders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

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

1. Any solicitation by a person in respect of stock of which he is the beneficial owner;
2. Action by a broker or other person in respect to stock carried in his name or in the name of his nominee in forwarding to the beneficial owner of such stock soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;
3. The furnishing of a form of proxy to a stockholder upon the unsolicited request of such stockholder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

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

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

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

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

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