

Chapter Ins 6

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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 con-

duct 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 s. Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in s. 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 s. 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:

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policyholder of such cancellation. Insurers shall provide notice to the insured as set forth in s. 631.36 (2) (b), Stats.

(b) No cancellation under s. 631.36 (2) (a), Stats., of any war risks coverage contained in an aircraft insurance policy is effective until at least 7 days after the 1st class mailing or delivery of a written notice to the policyholder.

History: Emerg. cr. eff. 7-1-77; cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (1), (4) and (5), Register, May, 1987, No. 377, eff. 6-1-87; am. (1) and (2), renum. (3) (a), (4) and (5) to be (3) (c), (4) (a) and (5) (a), cr. (3) (a) and (d), (4) (b) and (5) (b), Register, July, 1990, No. 415, eff. 8-1-90.

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

(2) **SCOPE.** This section applies to the following lines or classes of insurance:

(a) The classes specified in Ins 6.75 (2) (a), (d), (e), (f), (g), (h), (i), (j), (l), (m), and (n).

(b) Individual rate modifications that are a reduction from the filed title insurance rate.

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

(4) **EXEMPT FILING.** If a title insurance rate as set forth in sub. (2) (b) is a downward deviation of an existing filed rate, the rate shall not be filed with the commissioner provided that all of the following apply:

(a) The insurer keeps for at least five years after the inception date of the policy the following information:

1. The filed rate and premium and the deviated rate and premium;
2. The effective date of the policy and the location and description of the risk;
3. The reason for the deviation; and
4. A record of the deviated rate development.

(b) Prior to entering into such insurance agreements in Wisconsin, the insurer has notified the commissioner of its intentions to do so, identifying the contemplated rate deviation program.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; am. (1), (2) and (3) (intro.), cr. (4), Register, February, 1993, No. 446, eff. 3-1-93.

Ins 6.785 Exemption from rate filing requirements. (1) PURPOSE. This section is intended to exempt certain classes of property and casualty rates from the rate filing requirements. This section implements and interprets ss. 625.04, 625.13 and 625.15, Stats.

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(2) **SCOPE.** This section applies to the lines or classes of insurance which are listed in s. Ins 6.75 (2) (a), (d), (e), (f), (g), (h), (i), (j), (l), (m) and (n) of direct insurance written on risks or operations in this state subject to s. 625.03, Stats., and which are exempted under the consent-to-rate provision of s. Ins 6.78.

(3) **FINDINGS.** The commissioner of insurance finds that for certain classes of business certain risks within other classes of business and certain situations, the rate filing requirements set forth in s. 625.13, Stats., are unnecessary to achieve the purposes of ch. 625, Stats. The commissioner bases this finding on the following reasons:

(a) The manual rate, classification or form is inappropriate because it does not adequately reflect the exposure represented by the risk;

(b) The risk is so different from other risks that no single manual rate or classification could be representative of all such risks;

(c) The risk belongs to a classification that does not develop enough experience to warrant sufficient credibility for rate-making purposes; or

(d) The risk involves a new product or coverage as to which there are no appropriate analogous exposures for rate-making purposes.

(4) **RATE FILING EXEMPTION.** The following rates shall not be filed with the commissioner by the insurer or rate service organization on behalf of the insurer provided the insurer complies with sub. (7):

(a) The rate for an individual risk written under a rating rule class filed with the commissioner which must be accompanied by a certification by a qualified actuary that the rate under the rating rule class cannot be objectively rated for at least one of the following reasons:

1. The class generates insufficient loss experience to be reliably used in rating;

2. The class loss experience is so volatile as to make it unreliable;

3. Prospective losses for this class are likely to change rapidly and unpredictably; or

4. Risks within the class are so dissimilar that a single rate would not be representative of all risks in the class.

(b) Rates for excess liability insurance provided in an amount not less than \$1,000,000 in excess of a specified retained limit provided such retained limit is not less than:

1. \$350,000 per occurrence as respects those exposures covered by underlying insurance; or

2. \$10,000 per occurrence as respects those exposures not covered by underlying insurance.

(c) Rates for risks developing annual products liability and completed operations insurance premiums of \$5,000 or more at the basic limit.

(d) Rates for risks developing annual increased limits written premium determined by customary rating procedures of \$5,000 or more.

(e) Rates for risks developing \$100,000 or more annual manual basic limit premium individually or in any combination of general liability insurance, commercial automobile, crime or glass.

(f) Rates for liability insurance increased limits if the risk is reinsured on a facultative basis.

(g) Rates for an adjustment of the aggregate limit of general liability insurance at any time during the policy period.

(h) Rates for coverage which is materially broader or more restrictive than the coverage upon which the manual rate is based.

(5) UTILIZATION OF RATE FILING EXEMPTION. An insurer or a rate service organization wishing to utilize the rate filing exemption or modification granted by sub. (4) shall have on file with the commissioner rating rules pertaining to the situations described in sub. (4).

(6) DISAPPROVAL OF FILED RULES. If the commissioner determines that a rating rule does not meet the rate standards set forth in s. 625.11, Stats., the commissioner may exercise the authority granted by s. 625.22, Stats., and disapprove the rate.

(7) INSURER RECORDS. An insurer using a rate subject to the exemption granted by sub. (4) shall maintain separate records and documentation for a period of 3 years after the rate is no longer used. This documentation shall include all details of the factors used in determining the rate or classification for a particular risk, including conditions used to qualify a rate for an exemption under sub. (4). The insurer shall provide these records to the commissioner upon request.

History: Emerg. cr. eff. 8-3-92; cr. Register, February, 1993, No. 446, eff. 3-1-93.

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

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

(a) Life and Disability.

(b) Property and Casualty.

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

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

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

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

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

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

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; correction in (1) under s. 13.93 (2m) (b) 7, Stats., Register, September, 1984, No. 348; r. (2) (c), Register, November, 1991, No. 431, eff. 12-1-91.

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

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

(b) The following sections also apply:

1. s. Ins 1.01 (3) applies to fraternal.
2. s. Ins 2.07 (5) (a) 2.d. and (b) 2.b. apply to life insurance.
3. s. Ins 3.25 (9) (d) applies to credit life and accident and sickness insurance.
4. s. Ins 3.27 (28) applies to disability insurance.
5. s. Ins 6.17 (3) (d) and (e) apply to surplus lines.
6. s. Ins 6.03 (2) (a) 1.e., 6.30 (3) (a) 3.e., (4) (a) 2.e. and (5) (a) 3. apply to property and casualty insurers.
7. s. Ins 6.55 (5) (b) applies to all insurers.
8. s. Ins 6.61 applies to intermediaries.
9. s. Ins 8.09 applies to employe welfare funds.

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

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

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

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

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

1. General ledgers shall be retained as permanent records.

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

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

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

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

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

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

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

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

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

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

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

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

Ins 6.85 Notification of a person's right to file a complaint with the commissioner. (1) **PURPOSE.** This section interprets and implements s. 631.28, Stats., by specifying the contents of a notice insurers must provide to insureds about their right to file a complaint with the office of the commissioner of insurance. This section also describes when and the manner in which such notice must be provided.

(2) **SCOPE.** This section applies to all policies or certificates in force, issued or renewed in Wisconsin on or after the effective date of this section.

(3) **DEFINITIONS.** For purposes of this section, "insured" means the policyholder for individual policies and both the group policyholder and certificate holder for group policies.

(4) **NOTICE FORMAT.** Every insurer shall disclose the insured's right to contact the office of the commissioner of insurance regarding an insurance problem by providing a notice which shall:

(a) Be in the form as prescribed in Appendix I or for policies subject to sub. (5) (d) in form as prescribed in Appendix 2;

(b) Allow the issuer to include its address and phone number;

(c) Be in no less than 10-point type; and

(d) Have the phrase "KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS," "PROBLEMS WITH YOUR INSURANCE?" in Appendix I and the "OFFICE OF THE COMMISSIONER OF INSURANCE" in Appendices I and 2 capitalized and in bold lettering.

(5) **NOTICE DELIVERY.** (a) For policies issued prior to the effective date of this section, except for policies included under pars. (c) and (d):

1. The notice shall be provided on or before the insured's first renewal date after the effective date of this section or within one year after the effective date of this section, whichever is earlier, with a separate notice to the insured; or

2. For single premium policies, a separate notice shall be provided on or before the insured's next anniversary date or within one year after the effective date of this section, whichever is earlier.

(b) For policies or certificates issued on or after the effective date of this section, except for policies included under pars. (c) and (d), a separate notice shall be provided at the time the policy or certificate is issued.

(c) For surety and title insurance policies the notice must be given as a separate notice to each claimant at the time a claim is denied.

(d) For policies subject to s. 609.15, Stats., the insurer shall either give notice in the form as prescribed in Appendix 2 and as specified in pars. (a) and (b) or may include the language in Appendix 2 as part of the grievance procedure language in the policy and certificates issued after the

effective date and, for policies issued prior to the effective date, provide a policy or certificate amendment on or before the first premium billing date after the effective date or within one year after the effective date of this section, whichever is earlier.

History: Cr. Register, February, 1993, No. 446, eff. 3-1-93.

APPENDIX I

KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS

PROBLEMS WITH YOUR INSURANCE? - If you are having problems with your insurance company or agent, do not hesitate to contact the insurance company or agent to resolve your problem.

[Optional]	(INSURER NAME)
[Optional]	(CUSTOMER SERVICE)
[Optional]	(ADDRESS)
[Optional]	(CITY, STATE, ZIP)
[Optional]	(TELEPHONE NUMBER)

You can also contact the **OFFICE OF THE COMMISSIONER OF INSURANCE**, a state agency which enforces Wisconsin's insurance laws, and file a complaint. You can contact the **OFFICE OF THE COMMISSIONER OF INSURANCE** by writing to:

Office of the Commissioner of Insurance
Complaints Department
P. O. Box 7873
Madison, WI 53707-7873

or you can call 1-800-236-8517 outside of Madison or 266-0103 in Madison, and request a complaint form.

APPENDIX 2

You may resolve your problem by taking the steps outlined in your HMO grievance procedure. You may also contact the **OFFICE OF THE COMMISSIONER OF INSURANCE**, a state agency which enforces Wisconsin's insurance laws, and file a complaint. You can contact the **OFFICE OF THE COMMISSIONER OF INSURANCE** by writing to:

Office of the Commissioner of Insurance
Complaints Department
P. O. Box 7873
Madison, WI 53707-7873

or you can call 1-800-236-8517 outside of Madison or 266-0103 in Madison, and request a complaint form.