CHAPTER 600

INSURANCE — GENERAL PROVISIONS

600.01 Scope of application.
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600.03 Definitions, usages and synonyms.
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Cross–reference: See definitions in s. 628.02.

NOTE: Chap. 260, laws of 1971, which created this chapter of the statutes, contains notes explaining the revision.

600.01 Scope of application. (1) GENERAL. (a) Chapters 600 to 655 restrict otherwise legitimate business activity and what chs. 600 to 655 do not prohibit is permitted unless contrary to other provisions of the law of this state.

(b) Unless otherwise expressly provided, chs. 600 to 646 do not apply to:

1. Reinsurance.

2. Death and disability benefits provided by an organization the principal purpose of which is not to provide such benefits but to seek charitable, educational, social or religious objectives not related thereto, if the organization does not incur a legal obligation to pay a specified amount.

3. Group or blanket insurance covering risks in this state if:

a. Both the policyholder and the group exist primarily for purposes other than to procure insurance;

am. The relationship or association between the policyholder and the group was not created for purposes of procuring insurance;

b. The policyholder is not a Wisconsin corporation or other resident and does not have its principal office in Wisconsin;

c. No more than 25% of the certificate holders or insureds are resident in this state;

cm. Exemption from the operation of chs. 600 to 646 is not determined by rule or order of the commissioner to be contrary to the public interest;

d. On request of the commissioner, the insurer files with the commissioner a copy of the policy and a copy of each form of certificate; and

e. The insurer agrees to pay taxes on the Wisconsin portion of the business on the same basis it would do if authorized to do business in this state, and provides the commissioner with such security as the commissioner deems necessary for the payment of such taxes.

4. Group or blanket insurance covering risks mainly outside this state if:

a. Both the policyholder and the group exist primarily for purposes other than to procure insurance;

am. The relationship or association between the policyholder and the group was not created for purposes of procuring insurance;

b. The policyholder is not a Wisconsin corporation or other resident and does not have its principal office in Wisconsin; and

c. Any Wisconsin residents insured under the policy are covered because their principal place of employment is outside the state.

5. Other business specified in rules promulgated by the commissioner on a finding that the transaction of such business in this state does not require regulation for the protection of the interests of Wisconsin insureds or public or for which it would be impracticable to require compliance with chs. 600 to 646, when necessary expenses and efforts are compared with the possible benefits.

6. Transactions directly procured through negotiations under s. 618.42, except as they are subject to taxation under s. 618.43.

7. Guarantees of the Wisconsin health and educational facilities authority under s. 231.35.

8. Guarantees of the Wisconsin Housing and Economic Development Authority under s. 234.68, 1995 stats., s. 234.69, 1995 stats., s. 234.765, 1995 stats., s. 234.82, 1995 stats., s. 234.87, 1995 stats., and ss. 234.67, 234.83, 234.84, 234.88, 234.90, 234.905, 234.907 and 234.91.

9. The publication and clearinghouse activities described in subd. 9. c., the association undertaking those activities, with respect to those activities, and the association's periodic publication resulting from and furthering those activities if all of the following apply:

a. The publication and clearinghouse activities are undertaken by an association that is organized not for profit for religious and charitable purposes.

b. The publication activities of the association are limited to subscribers who are members of the same church or religious denomination.

c. The publication activities of the association function as an organizational clearinghouse that matches subscribers to the publications of the association who have financial, physical or medical needs and subscribers to the publications of the association who desire to financially assist with those needs and who have a present ability to pay.

d. Although the association, through its publications, may suggest voluntary payment levels between subscribers described in subd. 9. c., the association and the subscribers do not assume any risk or make any promise of payment by the association or any subscribers.

e. The association provides to each subscriber a written monthly statement that lists the total dollar amount of qualified needs submitted for publication in the previous month and the total dollar amount of qualified needs submitted that were actually published and assigned for payment.

f. On or accompanying all written materials distributed by or on behalf of the association, including applications, guidelines, promotional or informational materials and periodic publications, the association provides the following written disclaimer:

ATTENTION

This publication is not issued by an insurance company, nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment. Whether anyone chooses to pay your medical bills is entirely voluntary. This publication should never be considered a substitute for an insurance policy. Whether or not you receive any payments for medical expenses, and whether or not this publication continues to operate, you are responsible for the payment of your own medical bills.

g. No payments between subscribers described in subd. 9. c. are made through the association.

(2) EXCEPTIONS. (a) After a hearing, the commissioner may order an insurer to transfer the Wisconsin portion of the business under sub. (1) (b) 3. or 4. to an authorized insurer if it is written by an unauthorized one, or may subject any insurance under sub.

(1) (b) 1. to 6. to chs. 600 to 646, on a finding that the foregoing conditions are not satisfied or that any circumstances require that the insurer be authorized to do business in this state or that the transactions be subject to chs. 600 to 646 in order to provide adequate protection to Wisconsin insureds and public. Coverage of a resident of this state is the doing of an insurance business in this state and subjects the insurer to the jurisdiction of the commissioner and of the courts of this state.

(b) Group or blanket insurance described in sub. (1) (b) 3. and 4. is not exempt from ss. 632.745 to 632.749 or ch. 633 or 635.

History: 1971 c. 260; 1975 c. 375, 421; 1975 c. 422 s. 163; 1977 c. 203; 1979 c. 89, 102, 177; 1983 a. 358 s. 14; 1989 a. 31; 1989 a. 187 s. 29; 1989 a. 317, 336; 1991 a. 39, 69, 250, 309; 1993 a. 16; 1995 a. 116, 150, 289; 1997 a. 27, 35.

Legislative Council Note to (1) (a), 1975: There is a widespread but entirely erroneous notion that the provisions of the insurance code constitute, in general, an enabling act. On the contrary, insurance is an area of free contractual activity except as restricted by the insurance code. It is well to have that point of departure clearly established by the statutes. [Bill 642–S]

Where policy provided that insured shall do nothing after loss to prejudice insurer's subrogation rights and insured waived insurer's rights prior to loss, the equities and insurance law mandate coverage. Ins. Co. of North America v. Univ. Mtg. Corp. 82 W (2d) 170, 262 NW (2d) 92.

See note to 632.24, citing Ott v. All–Star Ins. Corp. 99 W (2d) 635, 299 NW (2d) 839 (1981).

600.02 Interpretive rules. In chs. 600 to 655, unless the context indicates otherwise:

(1) "Includes" means "including but not limited to".

(2) Statements that a term "includes" or "excludes" something else are not definitions.

(3) References in s. 600.03 to particular sections only indicate where a term is especially relevant, and do not limit its application to such sections.

History: 1971 c. 260; 1979 c. 89; 1989 a. 187 s. 29.

600.03 Definitions, usages and synonyms. In chs. 600 to 655, unless the context indicates otherwise:

(1) "Affiliate" of a person means any other person who controls, is controlled by, or is under common control with, the first person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of persons manage the 2 corporations.

(1r) "Agent" means an intermediary as defined in s. 628.02, other than a broker or surplus lines broker.

(2) "Alien insurer" means an insurer domiciled outside the United States. See also "nondomestic insurer". Compare "foreign insurer".

(3) "Articles" is synonymous with "articles of incorporation", which includes the original articles or special law or charter corresponding thereto, and all amendments, and includes restated articles. See also "bylaws". See s. 611.12.

(4) A "blanket insurance policy" is a group policy covering unscheduled classes of persons, with the persons insured to be determined by definition of the class with or without designation of the persons covered but without any individual underwriting.

(5) "Board" is synonymous with "board of trustees" and "board of directors", and means the group of persons vested with the management of a corporation, by whatever name designated.

(6) "Business plan" means the aggregate of the information that must be supplied to the commissioner under s. 611.13 (2) (j) and (k), s. 611.13 (2) (j) and (k) as incorporated by s. 614.13 (1), or s. 613.13 (1) (i) and (j).

(7) "Bylaws" means the rules, other than articles, adopted for the regulation or management of a corporation's affairs, by whatever name designated. See also "articles". See s. 611.12.

(9) "Certificate of authority" is synonymous with "license".

(11) "Commissioner" means the "commissioner of insurance" of this state, or the equivalent supervisory official of another jurisdiction.

(12) "Compulsory surplus" is the amount of assets in excess of liabilities an insurer is required to have under s. 623.11.

(13) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, by common management or otherwise. A person having a contract or arrangement giving that person control is deemed to be in control despite any limitations placed by law on the validity of the contract or arrangement. There is a rebuttable presumption of control if a person directly or indirectly owns, holds with the power to vote or holds proxies to vote more than 10% of the voting securities of another person, except that no person shall be presumed to control another person solely by reason of holding an official position with that person. "Control" has the same meaning in the terms "controlling", "controlled by" and "under common control with". See also "affiliate".

(14) "Corporation" means "insurance corporation".

(15) "Creditor" means a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent.

(15m) "Directly procured insurance" means insurance procured under s. 618.42.

(16) "Director" is synonymous with "trustee".

(17) "Domestic insurer" means an insurer organized under the laws of this state.

(18) "Domiciliary state" means, except in ch. 645, the state in which an insurer is incorporated or organized or, in the case of an alien insurer, the state through which the insurer has made its entry into the United States.

(19) "Extraordinary dividend" means any dividend or distribution of cash or other property, other than a proportional distribution of an insurer's stock, the fair market value of which, together with that of other dividends paid or credited and distributions made within the preceding 12 months, exceeds the lesser of the following:

(a) Ten percent of the insurer's surplus with regard to policyholders as of the preceding December 31.

(b) 1. With respect to a life insurer, the total net gain from operations of the insurer for the calendar year preceding the date of the dividend or distribution, minus realized capital gains for that calendar year.

2. With respect to an insurer other than a life insurer, the greater of the following:

a. The net income of the insurer for the calendar year preceding the date of the dividend or distribution, minus realized capital gains for that calendar year.

b. The aggregate of the net income of the insurer for the 3 calendar years preceding the date of the dividend or distribution, minus realized capital gains for those calendar years and minus dividends paid or credited and distributions made within the first 2 of the preceding 3 calendar years.

(20) "Foreign insurer" means an insurer domiciled in another state. See also "nondomestic insurer". Compare "alien insurer".

(21) "Form" means a policy or application prepared for general use and does not include one specially prepared for use in an individual case. See also "policy".

(22) "Franchise insurance" is insurance provided in individual policies through a mass marketing arrangement involving a defined class of persons related in some other way than through the purchase of insurance.

(23) A "group insurance policy" is a policy covering a group of persons, and issued to a policyholder in behalf of the group for the benefit of group members who are selected under procedures defined in the policy or agreements collateral thereto, with or without members of their families or dependents.

(23c) "Health maintenance organization insurer" means an insurer that satisfies all of the following:

(a) Is licensed under ch. 611, 613 or 614, issued a certificate of authority under ch. 618 or organized under ss. 185.981 to 185.985.

(b) Has a certificate of authority, an amended certificate of authority or a statement of operations issued by the commissioner under s. 609.03 that restricts the insurer to engaging in only the types of insurance business described in s. 609.03 (3).

(23g) "Individual practice association" means a person, other than a hospital, clinic or an individual physician or other individual health care provider, that does all of the following:

(a) Contracts with a health maintenance organization, limited service health organization or preferred provider plan, as defined in s. 609.01, to provide health care services.

(b) Provides health care services primarily through health care providers who are independent contractors or who are obligated to provide the services because of membership in the entity.

(23m) "Initial expendable surplus" is the amount of surplus in addition to capital or minimum permanent surplus or both that an insurer obtains in its organizational process in accordance with s. 611.19, 613.19 or 614.19 and is not required to maintain thereafter.

(23r) "Initial surplus" is the sum of minimum permanent surplus and initial expendable surplus.

(24) "Insolvency" means:

(a) For an insurer organized or operating under ch. 612, the inability to pay any loss within 30 days after the due date specified in the first assessment notice issued under s. 612.54 (4) after the date of the loss, or any other uncontested debt as it becomes due, or the inability to replenish by timely assessment any required surplus.

(b) For any other insurer, that it is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of any capital and surplus required by law to be constantly maintained or its authorized and issued capital stock. For purposes of this paragraph "assets" includes one–half of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, is the amount that could be obtained if there were 100% collection of an assessment at the rate of 10 mills.

(25) (a) "Insurance" includes any of the following:

1. Risk distributing arrangements providing for compensation of damages or loss through the provision of services or benefits in kind rather than indemnity in money.

2. Contracts of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction.

3. Plans established and operated under ss. 185.981 to 185.985.

(b) "Insurance" does not include a continuing care contract, as defined in s. 647.01 (2).

(26) "Insured" means any person to whom or for whose benefit an insurer makes a promise in an insurance policy. The term includes policyholders, subscribers, members and beneficiaries. This definition applies only to chs. 600 to 655 and does not apply to the use of the word in insurance policies.

(27) "Insurer" means any person or association of persons doing an insurance business as a principal, and includes, but is not limited to, fraternals, issuers of gift annuities, cooperative associations organized under s. 185.981, insurers operating under subch. I of ch. 616 and risk retention groups. It also includes any person purporting or intending to do an insurance business as a principal on his or her own account.

(28) "Intermediary" means an insurance marketing intermediary as defined in s. 628.02.

(28g) "Long–term care insurance policy" means a disability insurance policy or certificate advertised, marketed, offered or designed primarily to provide coverage for care that is provided in institutional and community–based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. The term does not include a medicare supplement policy or medicare replacement policy or a continuing care contract, as defined in s. 647.01 (2).

(28m) "Medicare" means 42 USC 1395 to 1395ss.

(28p) "Medicare replacement policy" means a disability insurance policy or certificate issued to a resident of this state pursuant to a contract between the federal health care financing administration and a federally qualified health maintenance organization or a federally certified competitive medical plan to provide health care benefits to persons eligible for medicare under 42 USC 1395f, 1395x and 1395mm.

(28r) "Medicare supplement policy" means a disability insurance policy or certificate advertised, marketed or designed primarily to supplement benefits under medicare for the hospital, medical or surgical expenses of persons eligible for medicare.

(29) "Member" means a person having membership rights in a corporation. Any person may be a member of a corporation unless the law specifically provides otherwise. See also "insured".

(30) "Minimum capital" is the capital that a stock insurance corporation is required by statute or administrative determination to have and constantly to maintain. See s. 611.19.

(30m) "Minimum permanent surplus" is the surplus that an insurance corporation is required by statute or administrative determination to have and constantly to maintain in accordance with s. 611.19, 613.19 or 614.19.

(31) "Mutual" means "mutual insurance corporation".

(32) "Nondomestic insurer" means a foreign or alien insurer. Compare "domestic insurer".

(34) "Office" means "office of the insurance commissioner" of this state.

(35) "Policy" means any document other than a group certificate used to prescribe in writing the terms of an insurance contract, including endorsements and riders and service contracts issued by motor clubs.

(37) "Policyholder" means the person who controls the policy by ownership, payment of premiums or otherwise. See also "insured".

(38) "Premium" means any consideration for an insurance policy, and includes assessments, membership fees or other required contributions or consideration, however designated.

(39) "Principal officers" of a corporation mean the officers designated under s. 611.12 (3), or corresponding sections of other chapters.

(40) "Proceedings" includes "actions" and "special proceedings" under s. 801.01.

(41) "Reciprocal" means any unincorporated association of persons, operating through an attorney in fact and exchanging insurance contracts with one another, which provide insurance coverage to each other thereunder.

(41c) "Risk purchasing group" means a purchasing group as defined in 15 USC 3901 (a) (5).

(41e) "Risk retention group" has the meaning given under 15 USC 3901 (a) (4).

(41g) "Security surplus" is the amount of assets in excess of liabilities needed by a particular insurer to satisfy s. 623.12.

(41m) "Service insurance corporation" means any corporation organized or operating under ch. 613.

(42) "State" means the same as in s. 990.01 (40) except that it also includes the Panama Canal Zone.

(43) "Stock corporation" means "stock insurance corporation".

(44) "Subsidiary" of a person means a stock corporation more than one−half the voting shares of which are owned by the person either alone or with its affiliates.

(45) "Surplus" means the excess of assets over the sum of capital and liabilities.

(46) "Town mutual" means a corporation organized or operating under ch. 612 and is synonymous with "town mutual insurance corporation".

(47) "Trustee" is synonymous with "director".

(48) "Unauthorized insurer" means any insurer not holding a valid certificate of authority to do an insurance business in this state, and any insurer holding a valid certificate, with respect to business not authorized by the certificate. "Unauthorized insurer" includes a surplus lines insurer.

(49) "Wholly owned subsidiary" of a person is a subsidiary all of the voting shares of which are owned by the person either alone or with its affiliates, except for the minimum number of shares required by the law of the subsidiary's domicile to be owned by directors or others.

History: 1971 c. 260; 1973 c. 22; Sup. Ct. Order, 67 W (2d) 585, 776 (1975); 1975 c. 223, 371, 374, 375, 421; 1977 c. 339; 1979 c. 89 ss. 383, 543; 1979 c. 102 ss. 49 to 53, 236 (22); 1979 c. 177; 1981 c. 38, 82; 1983 a. 120, 189, 274, 358; 1985 a. 29; 1987 a. 167, 247; 1989 a. 23, 31; 1989 a. 187 s. 29; 1993 a. 201; 1995 a. 225.

See note to 631.36, citing Terry v. Mongin Ins. Agency, 105 W (2d) 575, 314 NW (2d) 349 (1982).

600.12 Construction. **(1)** Unless otherwise provided, chs. 600 to 655 shall be liberally construed to achieve the purposes stated therein. Unless expressly provided otherwise or clearly appearing from the context the purposes stated shall constitute an aid and guide to interpretation but not an independent source of power.

(2) If a provision of chs. 600 to 655 conflicts with another statutory provision, the provision of chs. 600 to 655 shall prevail.

History: 1971 c. 260; 1979 c. 89 s. 543; 1979 c. 102, 177; 1983 a. 358 s. 14; 1989 a. 187 s. 29.

600.13 Orders relaxing restrictions. **(1)** ISSUANCE. After notice under sub. (2) and a hearing, the commissioner may issue an order freeing a person from any requirement of chs. 600 to 647 otherwise applicable to the person if the commissioner finds that the interests of residents, as defined in s. 647.01 (11), insureds, creditors and the public will not be endangered thereby.

(2) PUBLICATION. Unless the order is issued under specific authorization of another section of chs. 600 to 647, the notice preceding the hearing under sub. (1) and any such order shall be published as a class 1 notice, under ch. 985, in the official state newspaper before it is effective.

History: 1971 c. 260; 1979 c. 89; 1979 c. 102 s. 236 (22); 1979 c. 177; 1983 a. 358 ss. 3, 14.