

## CHAPTER 601

## INSURANCE — ADMINISTRATION

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**Cross-reference:** See definitions in ss. 600.03 and 628.02.

## SUBCHAPTER I

## GENERAL PROVISIONS

**601.01 Purposes.** The purposes of chs. 600 to 655 are:

- (1) To ensure the solidity of all insurers doing business in this state;
- (2) To ensure that policyholders, claimants and insurers are treated fairly and equitably;
- (3) To ensure that the state has an adequate and healthy insurance market, characterized by competitive conditions and the exercise of initiative;
- (4) To provide for an office that is expert in the field of insurance, and able to enforce chs. 600 to 655;
- (5) To encourage full cooperation of the office with other regulatory bodies, both of this and other states and of the federal government;
- (6) To improve and thereby preserve state regulation of insurance;
- (7) To maintain freedom of contract and freedom of enterprise so far as consistent with the other purposes of the law;
- (8) To encourage self-regulation of the insurance enterprise;
- (9) To encourage loss prevention as an aspect of the operation of the insurance enterprise;
- (10) To keep the public informed on insurance matters; and
- (11) To achieve the other purposes stated in chs. 600 to 655.

**History:** 1971 c. 260; 1977 c. 339 ss. 27, 28, 43; 1979 c. 89, 102, 177; 1989 a. 187 s. 29.

Why process consumer complaints? A case study of the office of the commissioner of insurance of Wisconsin. Whitford, Kimball, 1974 WLR 639.

**601.02 Definitions.** In this chapter, unless the context indicates otherwise:

(1) “Adjuster” means any person who represents an insurer or an insured in negotiations for the settlement of a claim against the insurer arising out of the coverage provided by an insurance policy.

(3) “Agent” means an intermediary as defined in s. 628.02 (4).  
**History:** 1971 c. 260; 1975 c. 371.

**601.04 Certificate of authority; fee.** (1) **SCOPE.** This section applies to all insurers incorporated or organized under any law of this state except chs. 611, 612, 613 and 614.

(2) **REQUIREMENT OF LICENSE.** No insurer or plan subject to this section may transact insurance business in this state without having in effect a certificate of authority.

(3) **LICENSING.** The commissioner shall issue to any insurer or plan subject to this section a certificate of authority authorizing it to transact the business of insurance in this state if the commissioner is satisfied that it has met all requirements of law and that its methods and practices and the character and value of its assets will adequately safeguard the interests of its insureds and the public in this state. Each certificate shall be issued for a period of no longer than one year and shall expire on May 1. It may be renewed from year to year.

(4) **FEES.** Every insurer or plan obtaining or renewing its certificate shall pay the fee required by s. 601.31 (1) (b) or (c).

**History:** 1971 c. 260; 1973 c. 22; 1975 c. 223, 373; 1977 c. 339 s. 6m; Stats. 1977 s. 601.04; 1979 c. 102 ss. 236 (6), 237; 1981 c. 41.

## SUBCHAPTER II

## OFFICE OF THE COMMISSIONER OF INSURANCE

**601.11 Personnel.** (1) **DEPUTY COMMISSIONER.** (a) *Appointment.* The deputy commissioner shall be appointed subject to ss. 15.04 (2) and (3) and 15.73.

(b) *Acting commissioner.* When the office of commissioner is vacant, or when the commissioner is unable to perform his or her duties because of mental or physical disability, the deputy com-

missioner shall be acting commissioner. The deputy commissioner shall have such other duties and powers as the commissioner delegates and assigns.

(2) OTHER PERSONNEL. Except for those employed under s. 601.14 (2) or otherwise specifically exempted, all personnel including staff attorneys shall be appointed under the classified service.

History: 1977 c. 418.

**601.12 Legal services.** (1) LEGAL SERVICES. The attorney general shall allocate personnel as the legal needs of the office demand.

(2) ENFORCEMENT. Upon request of the commissioner, the attorney general shall proceed in any federal or state court or agency to recover any tax or fee related to insurance payable under the laws of this state and not paid when due, and any penalty or forfeiture authorized by chs. 600 to 655. Upon request of the commissioner, the attorney general or, in a proper case, the district attorney of any county, shall aid in any investigation, hearing or other procedure under chs. 600 to 655 and shall institute, prosecute and defend proceedings relating to the enforcement or interpretation of chs. 600 to 655, including any proceeding to which the state, or the insurance commissioner or any employee of the office, in the employee's official capacity, shall be a party or in which the commissioner or the employee is interested.

History: 1975 c. 189; 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 358 s. 14; 1989 a. 187 s. 29.

**601.13 Financial services; deposits.** (1) RECEIPT OF DEPOSITS. Subject to the approval of the commissioner, the state treasurer shall accept deposits or control of acceptable book–entry accounts from insurers and other licensees of the office as follows:

- (a) Deposits required or permitted by the laws of this state;
- (b) Deposits of domestic insurers or of alien insurers domiciled in this state if required by the laws of other states as prerequisite to authority to do an insurance business in other states; and
- (c) Deposits resulting from application of any retaliatory provisions.

(2) TERMS OF DEPOSIT. Unless otherwise provided by the law requiring or permitting the deposit, each deposit shall be held in trust: first, for the claimants under s. 645.68 (3); 2nd, for the claimants under s. 645.68 (3c); 3rd, for the claimants under s. 645.68 (3m); 4th, for the claimants under s. 645.68 (4); and thereafter, for all other creditors in the order of priority established by s. 645.68. No claim may be made against the deposit of an alien insurer unless the claim arises out of a transaction in the United States.

(3) SECURITIES ELIGIBLE. All deposits may consist of any of the securities authorized in this subsection. Each security must be approved by the commissioner, must be subject to disposition by the state treasurer and must not be available to any other person except as expressly provided by law. The authorized securities are:

- (a) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of the United States or Canada or any state or province thereof.
- (b) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of any county, city, village, town, school district or other governmental or civil division within the United States or Canada.
- (c) Lawfully authorized bonds or other evidences of indebtedness payable from and adequately secured by revenues specifically pledged therefor of the United States or Canada, or of any state or province, or of a commission, board or other instrumentality of one or more of them.
- (d) Interest–bearing notes of any savings bank or savings and loan association organized under the laws of this state.
- (e) Bonds or other securities of any savings and loan finance corporation organized under the laws of this state.
- (f) Investment shares of any savings bank or savings and loan association to the extent that they are or may be insured or guaran-

teed by the federal government, by the federal deposit insurance corporation or by any other agency of the United States.

(g) Shares of corporations chartered or incorporated under section 5 of the homeowners' loan act of 1933.

(h) Certificates of deposit of any bank organized under the laws of this state or of any national bank located in this state.

(4) VALUATION. Securities held on deposit shall be valued under s. 623.03 for valuation of such investments of life insurers, or at market, whichever is lower.

(5) RECEIPT, INSPECTION AND RECORD. The state treasurer shall deliver to the depositor a receipt for all securities deposited or held under the control of the state treasurer and shall permit the depositor to inspect its physically held securities at any reasonable time. On application of the depositor the treasurer shall certify when required by any law of the United States or of any other state or foreign country or by the order of any court of competent jurisdiction that the deposit was made. The treasurer and the commissioner shall each keep a permanent record of securities deposited or held under the control of the state treasurer and of any substitutions or withdrawals and shall compare records at least annually.

(6) TRANSFER OF SECURITIES. No transfer of a deposited security, whether voluntary or by operation of law, is valid unless approved in writing by the commissioner and countersigned by the treasurer.

(7) NOT SUBJECT TO LEVY. No judgment creditor or other person shall levy upon any deposit held under this section.

(8) INTEREST AND SUBSTITUTIONS. Subject to s. 14.58 (13), a depositor shall, while solvent and complying with the laws of this state, be entitled:

- (a) To receive interest and cash dividends accruing on the securities held on deposit for its account; and
- (b) To substitute for deposited securities other eligible securities, as expressly approved by the commissioner.

(9) VOLUNTARY EXCESS DEPOSIT. A depositor may deposit eligible securities in excess of requirements to absorb fluctuations in value and to facilitate substitution of securities.

(10) RELEASE OF DEPOSIT. Upon approval of the commissioner, any deposit or part thereof shall be released upon the depositor's request to the extent permitted by law.

(11) ADVANCE DEPOSIT OF FEES. With the approval of the commissioner, any person required to pay fees or assessments to the state through the commissioner may make a deposit with the treasurer from which the fees or assessments shall be paid on order of the commissioner not less than twice each year. Upon request by the depositor, any balance remaining shall be returned on the certificate of the commissioner that all fees and assessments have been paid to date.

History: 1971 c. 40 s. 93; 1971 c. 260 s. 92 (6); 1977 c. 203 ss. 102, 103; 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1991 a. 221; 1999 a. 30.

**601.14 Supporting services.** (1) OFFICES. The department of administration shall provide suitable premises for the offices of the commissioner of insurance:

- (a) In the city of Madison; and
- (b) Elsewhere, if approved by the governor as necessary for the efficient operation of the office.

(2) MATERIALS, SUPPLIES, EQUIPMENT AND CONTRACTUAL SERVICES. The department of administration shall provide the office with all materials, supplies, equipment and contractual services necessary for its efficient operation, including reasonable library facilities and books. Part–time or temporary services of professionals and experts shall be provided by the department of administration upon the recommendation of the commissioner, and may be provided without regard to the restrictions of subch. II of ch. 230.

History: 1971 c. 307; 1977 c. 196 s. 131.

**601.15 Oath.** The deputy commissioner shall take and file the official oath.

**601.16 Official seal and signature. (1) SEAL.** The commissioner need not have nor use an official seal. Any statutory or common law requirement that an official seal be affixed is satisfied by the signature of the commissioner.

**(2) SIGNATURES.** Any signature of the commissioner may be in facsimile unless specifically required to be handwritten.

**History:** 1977 c. 203 s. 103.

**601.17 Bond. (1) BLANKET BOND.** The commissioner shall procure a blanket bond conforming to s. 19.01 (2) covering the commissioner and each employee of the commissioner's office in the sum of \$100,000, applying separately to each covered person. The premium for the bond shall be allocated to the several appropriations under s. 20.145.

**(2) QUALIFICATIONS OF SURETY.** The bond shall be underwritten by an insurer authorized to transact surety business in this state and shall be approved by the governor.

**History:** 1991 a. 316.

**601.18 Delegation.** Any power, duty or function vested in the commissioner by law may be exercised, discharged or performed by any employee of the office acting in the commissioner's name and by the commissioner's delegated authority. Any person whose own course of action in good faith depends upon proof of the validity of an asserted delegation is not obligated to act until the person is shown a written delegation with a handwritten signature of the commissioner or deputy commissioner.

**History:** 1979 c. 102.

**601.19 Organization of the office.** The commissioner shall publish periodically in the Wisconsin administrative code an up-to-date chart and explanation of the organization of the commissioner's office, making clear the allocation of responsibility and authority among the staff.

**History:** 1979 c. 102 s. 236 (14).

**601.20 Advisory councils and committees. (1) AUTHORIZATION TO FORM COUNCILS AND COMMITTEES.** The commissioner may create advisory councils and committees under s. 15.04 (1) (c) to assist in dealing with regulatory problems. The commissioner may appoint members and may provide by rule for the creation, governance, duties and termination of any council or committee the commissioner establishes.

**History:** 1975 c. 372, 375, 421; 1977 c. 196 s. 131; 1979 c. 102, 221.

### SUBCHAPTER III

#### FINANCING THE INSURANCE OFFICE

**601.31 Fees. (1)** The following fees, unless revised by the commissioner as provided in s. 601.32, shall be paid to the commissioner:

(a) For filing documents for examination preliminary to initial licensing or for any other initial filing of documents required by law as a prerequisite for operating or otherwise providing services in this state, including the filing of articles of incorporation, the first declaration or statement, a certified copy of charter, and others:

1. Domestic and nondomestic insurers, \$400.
2. Rate service organizations, \$400.
3. Motor clubs, \$400.
4. Licensees under ch. 615, \$100.
5. Providers of services under ch. 647, \$100.

(b) For issuing a permit or certificate of authority:

1. Domestic and nondomestic insurers, \$400.
2. Rate service organizations, \$400.
3. Motor clubs, \$400.
4. Licensees under ch. 615, \$100.
5. Providers of services under ch. 647, \$100.

(c) Annually for continuation of a permit or certificate of authority:

1. Domestic and nondomestic insurers, \$100.
2. Rate service organizations, \$100.
3. Motor clubs, \$100.
4. Licensees under ch. 615, \$25.
5. Providers of services under ch. 647, \$25.

(d) For filing articles of amendment, domestic companies, \$25.

(e) For filing a copy of amendments to the articles of a nondomestic insurer, \$25.

(f) For filing articles of merger, \$100.

(g) For filing a copy of articles of merger of a nondomestic insurer, other than with a domestic corporation, \$25.

(h) For filing an application by a nondomestic insurer for amended certificate of authority to transact business in this state, \$25.

(i) For filing an application to reserve a corporate name, \$25.

(j) For filing a notice of transfer of a reserved corporate name, \$25.

(k) For filing an annual statement, except as provided in s. 641.13:

1. Domestic and nondomestic insurers, \$100.
2. Rate service organizations, \$100.
3. Motor clubs, \$100.
4. Licensees under ch. 615, \$25.
5. Providers of services under ch. 647, \$25.

6. Domestic mutual insurance holding companies, \$100.

(L) For issuing or enlarging the scope of a license, amounts to be set by the commissioner by rule but not to exceed:

2. Corporation, limited liability company or partnership intermediary, \$100; and
3. Licensees authorized to place business under s. 618.41, \$100.

(Lm) For issuing a duplicate license, \$5.

(Lp) For certifying as an independent review organization under s. 632.835, \$400.

(Lr) For each biennial recertification as an independent review organization under s. 632.835, \$100.

(m) For regulating resident intermediaries and nonresident intermediaries, annually after the year in which the initial license is issued, amounts to be set by the commissioner by rule and paid at times and under procedures set by the commissioner.

(mc) For regulating a holder of a license to place business under s. 618.41, annually after the year in which the initial license is issued, an amount to be set by the commissioner by rule and paid at times and under procedures set by the commissioner, but not to exceed \$100.

(mm) For initial issuance of a license as a viatical settlement provider under s. 632.68 (2), \$750.

(mp) For each annual renewal of a license as a viatical settlement provider under s. 632.68 (2), \$250.

(mr) For initial issuance of a license as a viatical settlement broker under s. 632.68 (4), \$750.

(ms) For each annual renewal of a license as a viatical settlement broker under s. 632.68 (4), \$250.

(n) For listing, or renewing a listing of, an agent under s. 628.11, a fee to be set by the commissioner by rule but not to exceed \$8 annually for resident agents or \$24 annually for nonresident agents.

(o) For examination of an applicant for a license as an insurance intermediary, an amount to be set by the commissioner by rule.

(p) For substituted service of process on the commissioner under s. 601.72, \$10.

(q) For a copy of a paper filed in the commissioner's office, actual cost.

(r) For preparation and furnishing of lists of insurers or intermediaries, actual cost.

(t) For filing documents for examination preliminary to initial listing by the commissioner for surplus lines insurance under s. 618.41 (6) (d), \$100.

(u) For preparation and furnishing of an agent's letter of certification, \$10.

(v) For preparation and furnishing of an agent's letter of clearance, \$10.

(w) For initial issuance and for each annual renewal of a license as an administrator under ch. 633, \$100.

(x) 1. For issuing approval to an organization to offer prelicensing or continuing education courses or programs for intermediaries under s. 628.04 (3), a fee to be set by the commissioner by rule, but not to exceed \$500.

2. By organizations approved under subd. 1., for renewing the approval of such organizations, annually after the year in which the approval under subd. 1. is issued, an amount to be set and paid at times and under procedure set by the commissioner by rule, but not to exceed \$100.

3. By organizations approved under subd. 1., for submitting, for initial approval or approval of any subsequent modification, each course for prelicensing or continuing education, a fee to be set by the commissioner by rule, but not to exceed \$25 per credit hour.

(y) 1. For certifying a copy of an annual statement, an examination report, a certificate of authority or articles and bylaws, or amendments to any of those documents, \$10.

2. For a duplicate certification that is requested at the same time as the certification under subd. 1., \$5.

(2) Town mutuals and insurers operating under subch. I of ch. 616 are exempt from all provisions of this section except sub. (1) (b), (c) and (q).

(3) The commissioner may not increase fees under sub. (1) (m) above the amounts in effect on March 25, 1988, except for the purpose of funding projected expenses for the office's supervision of the insurance industry.

**History:** 1971 c. 40 s. 93; 1971 c. 125, 260, 307; 1975 c. 223, 371, 373, 374, 421; 1979 c. 102 ss. 63 to 65, 237; 1979 c. 261, 355; 1981 c. 20 ss. 1739 to 1748, 2202 (26) (a); 1981 c. 38, 314; 1983 a. 358; 1985 a. 29; 1987 a. 27, 166; 1989 a. 31; 1991 a. 39; 1993 a. 112; 1995 a. 27, 371, 396; 1999 a. 9, 155.

**Legislative Council Note on sub. (2), 1979:** In addition to some editorial corrections, this provision has been amended to apply s. 601.31 (2) [(1) (b)] and (3) [(1) (c)] to former ch. 185 insurers, now operating under subch. I of ch. 616. It also applies s. 601.31 (2) [(1) (b)] and (3) [(1) (c)] to town mutuals. The exemption of fraternal in sub. (25) from certain fees is not justified and is deleted. [Bill 21–S]

### 601.32 Supervision of industry, supplementary fee.

(1) If the moneys credited to s. 20.145 (1) (g) under other sections of the statutes prove inadequate for the office's supervision of insurance industry program, the commissioner may increase any or all of the fees imposed by s. 601.31, or may in any year levy a special assessment on all domestic insurers, or both, for the general operation of that program.

(2) Any special assessment shall be in addition to all other taxes, fees, dues and charges and shall not exceed for any such company a maximum of 25 cents per \$1,000 of gross premiums received by it during the preceding calendar year on direct insurance in this state, less returned premiums and cancellations.

(3) Any assessment made by the commissioner which is less than the maximum shall be prorated among said companies in the same proportion as if it were a maximum assessment. Any such assessment shall be paid to the commissioner on or before July 31 of each year.

(4) The commissioner may omit the levy of any assessment which would be smaller than the cost of processing and collecting it.

**History:** 1975 c. 372 s. 41; 1977 c. 339; 1979 c. 102 ss. 66, 236 (4); 1983 a. 215.

**601.33 Exemption from taxation.** Municipal insurance mutuals organized under s. 611.11 (4) are not subject to any taxes or fees except those imposed by ss. 601.31 and 601.32.

**History:** 1977 c. 346.

## SUBCHAPTER IV

### POWERS AND DUTIES OF COMMISSIONER

**601.41 General duties and powers. (1) DUTIES.** The commissioner shall administer and enforce chs. 600 to 655 and ss. 59.52 (11) (c), 66.0137 (4), 120.13 (2) (b) to (g), 149.13 and 149.144 and shall act as promptly as possible under the circumstances on all matters placed before the commissioner.

(2) **POWERS.** The commissioner shall have all powers specifically granted to the commissioner, or reasonably implied in order to enable the commissioner to perform the duties imposed by sub. (1).

(3) **RULES.** The commissioner shall have rule-making authority under s. 227.11 (2).

(4) **ENFORCEMENT PROCEEDINGS.** (a) The commissioner shall issue such prohibitory, mandatory and other orders as are necessary to secure compliance with the law.

(b) On request of any person who would be affected by an order under par. (a), the commissioner may issue a declaratory order to clarify the person's rights or duties.

(5) **INFORMAL HEARINGS AND PUBLIC MEETINGS.** The commissioner may at any time hold informal hearings and public meetings, whether or not called hearings, for the purposes of investigation, the ascertainment of public sentiment, or informing the public. No effective rule or order may result from the hearing unless the requirements of ch. 227 are satisfied.

(6) **REGULATION OF RISK RETENTION GROUPS AND RISK PURCHASING GROUPS.** (a) The commissioner may by rule regulate the condition and conduct of risk retention groups and risk purchasing groups doing business in this state. The commissioner may by order prohibit a risk retention group or risk purchasing group from doing business in this state.

(b) The regulation of risk retention groups and risk purchasing groups under ss. 601.72, 618.41, 618.415, 618.43, 628.02, 628.03 and 628.48 is in addition to any other provisions of chs. 600 to 655 which apply to risk retention groups or risk purchasing groups and does not authorize a risk retention group or risk purchasing group to do an insurance business except as permitted under chs. 600 to 655.

(7) **INFORMATION AND TECHNICAL ASSISTANCE TO EMPLOYEES AND FORMER EMPLOYEES WHO LOSE HEALTH CARE COVERAGE.** The commissioner shall provide to employees and former employees who lose health care coverage under a group health insurance plan or self-insured health plan information and technical assistance regarding all of the following:

(a) Any rights that the individuals may have under state or federal laws affecting health benefit plans, including laws that relate to portability or continuation coverage or conversion coverage under s. 632.897.

(b) The availability of individual health benefit plans in the area in which the individual resides.

**History:** 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 358 s. 14; 1985 a. 29; 1985 a. 182 s. 57; 1987 a. 247; 1989 a. 187 s. 29; 1989 a. 201, 336; 1991 a. 39; 1993 a. 16; 1995 a. 201; 1997 a. 27, 51, 252; 1999 a. 150 s. 672.

Why process consumer complaints? A case study of the office of the commissioner of insurance of Wisconsin. Whitford, Kimball, 1974 WLR 639.

**601.415 Miscellaneous duties.** The duties listed in this section are in addition to other duties imposed under chs. 600 to 655. Failure to list a specified power, duty or function of the commissioner in this section does not affect the validity of the power, duty or function.

(1) **JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS AND RETIREMENT RESEARCH COMMITTEE.** The commissioner or an expe-

rienced actuary in the office designated by the commissioner shall serve as a member of the joint survey committee on retirement systems under s. 13.50 and the retirement research committee under s. 13.51.

(2) GROUP INSURANCE BOARD. The commissioner shall serve as a member of the group insurance board under s. 15.165 (2).

(3) WISCONSIN RETIREMENT BOARD. The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the Wisconsin retirement board under s. 15.165 (3) (b).

(5) COOPERATION WITH DEPARTMENT OF ADMINISTRATION. The commissioner shall cooperate with the department of administration in placing insurance under s. 16.865 (4).

(7) DETERMINATION OF VARIABLE INTEREST RATE ADJUSTMENTS. The commissioner shall approve indices for variable interest rate adjustments under s. 138.055 (4) (c).

(9) CONSUMER CREDIT LAW. The commissioner shall cooperate with the division of banking in the administration of ch. 424, shall determine the method for computation of refunds under s. 424.205, shall approve forms, schedules of premium rates and charges under s. 424.209 and shall issue rules or orders of compliance to insurers under s. 424.602.

(10) PETROLEUM PRODUCT STORAGE REMEDIAL ACTION PROGRAM RULES. The commissioner shall promulgate the rules required under s. 101.143 (1m).

(11) INTERSTATE INSURANCE RECEIVERSHIP COMMISSION. The commissioner or a designated representative shall serve as a member of the interstate insurance receivership commission under ss. 14.83 and 601.59 (3).

(12) HEALTH INSURANCE RISK-SHARING PLAN. The commissioner shall perform the duties specified to be performed by the commissioner in ss. 149.13 and 149.144. The commissioner, or his or her designee, shall serve as a member of the board under s. 149.15.

**History:** 1979 c. 102; 1981 c. 96, 314; 1983 a. 358 s. 14; 1985 a. 256; 1987 a. 27, 47, 247; 1989 a. 31; 1989 a. 187 s. 29; 1991 a. 243; 1995 a. 27, 462; 1997 a. 27.

**601.42 Reports and replies. (1g) REPORTS.** The commissioner may require any of the following from any person subject to regulation under chs. 600 to 655:

(a) Statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable form the commissioner designates, and at such reasonable intervals as the commissioner chooses, or from time to time.

(b) Full explanation of the programming of any data storage or communication system in use.

(c) That information from any books, records, electronic data processing systems, computers or any other information storage system be made available to the commissioner at any reasonable time and in any reasonable manner.

(d) Statements, reports, answers to questionnaires or other information, or reports, audits or certification from a certified public accountant or an actuary approved by the commissioner, relating to the extent liabilities of a health maintenance organization insurer are or will be liabilities for health care costs for which an enrollee or policyholder of the health maintenance organization is not liable to any person under s. 609.91.

(1r) REPORTS BY INDIVIDUAL PRACTICE ASSOCIATIONS. The commissioner may by rule require that an individual practice association submit to the commissioner information reasonably necessary to determine the financial condition of the individual practice association. The information required under this subsection may include, but is not limited to, financial statements of the individual practice association, except the commissioner may not require members of the individual practice association or other health care providers who contract with the individual practice association to submit individual financial statements.

(2) FORMS. The commissioner may prescribe forms for the reports under subs. (1g) and (1r) and specify who shall execute or

certify such reports. The forms for the reports required under sub. (1g) shall be consistent, so far as practicable, with those prescribed by other jurisdictions.

(3) ACCOUNTING METHODS. The commissioner may prescribe reasonable minimum standards and techniques of accounting and data handling to ensure that timely and reliable information will exist and will be available to the commissioner.

(4) REPLIES. Any officer, manager or general agent of any insurer authorized to do or doing an insurance business in this state, any person controlling or having a contract under which the person has a right to control such an insurer, whether exclusively or otherwise, any person with executive authority over or in charge of any segment of such an insurer's affairs, any individual practice association or officer, director or manager of an individual practice association, any insurance agent or other person licensed under chs. 600 to 646, any provider of services under a continuing care contract, as defined in s. 647.01 (2), any independent review organization certified or recertified under s. 632.835 (4) or any health care provider, as defined in s. 655.001 (8), shall reply promptly in writing or in other designated form, to any written inquiry from the commissioner requesting a reply.

(5) VERIFICATION. The commissioner may require that any communication made to the commissioner under this section be verified.

(6) IMMUNITY. (a) In the absence of actual malice, no communication to the commissioner required by law or by the commissioner shall subject the person making it to an action for damages for defamation. This paragraph applies to communications received by the commissioner before May 11, 1990, or on or after June 1, 1994.

(b) In the absence of actual malice, no communication to the commissioner or office required by law or by the commissioner shall subject the person making it to an action for damages for the communication. This paragraph applies to communications received by the commissioner or office on or after May 11, 1990, and before June 1, 1994.

(7) EXPERTS. The commissioner may employ experts to assist the commissioner in an examination or in the review of any transaction subject to approval under chs. 600 to 646. The person that is the subject of the examination, or that is a party to a transaction under review, including the person acquiring, controlling or attempting to acquire the insurer, shall pay the reasonable costs incurred by the commissioner for the expert and related expenses.

**History:** 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 ss. 69, 236 (8), (21); 1979 c. 177; 1983 a. 358 ss. 9, 14; 1987 a. 247; 1989 a. 23; 1989 a. 187 ss. 1m, 29; 1989 a. 332; 1991 a. 316; 1997 a. 237; 1999 a. 30, 155.

**Cross-reference:** See also s. 623.02 as to standards for accounting rules.

#### **601.422 Commercial liability insurance reports.**

(1) REQUIREMENT. Each insurer authorized to write commercial liability insurance shall file an annual commercial liability insurance report complying with this section with the commissioner on or before May 1 of each year.

(2) CONTENTS. The report filed under sub. (1) shall contain the name of the insurer and all of the following information, for each category or type of commercial liability insurance designated by the commissioner by rule and offered by the insurer, for policies covering insureds located in this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums written and earned for primary coverage and for excess coverage.

(b) The number of policies written.

(c) The amount of reserves established for each of the following:

1. Reported claims.

2. Incurred but not reported claims.

3. Loss adjustment expenses.

(d) Reported paid losses.

(e) Net investment gain or loss and other income gain or loss allocated to each category or type, computed by the formula used in the annual insurance expenses exhibit for allocation among lines of business.

(f) The actual expenses attributable to each category or type, reported separately as loss adjustment expenses and all other expenses.

(g) Total number of claims reported.

(h) Total number of claims closed without payment.

(i) Total number of claims paid.

(j) Total number of legal actions filed.

**(3) OTHER INSURANCE EXCLUDED.** If commercial liability insurance coverage includes any insurance other than commercial liability insurance delivered as a part of a package with commercial liability insurance, only information relating to the commercial liability insurance portion of the coverage shall be included in the report filed under sub. (1).

**(4) PERIOD OF REPORT.** The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1988 and ending with the calendar year preceding the year in which the report is filed. Effective with filings in 1999, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 10 years prior to January 1 of the year in which the report is filed.

**(5) SUMMARY.** The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

**(6) RULES, ADJUSTMENTS AND EXCLUSIONS.** The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the commercial liability insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

**(7) NO LIABILITY OR CAUSE OF ACTION.** There shall be no liability on the part of and no cause of action shall arise against an insurer or an insurer's agents or employees for reporting in good faith under this section, or against the commissioner or employees of the office for any good faith act or omission under this section.

**History:** 1987 a. 27.

**601.423 Social and financial impact reports. (1) DEFINITION.** In this section, "health insurance mandate" means a statute of this state which requires an insurance policy, plan or contract to do any of the following:

(a) Permit a person insured under the policy, plan or contract to obtain treatment or services from a particular type of health care provider, including, but not limited to, requiring a health maintenance organization, preferred provider plan, limited service health organization or other plan to select a particular type of health care provider for participation in the plan.

(b) Provide coverage for the treatment of a particular disease, condition or other health care need.

(c) Provide coverage of a particular type of health care treatment or service, or of equipment, supplies or drugs used in connection with a health care treatment or service.

(d) Provide coverage for particular persons because of their relation to the insured or legal status with respect to the insured, or for any other reason.

**(2) PREPARATION OF REPORT.** The commissioner shall submit a report on the social and financial impact of any health insurance

mandate, contained in any bill affecting an insurance policy, plan or contract, to the presiding officer of that house of the legislature in which the bill is introduced. At the discretion of the presiding officer, any such report may be printed and distributed as are amendments.

**(3) CONTENTS OF REPORT.** (a) *Social impact factors.* Any report prepared under sub. (2) shall assess to the extent possible all of the following social impact factors which are relevant to the type of health insurance mandate created, expanded or continued by the bill:

1. The portion of this state's residents who use the treatments or services covered by the health insurance mandate.

2. The extent to which individuals under subd. 1. use these treatments or services.

3. The availability of insurance coverage for these treatments or services.

4. The number of persons who would be eligible for coverage under the health insurance mandate, and the availability of insurance coverage for these persons without the health insurance mandate.

(b) *Financial impact factors.* Any report prepared under sub. (2) shall assess to the extent possible all of the following financial impact factors which are relevant to the type of health insurance mandate created, expanded or continued by the bill:

1. Whether the health insurance mandate may increase or decrease the costs of the treatments or services covered by the health insurance mandate.

2. Whether the health insurance mandate would increase the use of the treatments or services covered by the health insurance mandate.

3. Whether any increased use under subd. 2. would substitute for more expensive treatments or services.

4. The impact of the health insurance mandate on total costs of health care in this state.

5. Whether the health insurance mandate may increase the administrative costs to insurance companies and the premium costs to policyholders.

**History:** 1987 a. 177.

### **601.425 Product liability insurance reports.**

**(1) REQUIREMENT.** Each insurer authorized to write product liability insurance shall file an annual products liability insurance report complying with this section with the commissioner on or before May 1 of each year.

**(2) CONTENTS.** The report filed under sub. (1) shall contain the name of the insurer and all of the following information for policies covering insureds located in this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums earned for product liability insurance coverage both for primary coverage and for excess coverage.

(b) The number of insureds from whom product liability insurance coverage premiums were collected.

(c) The number and amount of all reserves established for all of the following:

1. Reported claims other than paid claims.

2. Paid claims that have not been paid in full.

3. Incurred but not reported claims.

(d) The amounts paid in product liability claims.

(e) Net investment gain or loss and other income gain or loss allocated to products liability insurance, computed by the formula used in the annual insurance expenses exhibit for allocation among lines of business.

(f) The actual expenses attributable to product liability insurance reported separately as loss adjustment expenses and all other expenses.

(g) Total number of claims reported.

(h) Total claims closed without payment.

- (i) Total claims closed with payment.
- (j) Total number of legal actions filed.
- (k) Total number of verdicts or judgments for defendants.
- (L) Total number of verdicts or judgments for plaintiffs.
- (m) Total amounts awarded plaintiffs.

**(3) OTHER INSURANCE EXCLUDED.** If product liability insurance coverage includes premises and operations insurance or any other insurance delivered as a part of a package with product liability insurance, only information relating to the product liability insurance portion of the coverage shall be included in the report filed under sub. (1).

**(4) PERIOD OF REPORT.** The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1979 and ending with the 2nd calendar year preceding the year in which the report is filed. Effective with filings in 1991, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 11 years prior to January 1 of the year in which the report is filed.

**(5) SUMMARY.** The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

**(6) RULES, ADJUSTMENTS AND EXCLUSIONS.** The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the product liability insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

**(7) PUBLIC RECORDS.** Notwithstanding subch. II of ch. 19, the commissioner shall make the reports filed under sub. (1) available to the public in a manner that does not reveal the name of any person, manufacturer or seller involved.

**(8) NO LIABILITY OR CAUSE OF ACTION.** There shall be no liability on the part of and no cause of action shall arise against any insurer for reporting in good faith under this section or any insurer's agents or employees, or the commissioner for any good faith act or omission under this section.

**History:** 1985 a. 314.

### **601.427 Medical malpractice insurance reports.**

**(1) REQUIREMENT.** Each insurer authorized to write medical malpractice insurance shall file an annual medical malpractice insurance report complying with this section with the commissioner on or before May 1 of each year.

**(2) CONTENTS.** The report filed under sub. (1) shall contain the name of the insurer and all of the following information for policies covering residents of this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums earned for medical malpractice insurance coverage both for primary coverage and for excess coverage.

(b) The number of insureds from whom medical malpractice insurance coverage premiums were collected.

(c) The number and amount of all reserves established for all of the following:

- 1. Reported claims other than paid claims.
- 2. Paid claims that have not been paid in full.
- 3. Incurred but not reported claims.

(d) The amounts paid in medical malpractice claims.

(e) Net investment gain or loss and other income gain or loss allocated to medical malpractice insurance, computed by the formula used in the annual insurance expenses exhibit for allocation among lines of business.

(f) The actual expenses attributable to medical malpractice insurance reported as loss adjustment expenses and all other expenses.

(g) Total number of claims reported.

(h) Total claims closed without payment.

(i) Total claims closed with payment.

(j) Total number of legal actions filed.

(k) Total number of verdicts or judgments for defendants.

(L) Total number of verdicts or judgments for plaintiffs.

(m) Total amounts awarded plaintiffs.

**(2m) BASIS FOR REPORTING.** The report filed under sub. (1) shall contain the information required under sub. (2) for each classification used for rating purposes, except that the information required by sub. (2) (c) 3., (e) and (f) shall be reported on a cumulative basis for all classifications.

**(3) OTHER INSURANCE EXCLUDED.** If medical malpractice insurance coverage includes premises and operations insurance or any other insurance delivered as a part of a package with medical malpractice insurance, only information relating to the medical malpractice insurance portion of the coverage shall be included in the report filed under sub. (1).

**(4) PERIOD OF REPORT.** The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1979 and ending with the 2nd calendar year preceding the year in which the report is filed. Effective with filings in 1991, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 11 years prior to January 1 of the year in which the report is filed.

**(5) SUMMARY.** The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

**(6) RULES, ADJUSTMENTS AND EXCLUSIONS.** The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the medical malpractice insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

**(7) PUBLIC RECORDS.** Notwithstanding subch. II of ch. 19, the commissioner shall make the reports filed under sub. (1) available to the public in a manner that does not reveal the name of any person involved.

**(8) NO LIABILITY OR CAUSE OF ACTION.** There shall be no liability on the part of and no cause of action shall arise against any insurer for reporting in good faith under this section or any insurer's agents or employees, or the commissioner for any good faith act or omission under this section.

**(9) COMMISSIONER'S REPORT.** Within 2 years after May 25, 1995, and within 2 years thereafter, the commissioner shall submit a report to the legislature in the manner provided under s. 13.172 (2). The reports shall compare the data for the year before May 25, 1995, with the data for the years after May 25, 1995, to evaluate the effects that 1995 Wisconsin Act 10 has had on the following:

(a) The number of health care providers practicing in Wisconsin.

(b) The fees that health care providers pay under s. 655.27 (3).

(c) The premiums that health care providers pay for health care liability insurance.

**History:** 1985 a. 340; 1987 a. 247; 1995 a. 10.

**601.43 Examinations and alternatives.** (1) POWER TO EXAMINE. (a) *Insurers, other licensees and other persons subject to regulation.* Whenever the commissioner deems it necessary in order to inform himself or herself about any matter related to the enforcement of chs. 600 to 647, the commissioner may examine the affairs and condition of any licensee or permittee under chs. 600 to 647 or applicant for a license or permit, of any person or organization of persons doing or in process of organizing to do an insurance business in this state, and of any advisory organization serving any of the foregoing in this state.

(b) *Collateral examinations.* So far as reasonably necessary for an examination under par. (a), the commissioner may examine the accounts, records, documents or evidences of transactions, so far as they relate to the examinee, of any of the following:

1. An officer, manager, general agent, employee, or person who has executive authority over or is in charge of any segment of the examinee's affairs.

2. A person controlling or having a contract under which the person has the right to control the examinee whether exclusively or with others.

3. A person who is under the control of the examinee, or a person who is under the control of a person who controls or has a right to control the examinee whether exclusively or with others.

4. An individual practice association which contracts with the examinee to provide health care services.

(c) *Availability of records.* On demand every examinee under par. (a) shall make available to the commissioner for examination any of its own accounts, records, documents or evidences of transactions and any of those of the persons listed in par. (b). Failure to do so shall be deemed to be concealment of records under s. 645.41 (8), except that if the examinee is unable to obtain accounts, records, documents or evidences of transactions, failure shall not be deemed concealment if the examinee terminates immediately the relationship with the other person.

(d) *Delivery of records to the office.* On order of the commissioner any licensee or permittee under chs. 600 to 647 shall bring to the office for examination such records as the order reasonably requires.

(2) DUTY TO EXAMINE. (a) *Insurers and rate service organizations.* The commissioner shall examine every domestic insurer and every licensed rate service organization.

(b) *On request.* Whenever the commissioner is requested by verified petition signed by 25 persons interested as shareholders, policyholders or creditors of an insurer alleging that there are grounds for formal delinquency proceedings, the commissioner shall forthwith examine the insurer as to any matter alleged in the petition. Whenever the commissioner is requested to do so by the board of directors of a domestic insurer, the commissioner shall examine the insurer as soon as reasonably possible.

(c) *Specific requirements.* The commissioner shall examine insurers as otherwise required by law.

(3) AUDITS OR ACTUARIAL OR OTHER EVALUATIONS. In lieu of all or part of an examination under subs. (1) and (2), or in addition to it, the commissioner may order an independent audit by certified public accountants or an actuarial or other evaluation by actuaries or other experts approved by the commissioner of any person subject to the examination requirement. Any accountant, actuary or other expert selected is subject to rules respecting conflicts of interest promulgated by the commissioner. Any audit or evaluation under this section is subject to s. 601.44, so far as appropriate.

(4) ALTERNATIVES TO EXAMINATION. In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit already made by certified public accountants or of an actuarial or other evaluation already made by actuaries or

other experts approved by the commissioner, or the report of an examination made by the insurance department of another state or of the examination by another government agency in this state, the federal government or another state.

(5) PURPOSE AND SCOPE OF EXAMINATION. An examination may but need not cover comprehensively all aspects of the examinee's affairs and condition. The commissioner shall determine the exact nature and scope of each examination, and in doing so shall take into account all relevant factors, including but not limited to the length of time the examinee has been doing business, the length of time the examinee has been licensed in this state, the nature of the business being examined, the nature of the accounting records available and the nature of examinations performed elsewhere. The examination of an alien insurer shall be limited to insurance transactions and assets in the United States unless the commissioner orders otherwise after finding that extraordinary circumstances necessitate a broader examination.

**History:** 1977 c. 203; 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 ss. 70, 71, 236 (6), (9); 1979 c. 177; 1981 c. 20; 1983 a. 358; 1985 a. 29; 1987 a. 247; 1989 a. 23; 1999 a. 30.

**601.44 Conducting examinations.** (1) ORDER OF EXAMINATION. For each examination under s. 601.43, the commissioner shall issue an order stating the scope of the examination and designating the examiner in charge. Upon demand a copy of the order shall be exhibited to the examinee.

(2) ACCESS TO EXAMINEE. Any examiner authorized by the commissioner shall, so far as necessary to the purposes of the examination, have access at all reasonable hours to the premises and to any books, records, files, securities, documents or property of the examinee and to those of persons under s. 601.43 (1) (b) so far as they relate to the affairs of the examinee.

(3) COOPERATION. The officers, employees and agents of the examinee and of persons under s. 601.43 (1) (b) shall comply with every reasonable request of the examiners for assistance in any matter relating to the examination. No person may obstruct or interfere with the examination in any way other than by legal process.

(4) CORRECTION OF BOOKS. If the commissioner finds the accounts or records to be inadequate for proper examination of the condition and affairs of the examinee or improperly kept or posted, the commissioner may employ experts to rewrite, post or balance them at the expense of the examinee.

(5) REPORT ON EXAMINATION. The examiner in charge of an examination shall make a proposed report of the examination which shall include such information and analysis as is ordered in sub. (1), together with the examiner's recommendations. Preparation of the proposed report may include conferences with the examinee or the examinee's representatives at the option of the examiner in charge. The proposed report shall remain confidential until filed under sub. (6).

(6) ADOPTION AND FILING OF EXAMINATION REPORT. The commissioner shall serve a copy of the proposed report upon the examinee. Within 20 days after service, the examinee may serve upon the commissioner a written demand for a hearing on the contents of the report. If a hearing is demanded, the commissioner shall give notice and hold a hearing under ch. 227, except that on demand by the examinee the hearing shall be private. Within 60 days after the hearing or if no hearing is demanded then within 60 days after the last day on which the examinee might have demanded a hearing, the commissioner shall adopt the report with any necessary modifications and file it for public inspection, or the commissioner shall order a new examination.

(7) COPY FOR EXAMINEE. The commissioner shall forward a copy of the examination report to the examinee immediately upon adoption, except that if the proposed report is adopted without change, the commissioner need only so notify the examinee.

(8) COPIES FOR BOARD. The examinee shall forthwith furnish copies of the adopted report to each member of its board.



(9) **COPIES FOR OTHER PERSONS.** The commissioner may furnish, without cost or at a price to be determined by the commissioner, a copy of the adopted report to the insurance commissioner of each state in the United States and of each foreign jurisdiction in which the examinee is authorized to do business, and to any other interested person in this state or elsewhere.

(10) **REPORT AS EVIDENCE.** In any proceeding by or against the examinee or any officer or agent thereof the examination report as adopted by the commissioner shall be admissible as evidence of the facts stated therein. In any proceeding commenced under ch. 645, the examination report whether adopted by the commissioner or not shall be admissible as evidence of the facts stated therein. In any proceeding by or against the examinee, the facts asserted in any report properly admitted in evidence shall be presumed to be true in the absence of contrary evidence.

**History:** 1977 c. 203 s. 102; 1979 c. 102 ss. 72, 236 (6), (17); 1991 a. 316.

**601.45 Examination costs. (1) COSTS TO BE PAID BY EXAMINEES.** The reasonable costs of examinations under ss. 601.43 and 601.44 shall be paid by examinees except as provided in sub. (4), either on the basis of a system of billing for actual salaries and expenses of examiners and other apportionable expenses, including office overhead, or by a system of regular annual billings to cover the costs relating to a group of companies, or a combination of such systems, as the commissioner may by rule prescribe. Additional funding, if any, shall be governed by s. 601.32. The commissioner shall schedule annual hearings under s. 601.41 (5) to review current problems in the area of examinations.

(2) **DUTY TO PAY.** The amount payable under sub. (1) shall become due 10 days after the examinee has been served a detailed account of the costs.

(3) **DEPOSIT.** The commissioner may require any examinee, before or from time to time during an examination, to deposit with the state treasurer such deposits as the commissioner deems necessary to pay the costs of the examination. Any deposit and any payment made under subs. (1) and (2) shall be credited to the appropriation under s. 20.145 (1) (g) in the percentage specified in that paragraph.

(4) **EXEMPTIONS.** On the examinee's request or on the commissioner's own motion, the commissioner may pay all or part of the costs of an examination from the appropriation under s. 20.145 (1) (g), whenever the commissioner finds that because of the frequency of examinations or other factors, imposition of the costs would place an unreasonable burden on the examinee. The commissioner shall include in his or her annual report information about any instance in which the commissioner applied this subsection.

(5) **RETALIATION.** Deposits and payments under this section shall not be deemed to be a tax or license fee within the meaning of any statute. If any other state charges a per diem fee for examination of examinees domiciled in this state, any examinee domiciled in that other state shall be required to pay the same fee when examined by the insurance office of this state.

**History:** 1977 c. 29; 1979 c. 102; 1981 c. 20.

#### **601.46 Commissioner's records and reports.**

(1) **RECORD MAINTENANCE.** The commissioner shall maintain the records required by law and those necessary to provide for the continued effective operation of the office, to constitute an adequate and proper recording of its activities and to protect the rights of the people of this state. The records shall be preserved in the office except as provided in s. 16.61.

(2) **RECORD OF PROCEEDINGS AND ACTIVITIES.** The commissioner shall maintain a permanent record of proceedings and important activities, including a concise statement of the condition of each insurer visited or examined, and including a record of all certificates of authority and licenses issued.

(3) **ANNUAL REPORTS.** Prior to September 1 of each year, the commissioner shall submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the legis-

lature under s. 13.172 (2), which shall include, for the preceding calendar year:

(a) The chart and explanation prepared under s. 601.19;

(b) A general review of the insurance business in this state, including a report on emerging regulatory problems, developments and trends;

(c) A summary of the complaints made to or processed by the office about insurers, agents and others connected with insurance, and information about their disposition;

(d) A summary of rules promulgated and circular letters distributed;

(e) A list of all insurers authorized to do business in this state during the year, with appropriate and useful information concerning them; including a list of insurers organized, admitted, merged or withdrawn;

(f) A list of all revocations of licenses or certificates of authority and the reasons therefor;

(g) The changes made in chs. 600 to 655;

(h) A summary of receipts and expenses, including the information required to be included by s. 601.45 (4);

(i) The kind and amount of insurance carried in all state insurance funds under chs. 604 to 607 together with the amount of premiums collected, the source and nature of any other income, and the disbursements made. The report shall state separately the premiums, losses, the kind and amount of insurance carried on state property, and on other than state property; and

(j) Such other information on the general conduct and condition of insurers doing business in this state as the commissioner or the governor deems necessary or as is prescribed by law.

(4) **PUBLIC INSPECTION.** All records and reports shall be open to public inspection unless specifically otherwise provided by statute or by rule.

(5) **COPIES OF RECORDS.** The commissioner shall provide to any person on request certified or uncertified copies of any record in the department that is open to public inspection.

(6) **AUDITS.** The commissioner shall reimburse the legislative audit bureau for the cost of audits required to be performed under s. 13.94 (1) (de).

**History:** 1971 c. 40 ss. 82, 93; 1973 c. 117; 1975 c. 41 s. 52; 1977 c. 339 s. 43; 1979 c. 89, 102, 221; 1981 c. 20 s. 2202 (26) (c); 1983 a. 358 s. 14; 1987 a. 186; 1989 a. 187 s. 29; 1993 a. 16.

**601.465 Nondisclosure of information.** The office may refuse to disclose and may prevent any other person from disclosing any of the following:

(1) Testimony, reports, records and information that are obtained, produced or created in the course of an inquiry under s. 601.42.

(2) Except as provided in s. 601.44 (6) to (10), testimony, reports, records and information that are obtained, produced or created in the course of an examination under s. 601.43.

(3) Testimony, reports, records and information that are obtained by the office from any of the following, under a pledge of confidentiality or for the purpose of assisting in the conduct of an investigation or examination:

(a) The National Association of Insurance Commissioners.

(b) An agent or employee of the National Association of Insurance Commissioners.

(c) The insurance commissioner of another state.

(d) An agent or employee of the insurance commissioner of another state.

(e) An international, federal, state or local regulatory or law enforcement agency.

(f) An agent or employee of an agency described in par. (e).

**History:** 1991 a. 269; 1999 a. 30.

**601.47 Publications. (1) GENERAL.** The commissioner may prepare books, pamphlets and other publications relating to insurance and sell them in the manner and at the prices the commis-

sioner determines. The cost of publication and distribution may be paid from the appropriation under s. 20.145 (1) (g).

(2) ANNUAL REPORT. The commissioner shall determine the form for and have printed the report required in s. 601.46 (3), in number sufficient to meet all requests for copies. The commissioner shall distribute copies upon request to any person who pays the reasonable price thereof determined under sub. (1).

(3) FREE DISTRIBUTION. The commissioner may furnish free copies of the publications prepared under subs. (1) and (2) to public officers and libraries in this state and elsewhere. The cost of free distribution shall be charged to the appropriation under s. 20.145 (1) (g).

History: 1971 c. 125; 1979 c. 102 ss. 75, 236 (6).

**601.48 Participation in organizations.** (1) NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. The commissioner and the office of the commissioner shall maintain close relations with the commissioners of other states and shall participate in the activities and affairs of the National Association of Insurance Commissioners and other organizations so far as it will, in the judgment of the commissioner, enhance the purposes of chs. 600 to 655. The actual and necessary expenses incurred thereby shall be reimbursed out of the appropriation under s. 20.145 (1) (g).

(2) CONSULTATION IN REGULATION. The commissioner may exchange information and data and consult with other persons in order to improve and carry out insurance regulation.

History: 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 s. 236 (14); 1979 c. 177; 1983 a. 358 s. 14; 1989 a. 187 s. 29.

**601.49 Access to records.** The commissioner shall have access to the records of any agency of the state government or of any political subdivision thereof which the commissioner may wish to consult in discharging his or her duties.

History: 1979 c. 102.

**601.51 Provision of certified copies and notices.**

(1) CERTIFIED COPIES. On request of any insurer authorized to do a surety business and its payment of the fee under s. 601.31 (1), the commissioner shall mail a certified copy of its certificate of authority to any designated public officer in this state who requires such a certificate before accepting a bond. That public officer shall file it. Whenever a certified copy has been furnished to a public officer it is unnecessary, while the certificate remains effective, to attach a copy of it to any instrument of suretyship filed.

(2) NOTICE OF REVOCATION OF CERTIFICATE. Whenever the commissioner revokes the certificate of authority of any insurer authorized to do a surety business, the commissioner shall immediately give notice thereof to each officer who was sent a certified copy under sub. (1).

History: 1975 c. 375, 421; 1979 c. 102 s. 237; 1981 c. 20 s. 2202 (26) (a).

Legislative Council Note, 1975: This continues the substance of s. 204.04 (1) and (2). [Bill 642–S]

**601.53 Insolvency notices.** (1) INSURERS DOING A SURETY BUSINESS. Whenever any authorized insurer doing a surety business is placed in liquidation under ch. 645 or a similar law of another state or jurisdiction, the commissioner shall immediately notify the director of state courts. Upon receipt of the notice, the director of state courts shall notify each register in probate, probate registrar and clerk of circuit court, who shall notify and require every fiduciary that has filed a bond on which the company is surety to file a new bond with a different surety.

(2) OTHER. The commissioner as liquidator of an insurer shall send notices as provided in s. 645.47.

History: 1975 c. 375, 421; 1977 c. 449 s. 497; 1989 a. 141; 1991 a. 144.

Legislative Council Note, 1975: Sub. (1) continues the substance of s. 204.04 (3). Sub. (2) is new and is a useful cross reference. [Bill 642–S]

**601.55 Nondomestic insurers; additional requirements.** If another state or a foreign country requires domestic insurers doing business in that state or foreign country to deposit security, to pay a fee or tax not included in the computation under

s. 76.66, to pay a fine or penalty or to comply with an obligation, prohibition or restriction that is in addition to or greater than requirements imposed by this state on nondomestic insurers doing a similar business in this state, this state may, as a condition for issuing a license to an insurer domiciled in that state or foreign country, impose a similar security requirement, fee, tax, fine, penalty, obligation, prohibition or restriction.

History: 1989 a. 31.

**601.56 Study and rules on standards for health insurers.** (1) STUDY. (a) The commissioner shall study whether, in their transactions with health care providers, compliance by health insurers with certain standards, such as standard codes, forms and formats, is likely to reduce the cost of health care administration. The study shall investigate compliance with standards in at least all of the following types of transactions between insurers and health care providers:

1. Confirmation of eligibility.
2. Pretreatment authorization.
3. Referral to specialty providers.
4. Coordination of benefits.

(b) On or before February 1, 1994, the commissioner shall submit the results of the study to the legislature under s. 13.172 (2) and to the governor.

(2) RULES. If, as a result of the study under sub. (1), the commissioner determines that in transactions with health care providers compliance by health insurers with certain standards will likely reduce the cost of health care administration, the commissioner shall promulgate rules to establish and implement appropriate standards.

History: 1993 a. 16.

**601.57 Study and rules on health insurance identification cards.** (1) STUDY. (a) The commissioner, in consultation with the department of health and family services, shall study the feasibility and cost-effectiveness of requiring every health insurer to issue to its insureds uniform machine-readable health insurance identification cards and to establish a computerized support system for the cards that will accept and respond to electronically conveyed requests from health care providers for information related to an insured, such as eligibility, coverages and authorizations. The study shall consider the feasibility and cost-effectiveness of including the medical assistance program under subch. IV of ch. 49 in the system of identification cards and the computerized support system and the feasibility of using those systems to coordinate the payment of benefits by health insurers and the medical assistance program.

(b) On or before February 1, 1994, the commissioner shall submit the results of the study to the legislature under s. 13.172 (2) and to the governor.

(2) RULES. If, as a result of the study under sub. (1), the commissioner determines that a health insurance identification card system and its computerized support system are feasible and would be cost-effective, the commissioner shall promulgate rules to establish and implement the systems.

History: 1993 a. 16; 1995 a. 27 ss. 7007, 9126 (19).

**601.59 Interstate insurance receivership compact.** The interstate insurance receivership compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein, in the form substantially as follows:

(1) ARTICLE I — PURPOSES. Through means of joint and cooperative action among the compacting states, the purposes of this compact include all of the following:

- (a) To promote, develop and facilitate orderly, efficient, cost-effective and uniform insurer receivership laws and operations.
- (b) To coordinate interaction between insurer receivership and guaranty association operations.
- (c) To create the interstate insurance receivership commission.

(d) To perform these and such other related functions as may be consistent with the state regulation of the business of insurance pursuant to the McCarran–Ferguson act.

**(2) ARTICLE II — DEFINITIONS.** In this compact:

(a) “Bylaws” means those bylaws prescribed by the commission for its governance, or for directing or controlling the commission’s actions or conduct.

(b) “Compacting state” means any state which has enacted enabling legislation for this compact.

(c) “Commission” means the interstate insurance receivership commission created by this compact.

(d) “Commissioner” means the chief insurance regulatory official of a state.

(e) “Deputy receiver” means any person appointed or retained by a receiver and who is the receiver’s duly authorized representative for administering one or more estates.

(f) “Domiciliary state” means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry; or, in the case of an unauthorized insurer not incorporated, organized, or entered in any state, a state where the insurer is engaged in or doing business.

(g) “Estate” means the assets and liabilities of any insurer in receivership.

(h) “Guaranty association” means an insurance guaranty fund or association or any similar entity now or hereafter created by statute in a compacting state, other than a receivership, to pay or assume, in whole or in part, the contractual claim obligations of insolvent insurers.

(i) “Insurer” means any person or entity that has done, purports to do, is doing or is licensed to do any insurance or reinsurance business, or that is or has been subject to the authority of, or to liquidation, rehabilitation, supervision, conservation or ancillary receivership by, any commissioner.

(j) “Member” means the commissioner of a compacting state or his or her designee, who shall be a person officially connected with the commissioner and who is wholly or principally employed by the commissioner.

(k) “Noncompacting state” means any state which has not enacted enabling legislation for this compact.

(L) “Operating procedures” means those procedures promulgated by the commission implementing a rule, an existing law in a compacting state or a provision of this compact.

(m) “Publication” means the act of publishing in the official state publication in a compacting state or in such other publication as may be established by the commission.

(n) “Receiver” means receiver, liquidator, rehabilitator, conservator or ancillary receiver as the context requires.

(o) “Receivership” means any liquidation, rehabilitation, conservation or ancillary receivership proceeding as the context requires.

(p) “Rules” means acts of the commission, duly promulgated pursuant to sub. (7).

(q) “State” means any state, district or territory of the United States of America.

**(3) ARTICLE III — ESTABLISHMENT OF THE COMMISSION AND VENUE.** The compacting states hereby create the interstate insurance receivership commission. The commission is a body corporate of each compacting state. The commission is a not-for-profit entity, separate and distinct from the compacting states. The commission is solely responsible for its liabilities. Except as otherwise specifically provided in state or federal law in the jurisdiction where the commission’s principal office is located or where the commission is acting as receiver, venue is proper, and judicial proceedings by or against the commission shall be brought, in a court of competent jurisdiction where the commission’s principal office is located.

**(4) ARTICLE IV — POWERS OF THE COMMISSION.** The commission shall have all of the following powers:

(b) To promulgate operating procedures which shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise and coordinate the activities of receivers in compacting states.

(d) To act as receiver of insurers organized under the laws of, engaged in or doing the business of insurance in, a compacting state upon the request of the commissioner of such state or when grounds for receivership by the commission exist under sub. (9).

(e) To act as deputy receiver of insurers organized under the laws of, engaged in or doing the business of insurance in, a non-compacting state in accordance with sub. (9).

(f) To act as ancillary receiver in a compacting state of an insurer domiciled in a noncompacting state.

(g) To monitor the activities and functions of guaranty associations in the compacting states.

(h) To delegate its operating authority or functions; provided, that its rule-making authority under sub. (7) shall not be delegated.

(i) To bring or prosecute legal proceedings or actions in its name as the commission, or in the name of the commission acting as receiver.

(j) To bring or prosecute legal proceedings or actions as receiver on behalf of an estate or its policyholders and creditors; provided, that any guaranty association’s standing to sue or be sued under applicable law shall not be affected.

(jm) To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

(k) To establish and maintain offices.

(L) To purchase and maintain insurance and bonds.

(m) To borrow, accept or contract for services of personnel, including, but not limited to, members and their staff.

(n) To elect or appoint such officers, attorneys, employees or agents, and to fix their compensation, define their duties and determine their qualifications; and to establish the commission’s personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel.

(o) To accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same.

(p) To lease, purchase, accept gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed.

(pm) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed.

(q) To enforce compliance with commission rules, operating procedures and bylaws.

(r) To provide for dispute resolution among compacting states and receivers.

(s) To represent and advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact.

(t) To provide advice and training to receivership personnel of compacting states, and to be a resource for compacting states by maintaining a reference library of relevant materials.

(v) To borrow money.

(w) To appoint committees including, but not limited to, an industry advisory committee and an executive committee of members.

(x) To provide and receive information relating to receiverships and guaranty associations, and to cooperate with law enforcement agencies.

(y) To adopt and use a corporate seal.

(z) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact as may be con-

sistent with the state regulation of the business of insurance pursuant to the McCarran–Ferguson act.

(5) ARTICLE V — ORGANIZATION OF THE COMMISSION. (a) Each compacting state shall have one member. Each member shall be qualified to serve in such capacity under the applicable law of the compacting state. Each compacting state retains the discretionary right to determine the due election or appointment and qualification of its own commissioner, and to fill all vacancies of its member. Each member shall be entitled to one vote.

(b) The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to, all of the following:

1. Establishing the fiscal year of the commission.
2. Providing reasonable standards and procedures for the establishment of committees and governing any general or specific delegation of any authority or function of the commission.
3. Providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each such meeting.
4. Establishing the titles and responsibilities of the officers of the commission.
5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission.
6. Providing a mechanism for winding up the operations of the commission and the equitable return of any surplus funds that may exist after the dissolution of the compact after the payment or reserving of all of its debts and obligations.

(c) The commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in his or her absence or disability, a member designated in accordance with the bylaws, shall preside at all meetings of the commission. The officers so elected shall serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the commission.

(d) The commission may, by a majority of the members, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

(e) The commission shall maintain its corporate books and records in accordance with the bylaws.

(f) The members, officers, executive director and employees of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or wilful and wanton misconduct of any such person, or to protect the commission acting as receiver under sub. (9).

(g) The commission shall defend any commissioner of a compacting state, or his or her representatives or employees, or the commission's representatives or employees, in any civil action seeking to impose liability, arising out of or relating to any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such

person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

(h) The commission shall indemnify and hold the commissioner of a compacting state, or his or her representatives or employees, or the commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such person arising out of or relating to any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

(i) The costs and expenses of defense and indemnification of the commission acting as receiver of an estate shall be paid as administrative expenses from the assets of that estate unless such costs and expenses are covered by insurance maintained by the commission.

(6) ARTICLE VI — MEETINGS AND ACTS OF THE COMMISSION. (a) The commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the commission, such act shall have been taken at a meeting of the commission and shall have received an affirmative vote of a majority of the members.

(c) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person and may not delegate his or her vote to another member. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication.

(d) The commission shall meet at least once during each calendar year. The chairperson of the commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The commission's rules shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent disclosure would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the commission may consider any special circumstances pertaining to insurer insolvencies, but shall be guided by the principles embodied in state and federal freedom of information laws. The commission may promulgate additional rules under which it may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in this compact. The commission shall promulgate rules consistent with the principles contained in the government in sunshine act, 5 USC 552b. The commission and any of its committees may close a meeting to the public if it determines by two-thirds vote that an open meeting would likely do any of the following:

1. Relate solely to the commission's internal personnel practices and procedures.
2. Disclose matters specifically exempted from disclosure by statute.

3. Disclose trade secrets or commercial or financial information which is privileged or confidential.

4. Involve accusing any person of a crime or formally censuring any person.

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

6. Disclose investigatory records compiled for law enforcement purposes.

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of for the use of, the commission with respect to a regulated entity for the purpose of regulation or supervision of such entity.

8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated entity.

9. Specifically relate to the commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed under par. (f), the commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes.

**(7) ARTICLE VII — RULE-MAKING FUNCTIONS OF THE COMMISSION.** (a) The commission shall promulgate rules and operating procedures in order to effectively and efficiently achieve the purposes of this compact; provided, that the commission shall not promulgate any rules that do any of the following:

1. Alter the statutory priorities for distributing assets out of an estate, except pursuant to rules promulgated under par. (c).

2. Directly relate to guaranty associations, including but not limited to rules governing coverage, funding or assessment mechanisms. It is the intent of this compact that the commission not promulgate any rules that regulate, restrict or otherwise affect the operations of guaranty associations.

(b) Rule making shall occur according to the criteria set forth in this subsection and the rules and operating procedures promulgated pursuant thereto. Such rule making shall substantially conform to the principles of the federal administrative procedure act, 5 USCS 551, et seq., and the federal advisory committee act, 5 USCS app. 2, section 1, et seq.

(c) Other than the promulgation of such rules as are necessary for the orderly operation of the commission, the first rule to be considered by the commission shall be uniform provisions governing insurer receiverships including, but not limited to, provisions requiring compacting states to implement, execute and administer in a fair, just, effective and efficient manner rules and operating procedures relating to receiverships. The commission shall, within 3 years after the adoption of this compact by 2 or more states, promulgate such uniform provisions through the rule-making process. Such uniform provisions shall become law in all of the compacting states upon legislative enactment in a majority of the compacting states.

(d) All rules and amendments shall become binding as of the date specified in the rule or amendment; provided, that if a compacting state expressly rejects a rule or amendment through legislative enactment as of the expiration of the 2nd full calendar year after the rule is promulgated, the rule or amendment shall have no further force or effect in the rejecting compacting state. If a majority of compacting states reject a rule, then the rule shall have no further force or effect in any compacting state.

(e) When promulgating a rule or operating procedure, the commission shall do all of the following:

1. Publish the proposed rule or operating procedure, stating with particularity the text of the rule or operating procedure which is proposed and the reason for the proposed rule or operating procedure.

2. Allow persons to submit written data, facts, opinions and arguments, which information the commission shall make publicly available.

3. Provide an opportunity for an informal hearing.

4. Promulgate a final rule or operating procedure and its effective date, if appropriate, based on the rule-making record.

(f) Not later than 60 days after a rule or operating procedure is promulgated, any interested person may file a petition in a court of competent jurisdiction where the commission's principal office is located for judicial review of the rule or operating procedure. If the court finds that the commission's action is not supported by substantial evidence in the rule-making record, the court shall hold the rule unlawful and set it aside.

**(8) ARTICLE VIII — OVERSIGHT AND DISPUTE RESOLUTION BY THE COMMISSION.** (a) The commission shall oversee the administration and operations of receiverships in compacting states, and shall monitor receiverships being administered in noncompacting states which may significantly affect compacting states.

(b) To aid its monitoring, oversight and coordination responsibilities, the commission shall establish operating procedures requiring each member to submit to the commission the following written reports:

1. An initial report upon a finding or other official action by the compacting state that grounds exist for receivership of an insurer doing business in more than one state. Thereafter, reports shall be submitted periodically and as otherwise required pursuant to the commission's operating procedures. The commission shall be entitled to receive notice of, and shall have standing to appear in, compacting states' receiverships.

2. An initial report of the status of an insurer within a reasonable time after the initiation of a receivership.

(c) The commission shall promulgate operating procedures requiring receivers to submit to the commission periodic written reports and such additional information and documentation as the commission may reasonably request. Each compacting state's receivers shall establish the capability to obtain and provide all records, data and information required by the commission in accordance with the commission's operating procedures.

(d) Except as to privileged records, data and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the responsibility to disclose any relevant records, data or information to the commission; provided, that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that the commission shall be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to all such records, data and information in its possession.

(e) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any receivership or other judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission, the commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the receivership or proceeding for all purposes.

(f) The commission shall analyze and correlate records, data, information and reports received from receivers and guaranty associations, and shall make recommendations for improving their performance to the compacting states. The commission shall include summary information and data regarding its oversight functions in its annual report.

(g) The commission shall attempt, upon the request of a member, to resolve any disputes or other issues which are subject to this compact and which may arise among compacting states and non-compacting states.

(h) The compacting states shall report to the commission on issues or activities of concern to them, and cooperate with and support the commission in the discharge of its duties and responsibilities.

(i) The commission shall promulgate an operating procedure providing for binding dispute resolution for disputes among receivers.

(j) The commission shall facilitate voluntary dispute resolution for disputes among guaranty associations and receivers.

**(9) ARTICLE IX — RECEIVERSHIP FUNCTIONS OF THE COMMISSION.** (a) The commission has authority to act as receiver of any insurer domiciled, engaged in or doing business in a compacting state upon the request of the commissioner of such compacting state, or as otherwise provided in this compact. As receiver, the commission shall have all powers and duties pursuant to the receivership laws of the domiciliary state. The commission shall maintain accounts of receipts and disbursements of the estates for which it is acting as receiver, consistent with the accounting practices and procedures set forth in the bylaws. The commission shall cause an annual audit of each estate for which it is acting as receiver to be conducted by an independent certified public accountant. The costs and expenses of such audit shall be paid as administrative expenses from the assets of the estate. The commission may not cause an annual audit to be conducted of any estate which lacks sufficient assets to pay the costs and expenses of such audit. The commission as receiver may delegate its receivership duties and functions, and may contract with others for that purpose.

(b) The commission shall act as receiver of any insurer domiciled or doing business in a compacting state in the event that the member acting as receiver in that compacting state fails to comply with duly promulgated commission rules or operating procedures. The commission shall notify the member in writing of his or her noncompliance with commission rules or operating procedures. If the member acting as receiver fails to remedy the noncompliance within 10 days after receipt of the notification, the commission may petition the supervising court before which the receivership is pending for an order substituting and appointing the commission as receiver of the estate.

(c) The commission may not act as receiver of an estate that appears to lack sufficient assets to fund such receivership unless the compacting state makes provisions for the payment of the estate's administrative expenses satisfactory to the commission.

(d) The commission may act as deputy receiver for any insurer domiciled or doing business in a noncompacting state in accordance with that state's laws, upon request of that noncompacting state's commissioner and approval of the commission.

(e) With respect to receiverships pending in a compacting state on July 11, 1996, all of the following apply:

1. The commission may act as receiver of an insurer upon the request of that compacting state's member and approval of the commission.

2. The commission shall oversee, monitor and coordinate the activities of all receiverships pending in that compacting state regardless of whether the commission is acting as receiver of estates in that state.

**(10) ARTICLE X — FINANCE.** (g) The commission shall be exempt from all taxation in and by the compacting states.

(h) The commission may not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

(i) The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds, other than receivership assets, under its control. The internal financial accounts of the commission shall

be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every 3 years, the review of such independent auditor shall include a management and performance audit of the commission. The report of such independent audit shall be made available to the public and shall be included in and become part of the annual report of the commission to the governors and legislatures of the compacting states. The commission's internal accounts, any workpapers related to any internal audit and any workpapers related to the independent audit, shall be confidential; provided, that such materials shall be made available in compliance with the order of any court of competent jurisdiction, pursuant to such reasonable rules as the commission shall promulgate and to any commissioner or governor of a compacting state, or their duly authorized representatives.

(j) No compacting state shall have any claim to or ownership of any property held by or vested in the commission or the commission acting as receiver or to any other commission funds held pursuant to the provisions of this compact.

**(11) ARTICLE XI — COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.** (a) Any state is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by 2 compacting states. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

(c) Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

**(12) ARTICLE XII — WITHDRAWAL, DEFAULT AND TERMINATION.** (a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact by repealing the statute which enacted the compact into law.

(b) The effective date of withdrawal is the effective date of the repeal; provided, that the repeal shall not apply to any receiverships for which the commission is acting as receiver that are pending on the date of the repeal except by mutual agreement of the commission and the withdrawing state.

(c) The withdrawing state shall immediately notify the chairperson of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(d) The commission shall notify the other compacting states of the withdrawing state's intention to withdraw within 60 days after its receipt of the notice under par. (c).

(f) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date determined by the commission.

(g) If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules, all rights, privileges and benefits conferred by this compact and any agreements entered into pursuant to this compact shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall

be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

(h) Within 60 days after the effective date of termination of a defaulting state, the commission shall notify the governor and the majority and minority leaders of the defaulting state's legislature of such termination.

(i) The termination of a defaulting state shall apply to all receiverships for which the commission is acting as receiver that are pending on the effective date of termination except by mutual agreement of the commission and the defaulting state.

(k) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the commission pursuant to the rules.

(L) The compact dissolves effective upon the date of the withdrawal or the termination by default of the compacting state which reduces membership in the compact to one compacting state.

(m) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

**(13) ARTICLE XIII — SEVERABILITY AND CONSTRUCTION.** (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is declared unenforceable by a court of competent jurisdiction, the remaining provisions of the compact shall be enforceable.

**(14) ARTICLE XIV — BINDING EFFECT OF COMPACT AND OTHER LAWS.** (a) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(b) All lawful actions of the commission, and operating procedures promulgated by the commission, are binding upon the compacting states. All agreements between the commission and the compacting states are binding in accordance with their terms. Upon the request of a party to a conflict over meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding such meaning or interpretation.

(c) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

**History:** 1995 a. 462.

## SUBCHAPTER V

### PROCEDURES AND ENFORCEMENT

**601.61 Auxiliary procedural powers.** The commissioner may administer oaths, take testimony, issue subpoenas and take depositions in connection with any hearing, meeting, examination, investigation or other proceeding that the commissioner may conduct.

**History:** 1979 c. 102 s. 236 (6).

**601.62 Hearings. (1) HEARING REQUIRED.** Whenever chs. 600 to 655 expressly so provide, the commissioner shall hold a hearing before issuing an order.

**(2) SPECIAL INSURANCE HEARINGS.** Chapter 227 shall apply to all hearings under chs. 600 to 655, except those for which special procedures are prescribed.

**(3) ADJUDICATORY HEARINGS.** In addition to the requirements of ch. 227, the following provisions apply:

(a) *Subsequent hearings.* Whenever an order is issued without a hearing, any person aggrieved by the order may demand a hearing within 30 days after the date on which the notice of the order was mailed. Failure to demand a hearing within the period prescribed therefor is waiver of a hearing. The demand shall be in writing and shall be served on the commissioner by delivering a copy to the commissioner or by leaving it at the commissioner's office. The commissioner shall thereupon hold a hearing not less than 10 nor more than 60 days after service of the demand.

(c) *Reduction and extension of periods.* Upon request of the person demanding the hearing or of any other aggrieved person, the commissioner may reduce or extend the period prescribed by par. (a) for holding a hearing.

**(4) FEES IN INVESTIGATIONS AND HEARINGS.** The fees for stenographic services in investigations, examinations and hearings may not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses, interpreters and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the department of administration, authorized by the certificate of the commissioner, and shall be charged to the appropriation under s. 20.145 (1) (g).

**(5) IMMUNITY FROM PROSECUTION.** (a) No natural person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner, or from appearing in any proceeding instituted by the commissioner, on the ground that the testimony or evidence required from the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no such person may be criminally prosecuted for or on account of his or her testimony or evidence, after claiming privilege against self-incrimination, except that the person testifying is not exempt from prosecution and punishment for perjury, false swearing or contempt committed in testifying.

(b) The immunity provided under par. (a) is subject to the restrictions under s. 972.085.

**History:** 1975 c. 371; 1975 c. 414 ss. 27, 28; 1975 c. 421; 1977 c. 203 ss. 81, 82, 102; 1977 c. 339 ss. 30, 43; 1979 c. 89; 1983 a. 358 s. 14; 1989 a. 122; 1989 a. 187 s. 29; 1995 a. 396.

**Legislative Council Note on sub. (5), 1975:** This replaces ss. 207.13 and 201.53 (11) and (12) [repealed by this act]. Section 207.13 was in the unfair insurance business methods chapter but applied in terms "to any hearing". This new provision is even broader in proceedings covered. It is modeled after the securities act provision (s. 551.56 (3) of the statutes) with one phrase deleted because s. 601.18 makes it unnecessary, and other changes, some editorial and one limiting the scope of the immunity to criminal prosecution. Other similar provisions are to be found in s. 93.17 (department of agriculture), s. 97.20 (10) (same; food regulation), s. 111.07 (employment relations commission), 196.48 (public service commission), and s. 972.08 (criminal proceedings). Section 201.53 (11) and (12) only applied in terms to s. 201.53, which contained a miscellaneous group of provisions, mostly concerning unfair marketing practices, but it applied very broadly to all proceedings and, apparently, even informal requests for information. [Bill 16-S]

**601.63 Notice and effective date of orders. (1) NOTICE TO PERSON ADDRESSED BY ORDER.** Notice of any order by the commissioner shall be served under s. 227.48.

**(2) NOTIFICATION TO AGENTS OF REVOCATION OF CERTIFICATE OF AUTHORITY OF INSURER.** Upon issuance of any order limiting, suspending or revoking an insurer's authority to do business in this state, the commissioner shall notify by mail all agents of the insurer of whom the commissioner has record. The commissioner shall also publish a class 1 notice of the order under ch. 985.

**(3) DELAY OF EFFECTIVE DATE.** Except as provided in sub. (4) or as expressly provided otherwise by statute, all orders of the commissioner shall take effect 10 days after notice under sub. (1) or at a later date specified in the order.

**(3m) HEARING REQUEST.** If the order was issued without a hearing, any person aggrieved by the order may demand a hearing under s. 601.62 (3) (a). If no demand for a hearing is made within the prescribed time, the order is final.

**(4) SUSPENSION OF ORDER.** Whenever a hearing is demanded under s. 601.62 (3) (a) or a rehearing is requested under s. 227.49, the commissioner may suspend the order or any part thereof until

after the hearing or rehearing. If the commissioner refuses to suspend the order, any person aggrieved thereby may seek a court order under ch. 813 to restrain enforcement of the order until after the hearing or rehearing.

**(5) ACTIONS SUBJECT TO APPROVAL OR DISAPPROVAL.** (a) *Required approval.* Whenever the law requires the commissioner's approval for a certain action, the action is not effective until expressly approved. The approval is deemed refused if the commissioner does not act within 60 days after receiving the application for approval.

(b) *Reserved disapproval.* Whenever the law provides that a certain action does not become effective if disapproved by the commissioner within a certain period, the action may be made effective prior to the expiration of the period by being affirmatively approved by the commissioner.

(c) *Specific provisions.* Paragraphs (a) and (b) do not apply to the extent that the law specifically provides otherwise.

**History:** 1971 c. 40 s. 93; Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 218; 1975 c. 414 s. 28; 1977 c. 26; 1977 c. 203 ss. 83, 84, 104; 1979 c. 102; 1985 a. 182 s. 57; 1995 a. 396.

**601.64 Enforcement procedure.** **(1) INJUNCTIONS AND RESTRAINING ORDERS.** The commissioner may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction or by temporary restraining order any violation of chs. 600 to 655, s. 149.13 or 149.144, any rule promulgated under chs. 600 to 655 or any order issued under s. 601.41 (4). Except as provided in s. 641.20, the commissioner need not show irreparable harm or lack of an adequate remedy at law in an action commenced under this subsection.

**(2) COMPULSIVE FORFEITURES.** If a person does not comply with an order issued under s. 601.41 (4) within 2 weeks after the commissioner has given the person notice of the commissioner's intention to proceed under this subsection, the commissioner may commence an action for a forfeiture in such sum as the court considers just, but not exceeding \$5,000 for each day that the violation continues after the commencement of the action until judgment is rendered. No forfeiture may be imposed under this subsection if at the time the action was commenced the person was in compliance with the order, nor for any violation of an order occurring while any proceeding for judicial review of the order was pending, unless the court in which the proceeding was pending certifies that the claim of invalidity or nonapplicability of the order was frivolous or a sham. If after judgment is rendered the person does not comply with the order, the commissioner may commence a new action for a forfeiture and may continue commencing actions until the person complies. The proceeds of all actions under this subsection, after deduction of the expenses of collection, shall be paid into the common school fund of the state.

**(3) FORFEITURES AND CIVIL PENALTIES.** (a) *Restitutory forfeiture.* Whoever violates an effective order issued under s. 601.41 (4), any insurance statute or rule or s. 149.13 or 149.144 shall forfeit to the state twice the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.

(b) *Forfeiture for violation of order.* Whoever violates an order issued under s. 601.41 (4) which is effective under s. 601.63 shall forfeit to the state not more than \$1,000 for each violation. Each day that the violation continues is a separate offense.

(c) *Forfeiture for violation of statute or rule.* Whoever violates an insurance statute or rule or s. 149.13 or 149.144, intentionally aids a person in violating an insurance statute or rule or s. 149.13 or 149.144 or knowingly permits a person over whom he or she has authority to violate an insurance statute or rule or s. 149.13 or 149.144 shall forfeit to the state not more than \$1,000 for each violation. If the statute or rule imposes a duty to make a report to the commissioner, each week of delay in complying with the duty is a new violation.

(d) *Procedure.* The commissioner may order any person to pay a forfeiture imposed under this subsection or s. 601.65, which

shall be paid into the common school fund. If the order is issued without a hearing, the affected person may demand a hearing under s. 601.62 (3) (a). If the person fails to request a hearing, the order is conclusive as to the person's liability. The scope of review for forfeitures ordered is that specified under s. 227.57. The commissioner may cause action to be commenced to recover the forfeiture. Before an action is commenced, the commissioner may compromise the forfeiture.

**(4) CRIMINAL PENALTY.** Whoever intentionally violates or intentionally permits any person over whom he or she has authority to violate or intentionally aids any person in violating any insurance statute or rule of this state, s. 149.13 or 149.144 or any effective order issued under s. 601.41 (4) may, unless a specific penalty is provided elsewhere in the statutes, be fined not more than \$10,000 if a corporation or if a natural person be fined not more than \$5,000 or imprisoned for not more than 4 years and 6 months or both. Intent has the meaning expressed under s. 939.23.

**(5) REVOCATION, SUSPENSION AND LIMITATION OF LICENSES.** Whenever a licensee of the office other than an insurer, a motor club, an adjuster or an insurance intermediary persistently or substantially violates chs. 600 to 646 or an order of the commissioner under s. 601.41 (4), or if the licensee's methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public, the commissioner may, after a hearing, in whole or in part revoke, suspend or limit the license.

**History:** 1971 c. 260; Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 218, 371, 421; 1977 c. 203; 1977 c. 339 s. 43; 1979 c. 89; 1979 c. 102 ss. 78, 236 (5); 1979 c. 177; 1985 a. 29; 1987 a. 167, 247; 1989 a. 332; 1995 a. 396; 1997 a. 27, 283.

**Legislative Council Note on sub. (5), 1975:** This amendment removes insurance intermediaries from the purview of the subsection. Under this act, revocation of an intermediary's license will be governed by s. 628.10 (2). [Bill 16–S]

**601.65 Marketing firm forfeitures.** **(1)** In this section "firm" means a person that markets insurance but does not include an insurer.

**(2)** A firm is liable for a forfeiture of not more than \$1,000 for each violation by an insurance agent of a provision of, a rule promulgated under or an order issued under chs. 600 to 655 if the violation is in connection with an insurance policy or group certificate obtained or to be obtained through or from the firm and if any of the following applies:

(a) The firm regularly utilizes the insurance agent to market insurance policies or group certificates.

(b) The primary insurance marketing activities of the insurance agent are in connection with insurance policies or group certificates obtained or to be obtained through or from the firm.

(c) The insurance agent is employed by or is under contract with the firm to market insurance policies or group certificates.

**(3)** If a provision of, a rule promulgated under or an order issued under chs. 600 to 655 imposes a duty to submit a periodic or recurring report to the commissioner, each week of delay in submitting the report constitutes a separate violation. Each day of continued violation of an order issued under s. 601.41 (4) constitutes a separate violation.

**History:** 1985 a. 29.

**601.71 Enforcement of policyholder rights.** When the commissioner is satisfied that any nondomestic insurer which no longer has a certificate of authority in this state does or omits to do any act whereby the rights of policyholders who are residents of this state, or who hold contracts issued or delivered in this state, are adversely affected, or whereby its ability to carry out its contracts with those policyholders is impaired, the commissioner may, with the agreement of the attorney general, bring an action in the name of the state on behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney general shall act as attorney for the state in the action and the expenses shall be borne as in other civil actions in behalf of the state. Upon service of the complaint the insurer shall file with the commissioner the names and addresses of all policyholders so situated.



A notice of the action shall be mailed to every such policyholder either by the commissioner or by the insurer, as the commissioner determines. Any policyholder affected by the action may intervene.

**History:** 1979 c. 102.

#### 601.715 Registered agent for service of process.

(1) Every authorized insurer shall continuously maintain in this state a registered agent for service of process, notice or demand on the insurer. The authorized insurer shall file the name and address of the registered agent with the commissioner. The registered agent may be any of the following:

(a) A natural person who resides in this state.

(b) A domestic corporation, nonstock corporation or limited liability company incorporated or organized in this state with a business office in this state.

(c) A foreign corporation or limited liability company authorized to transact business in this state with a business office in this state.

(2) (a) An authorized insurer may change its registered agent by delivering to the commissioner for filing a statement of registered agent change that is signed by an officer of the insurer and that includes all of the following information:

1. The name and home office address of the authorized insurer.

2. The name of the registered agent, as changed.

3. The complete address of the registered agent, as changed.

4. Any other information that the commissioner may require.

(b) An authorized insurer may change its registered agent no more than one time per year.

(3) A registered agent of an authorized insurer may change its registered agent address by doing all of the following:

(a) Notifying in writing the authorized insurer for which the registered agent is acting.

(b) Delivering to the commissioner for filing a statement that includes all of the following:

1. The name and home office address of the authorized insurer for which the registered agent is acting.

2. The complete new registered agent address.

3. An attached copy of the notice under par. (a).

(4) (a) A registered agent of an authorized insurer may resign by signing and delivering to the commissioner for filing a statement of resignation that includes all of the following information:

1. The name and home office address of the authorized insurer for which the registered agent is acting.

2. The name of the registered agent.

3. A statement that the registered agent resigns.

(b) After filing the statement, the commissioner shall mail a copy to the authorized insurer under par. (a) 1.

(c) The resignation is effective on the earlier of the following:

1. Sixty days after the commissioner receives the statement of resignation for filing.

2. The date on which the appointment of a successor registered agent is effective.

(4m) Service on an insurer under this section shall be made by personally serving the process, notice or demand on the registered agent of the insurer. In lieu of delivery to the registered agent, the process, notice or demand may be left at the office of the registered agent with the person who is apparently in charge of the office.

(5) If an authorized insurer has no registered agent for service of process in this state or if the registered agent cannot with reasonable diligence be served, substituted service may be made on the commissioner under ss. 601.72 and 601.73. If substituted service is made on the commissioner, an affidavit attesting that the authorized insurer has no registered agent or that the registered

agent could not with reasonable diligence be served shall be attached to the process, notice or demand that is served.

(6) Except as provided in sub. (5), this section does not limit or affect the right to serve summons, notice, orders, pleadings, demands or other process upon an authorized insurer in any other manner provided by law.

**History:** 1995 a. 396; 1999 a. 30.

#### 601.72 Service of process through state officer.

(1) GENERAL. Under procedures specified in s. 601.73, the commissioner is by law constituted attorney, except in cases in which the proceeding is to be brought by the state against an insurer or intermediary other than a risk retention group or risk purchasing group, in which event the department of financial institutions is by law constituted attorney, to receive service of summons, notices, orders, pleadings and all other legal process relating to any court or administrative agency in this state for all of the following:

(a) *Authorized insurers.* All insurers authorized to do business in this state, while authorized to do business in this state, and thereafter in any proceeding arising from or related to any transaction having any connection with this state, provided the requirements under s. 601.715 (5) are satisfied.

(b) *Surplus lines insurers.* All insurers as to any proceeding arising out of any contract that is permitted by s. 618.41, or out of any certificate, cover note or other confirmation of such insurance.

(c) *Unauthorized insurers.* All insurers or other persons doing an unauthorized insurance business in this state, including but not limited to risk purchasing groups, as to any proceeding arising out of the unauthorized transaction.

(d) *Risk purchasing groups and nonresident intermediaries.* All risk purchasing groups or nonresident intermediaries as to any proceeding arising out of insurance activities within this state or out of insurance activities related to policies on risks within this state.

(2) APPOINTMENT OF ATTORNEY. Except as provided in sub. (2m), every licensed insurer by applying for and receiving a certificate of authority, every surplus lines insurer by entering into a contract subject to the surplus lines law, and every unauthorized insurer by doing an insurance business in this state, is deemed to have irrevocably appointed the commissioner and department of financial institutions as the insurer's attorneys in accordance with sub. (1).

(2m) RISK RETENTION GROUPS AND RISK PURCHASING GROUPS. A risk retention group or risk purchasing group may not do an insurance business or engage in any insurance activity in this state until it registers with the commissioner and designates the commissioner as its agent for the purposes described in sub. (1). The commissioner may prescribe the form of registration under this subsection. If a risk retention group or risk purchasing group fails to designate the commissioner as required by this subsection, the commissioner is appointed agent for the risk retention group or risk purchasing group as provided in sub. (2).

(3) OTHERS AFFECTED. The commissioner and department of financial institutions shall also be attorneys for the executors, administrators or personal representatives, receivers, trustees or other successors in interest of the persons specified in sub. (1).

(4) FEES. Litigants serving process on the commissioner under this section shall pay the fees specified in s. 601.31 (1) (p).

(5) ORDINARY MEANS OF SERVICE. The right to substituted service under this section does not limit the right to serve summons, notice, orders, pleadings, demands or other process upon any person in any manner provided by law.

**History:** 1995 a. 27, 396.

**Legislative Council Note on sub. (1) (d), 1975:** Under s. 628.04 (created by this act), Wisconsin takes an important step in liberalizing prevailing licensing laws by not requiring residence for unrestricted Wisconsin intermediaries' licenses. As a correlative measure, however, the reach of the Wisconsin courts and administrative agencies is extended to all such nonresidents. [Bill 16–S]

The commissioner has the duty to accept service for all insurers, but does not have a duty to determine whether an insurer is a party to the action in which service is sought. *Davies v. Heiman*, 186 Wis. 2d 370, 520 N.W.2d 917 (Ct. App. 1994).

**601.73 Procedure for service of process through state officer.** (1) REQUIREMENTS FOR EFFECTIVE SERVICE. Service upon the commissioner or department of financial institutions under s. 601.72 is service on the principal, if:

(a) Two copies of the process are left in the hands or office of the commissioner or department of financial institutions respectively; and

(b) The commissioner or department of financial institutions mails a copy of the process to the person served according to sub. (2) (b).

(2) COMMISSIONER'S ACTION. (a) *Records*. The commissioner and department of financial institutions shall give receipts for and keep records of all process served through them.

(b) *Process mailed*. The commissioner or department of financial institutions shall send immediately by certified mail to the person served, at the person's last-known principal place of business, residence or post-office address or at an address designated in writing by the person, one copy of any process received and shall retain the other copy.

(c) *Default judgment*. No plaintiff or complainant is entitled to a judgment by default in any proceeding in which process is served under this section and s. 601.72 until the expiration of 45 days after the date of mailing of the process under par. (b).

(3) PROOF OF SERVICE. A certificate by the commissioner or the department of financial institutions, showing service made upon the commissioner or department of financial institutions, and attached to a copy of the process presented for that purpose is sufficient evidence of the service.

**History:** 1971 c. 189; 1977 c. 203 ss. 87, 103; 1979 c. 102; 1989 a. 164; 1995 a. 27, 396; 1999 a. 76.

**Legislative Council Note, 1979:** [Repeal of (1) (c)] In its original form, the procedures of ss. 601.72 and 601.73 for substituted service of process through the commissioner or secretary of state required, in s. 601.73 (1) (b), the serving party to also mail a copy of the process to the person served, as additional assurance that this substituted service would provide actual notice. Sub. (1) (c) then required filing of an affidavit of compliance with (1) (a) and (b) to make the service effective. It may have been cumbersome, but it was logical. Some time later, the requirement of mailing by the serving party was eliminated by an amendment (ch. 189, laws of 1971) that did not go through the Insurance Laws Revision Committee, and did not make the necessary collateral changes. It makes little sense for the serving party to have to provide an affidavit as to what the public official does under (1) (b). Moreover, under (1) (b) the service is not complete anyway unless the public official does perform the statutory duty. Thus, the affidavit seems unnecessary and, because service is not complete without mailing by the public official, no further requirement seems needed. The reasonable solution, therefore, is to repeal (1) (c). [Bill 146-S]

Section 801.15 (5) does not extend the time for answering a complaint served by substitute service under this section. *Leonard v. Cattahach*, 214 Wis. 2d 236, 571 N.W.2d 444 (Ct. App. 1997).

## SUBCHAPTER VI

### FIRE DEPARTMENT DUES

**601.93 Payment of dues.** (1) Any insurer doing a fire insur-

ance business in this state shall pay fire department dues equal to 2% of the amount of all premiums which, during the preceding calendar year, have been received by, or have been agreed to be paid to, the company for insurance against loss by fire, including insurance on property exempt from taxation.

(2) Every insurer doing a fire insurance business in this state shall, before March 1 in each year, file with the commissioner a statement, showing the amount of premiums upon fire insurance due for the preceding calendar year. Return premiums may be deducted in determining the premium on which the fire department dues are computed. Payments of quarterly instalments of the total estimated payment for the then current calendar year under this subsection are due on or before April 15, June 15, September 15 and December 15. On March 1 the insurer shall pay any additional amounts due for the preceding calendar year. Overpayments will be credited on the amount due April 15. The commissioner shall, prior to May 1 each year, report to the department of commerce the amount of dues paid under this subsection and to be paid under s. 101.573 (1).

(3) In this section, "fire insurance" includes insurance against loss of or damage to:

(a) Notes, acceptances or any other valuable papers or documents, resulting from any cause, except while in the mail or in the custody or possession of and being transported by any carrier for hire; and

(b) Personal property of individuals when written under an all-risk type of policy commonly known as the "personal property floater", whenever these risks are written in conjunction with insurance against burglary or theft.

**History:** 1971 c. 154; 1975 c. 372 ss. 5, 38; 1975 c. 421; Stats. 1975 s. 601.93; 1977 c. 29; 1979 c. 34, 102, 177, 221; 1981 c. 20; 1987 a. 166; 1995 a. 27 ss. 7019, 9130 (4).

**601.935 Penalties.** (1) LATE PAYMENT. An insurer that fails to make quarterly payments under s. 601.93 (2) of at least 25% of either the total fire dues paid for the previous calendar year or 80% of the actual fire dues for the current calendar year is liable, in addition to the amount due, for interest of 1.5% of the amount due and unpaid for each month or part of a month that the amount due, together with any interest, remains unpaid.

(2) NEGLIGENCE. An insurer that fails to pay an amount due, or file a statement required, under s. 601.93 (2), unless the insurer shows that the failure is due to reasonable cause and not due to wilful neglect, is liable for the greater of the following amounts:

(a) Five hundred dollars.

(b) Five percent of the amount due for each month or fraction of a month during which the failure continues, but not more than 25% of the amount due.

**History:** 1987 a. 166.