

★★★ NOTICE OF RULEMAKING HEARING ★★★

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 51.01, Wis. Adm. Code, relating to the risk-based capital of health insurers, property and casualty insurers and fraternal insurers.

HEARING INFORMATION

Date: August 3, 2010

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: OCI, Room 227, 125 South Webster St 2nd Floor, Madison, WI

Written comments can be mailed to:

James W. Harris
Legal Unit - OCI Rule Comment for Rule Ins 5101
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Written comments can be hand delivered to:

James W. Harris
Legal Unit - OCI Rule Comment for Rule Ins 5101
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53703-3474

Comments can be emailed to:

James W. Harris
james.harris@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 7th day after the date for the hearing stated in this Notice of Hearing.

SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

This rule does not impose any additional requirements on small businesses.

OCI SMALL BUSINESS REGULATORY COORDINATOR

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address eileen.mallow@wisconsin.gov

CONTACT PERSON

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: inger.williams@wisconsin.gov, (608) 264-8110, 125 South Webster Street – 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
RENUMBERING AMENDING AND CREATING A RULE**

To repeal Ins 51.01 (9) (a) 3.

To renumber Ins 51.01 (9) (a) 4, 5, and 6.

To amend Ins 51.01 (4) (a) 2, and 51.01 (10) and 51.01 (14);

To create Ins 51.01 (4) 3, and 4, and Ins 51.60 (3) (c), Wis. Adm. Code,

Relating to the risk-based capital of health insurers, property and casualty insurers and fraternal insurers.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 600.01, 623.11, Stats.

2. Statutory authority:

ss. 601.01, 601.41 (3), 601.42, 611.19 (1), 618.21, 623.02 and 623.11, Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

The commissioner may establish by rule minimum ratios for determination of the amount of compulsory surplus that an insurer is required to have in order not to be financially hazardous under s. 645.41, Stat., as an amount that will provide reasonable security against contingencies affecting the insurer's financial position, in relation to any relevant variables as set forth in s. 623.11 (2), Stat. The national association of insurance commissioners (NAIC) has by model regulation suggested updated ratios to apply to health insurers and property and casualty insurers. The commissioner has determined that solvency monitoring of fraternal insurers will be enhanced by including the insurers in RBC reporting requirements.

4. Related statutes or rules:

None

5. The plain language analysis and summary of the proposed rule:

The proposed rule will modify the risk-based capital (RBC) requirements for insurers to include under the definition of a company action level event a trend test for property and casualty insurers and health insurers. The NAIC has amended instructions for property and casualty insurers and health insurers to include a trend test to improve the monitoring of insurer solvency. Under the proposed rule a company action level event would occur if the insurer's adjusted capital is between 2.0 and 3.0 times the authorized control level RBC and the insurer triggers a negative trend test determined in accordance with NAIC instructions.

Under the current rule, fraternal insurers are exempt from the RBC filing requirements, unless the commissioner finds that inclusion would improve solvency monitoring. The proposed rule will remove the general exemption and fraternal insurers will be subject to the same RBC reporting requirements as life insurers.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There are no comparable federal regulations that are intended to address capital requirements for insurers.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: 215 IL Comp. Stat. 5/35 A-1-70, contains capital requirements for insurers comparable to the existing Wisconsin rule. To date there has been no formal adoption of language similar to the proposed rule.

Iowa: Iowa Code ch. 521 F, contains capital requirements for insurers comparable to the existing Wisconsin rule. To date there has been no formal adoption of language similar to the proposed rule.

Michigan: Mich. Comp. Laws s. 550:1204 a., contains capital requirements for insurers comparable to the existing Wisconsin rule. To date there has been no formal adoption of language similar to the proposed rule.

Minnesota: Minn. Stat. s. 60.A.50, contains capital requirements for insurers comparable to the existing Wisconsin rule. To date there has been no formal adoption of language similar to the proposed rule.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

NAIC models, insurer's financial information

9. See the attached Private Sector Fiscal Analysis.

10. A description of the Effect on Small Business:

This rule will have little or no effect on small businesses.

11. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at:

<http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: inger.williams@wisconsin.gov

Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

12. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 7th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

James W. Harris
Legal Unit - OCI Rule Comment for Rule Ins 5101
Office of the Commissioner of Insurance
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Street address:

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Email address:

James W. Harris
james.harris@wisconsin.gov

Web site: <http://oci.wi.gov/ocirules.htm>

The proposed rule changes are:

SECTION 1. Ins 51.01 (4) (a) 2. is amended to read:

Ins 51.01 (4) (a) 2. If a life or health insurer that completes the life annual statement for the reporting year, the insurer has total adjusted capital which is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 2.5 and has a negative trend.

SECTION 2. Ins 51.01 (4) (a) 3. and 4. are created to read:

Ins 51.01 (4) (a) 3. If a health insurer that completes the health annual statement for the reporting year, the insurer has total adjusted capital which is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and has a negative trend.

4. If a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and has a negative trend.

SECTION 3. Ins 51.01 (9) (a) 3. is repealed.

SECTION 4. Ins 51.01 (9) (a) 4., 5. and 6. are renumbered Ins 51.01(9) (a) 3. 4. and 5.

SECTION 4. Ins 51.01 (10) and (14) are amended to read:

Ins 51.01 (10). "Life or health insurer" means any insurer licensed to write life, annuity or health insurance or 2 or more of those lines, ~~or a licensed property and casualty insurer writing only accident and health insurance.~~ A "life or health insurer" includes a fraternal insurer but does not include a health maintenance organization insurer as defined in s. 600 (23c), Stats., or an insurer writing only limited service health organization business as defined in s. 609.01 (3), Stats.

(14) "Negative trend" means an adverse trend test result, ~~with respect to a life or health insurer, trend over a period of time which is negative,~~ as determined in accordance with the trend test calculation included in the risk based capital instructions.

SECTION 5. Ins 51.60 (3) (c) is created to read:

Ins 51.60 (c). Any domestic fraternal insurer writing \$2,000,000 or less in direct annual premium and that assumes no reinsurance in excess of 5% of direct premium.

SECTION 6. This section may be enforced under ss. 601.41, 601.64, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

SECTION 7. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 28th day of June, 2009.

Sean Dilweg
Commissioner of Insurance

Office of the Commissioner of Insurance
Private Sector Fiscal Analysis

for Section Ins 51.01 relating to the risk-based capital of health insurers, property and casualty insurers and fraternal insurers

This rule change will have no significant effect on the private sector regulated by OCI.

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number INS 5101

Subject
the risk-based capital of health insurers, property and casualty insurers and fraternal insurers

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	0	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs by Category	\$ 0	\$ -0
B. State Costs by Source of Funds		
GPR	\$ 0	\$ -0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
C. State Revenues <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
GPR Taxes	\$ 0	\$ -0
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$ 0 None	\$ -0 None

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>None 0</u>	\$ <u>None 0</u>
NET CHANGE IN REVENUES	\$ <u>None 0</u>	\$ <u>None 0</u>

Prepared by: James W. Harris	Telephone No. (608) 267-2833	Agency Insurance
Authorized Signature:	Telephone No. (608) 267-3782	Date (mm/dd/ccyy) 06/28/2010

FISCAL ESTIMATE

- ORIGINAL UPDATED

 CORRECTED SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number INS 5101

Subject
the risk-based capital of health insurers, property and casualty insurers and fraternal insurers

Fiscal Effect
State: No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.
 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No local government costs
1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory
3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory
5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected Affected Chapter 20 Appropriations
 GPR FED PRO PRS SEG SEG-S

Assumptions Used in Arriving at Fiscal Estimate

Long-Range Fiscal Implications

None

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