

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Repeal Modification

2. Administrative Rule Chapter, Title and Number

Sections Ins 4.10 (3) (a), 4.10 (4), 4.10 (6) (b), 4.10 (7) (a), and 4.10 (8) (c), Wis. Adm. Code.

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

Section Ins 4.10, Wis. Adm. Code, was originally promulgated in 1969 and became effective January 1, 1970. This section was last revised in 1998.

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The Wisconsin Insurance Plan (WIP) is a residual property insurer created to provide basic property insurance on certain properties rejected by other insurers for coverage and is governed by s. Ins 4.10, Wis. Adm. Code. The Office of the Commissioner of Insurance (OCI) intends to update outdated provisions in the section based on recommendations from the WIP governing committee regarding obsolete coverages and insufficient maximum coverage limits. In addition, the proposed rule will make revisions to the structure of the governing board to allow WIP to operate in a more effective and efficient manner.

Under the current rule, WIP provides coverages for builders risk under s. Ins 4.10 (3) (a) 1., Wis. Adm. Code, and loss or damage by burglary or theft under s. Ins. 4.10 (3) (a) 2., Wis. Adm. Code. Both of these coverages have become obsolete as the standard insurance market has done a good job in providing for these coverages. In the past 20 years WIP has not written a policy with a builder's risk endorsement. In addition, WIP has only received approximately three applications for theft/burglary coverage in the past 30 years with none in the past 18 years. Accordingly, the proposed rule will delete these two coverages as they are no longer necessary.

As a point of clarification, this rule eliminates the stand alone theft/burglary coverage under s. Ins. 4.10 (3) (a) 2., Wis. Adm. Code. However, theft/burglary coverage could still be offered as part of a more comprehensive policy. For example, in a homeowners policy that covers multiple perils, theft may be one of the perils covered under the policy.

The proposed rule will also reduce the number of positions on the governing board to address changing circumstances and allow WIP to operate more effectively and efficiently. Section Ins 4.10 (6) (b), Wis. Adm. Code, currently provides for a governing board consisting of 15 members. However, due to changing circumstances, including the amount of business WIP writes and the consolidation of associations, a fifteen member board is no longer warranted. The proposed rule will reduce the size of the board to 11 members. Accordingly, these changes will allow the governing board to operate more effectively and efficiently while still providing an adequate level of representation for the current members and their interests.

Finally, the proposed rule will increase the maximum coverage limits for Customary Fire and Extend Coverage and Homeowner's risk under s. Ins 4.10 (4) (b) and (d), Wis. Adm. Code. The current maximum coverage limits of \$200,000 have not been revised since the late 1990s and are no longer sufficient. The proposed rule will increase the coverage limits to \$350,000. This change is necessary to ensure that WIP has the ability to provide insureds with the appropriate level of coverage for these risks.

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5. Describe the Rule's Enforcement Provisions and Mechanisms

This proposed rule does not contain any enforcement provisions or mechanisms. Rather, the proposed rule revises current provisions in s. Ins 4.10, Wis. Adm. Code., which are operational in nature in order to increase the efficiency and effectiveness of WIP.

6. Repealing or Modifying the Rule Will Impact the Following

(Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

The changes made by this proposed rule apply to WIP, which is a not-for-profit, unincorporated mandatory risk-sharing facility that functions as a residual property insurer and does not qualify as a small business. In addition, OCI is not aware of any insurer that would qualify as a small business that is a member to WIP.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

OCI solicited comments generally through publication on OCI's website. In addition, OCI also solicited comments by utilizing the agency's list server for property and casualty insurance, which is an email list open to any individual or entity who is interested in receiving notices from OCI regarding property and casualty issues.

OCI received one comment from Ron Von Haden, Professional Insurance Agents of Wisconsin, Inc., supporting OCI's proposed revisions for the same reasons outlined by OCI.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

Less Stringent Compliance or Reporting Requirements

Less Stringent Schedules or Deadlines for Compliance or Reporting

Consolidation or Simplification of Reporting Requirements

Establishment of performance standards in lieu of Design or Operational Standards

Exemption of Small Businesses from some or all requirements

Other, describe:

10. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

11. Chapter 20, Stats. Appropriations Affected

12. Fiscal Effect of Repealing or Modifying the Rule

No Fiscal Effect

Increase Existing Revenues

Increase Costs

Indeterminate

Decrease Existing Revenues

Could Absorb Within Agency's Budget

Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The proposed change increasing the maximum coverage limits for Customary Fire and Extended Coverage and Homeowners from \$200,000 to \$350,000 could have a fiscal effect of \$750,000; however, as explained below it is unlikely the fiscal impact would ever reach this level. WIP estimates that it receives approximately five applications a year for policies over the current maximum coverage limits of \$200,000. Accordingly, if five policies utilized the new maximum coverage limits of \$350,000 and all five policies sustained a total loss, WIP's increased exposure under the proposed rule would be \$750,000. However, this scenario is extremely

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unlikely as WIP has not received any total loss claims in the past four years; rather, their largest losses are generally due to fire claims and the largest loss WIP has sustained since 2014 was for \$159,000.

Alternatively, OCI believes the increased coverage limits will allow WIP to provide more adequate coverage levels to Wisconsin insureds in need of customary fire and homeowners insurance, particularly since these limits have not been revised since the late 1990s and home values continue to increase.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No

15. Long Range Implications of Repealing or Modifying the Rule

The proposed rule will eliminate obsolete insurance coverages, increase insufficient maximum coverage limits, and reduce the size of the governing board. Ultimately, these changes will allow WIP to provide a more adequate level of coverage to insureds in Wisconsin while also allowing WIP to operate in a more effective and efficient manner. OCI has not received any opposition or comments expressing concern regarding the long-term impact of these changes.

16. Compare With Approaches Being Used by Federal Government

N/A

17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois, Iowa, Michigan, and Minnesota all have residual property insurance programs similar to Wisconsin's WIP, which are also referred to as FAIR Plans (Free Access to Insurance Requirements). All were created to offer a range of "basic property insurance" coverages for insureds that are denied coverage in the standard markets. In addition, all are generally required to offer coverages for fire dwelling, homeowners, and commercial property.

However, comparing specific coverages and limits offered by each Plan is difficult as a result of varying definitions and the fact that many coverages are not specifically identified within the governing provisions, but are rather sub-classes of a more comprehensive coverage (i.e. theft often falls within homeowners or fire dwelling). Based on reviewing additional resources, it appears that the Plans generally provide coverage for theft and burglary through the comprehensive coverages they offer. Also, it is not clear if any of the Plans are currently offering builders risk coverage, which is consistent with the changes being made by this proposed rule.

Illinois: 215 ILCS 5/522 to 5/530a sets forth the Illinois FAIR Plan. The Plan is governed by a committee of 11 members. Currently, the Plan offers maximum coverage limits of \$750,000 for dwellings and \$350,000 for the contents of a dwelling. Finally, the Plan provides theft coverage through its homeowners coverage.

Iowa: 191 IAC 20.41 to 20.60 sets forth the Iowa FAIR Plan. The plan is administered by a governing committee of seven members. Currently, the Plan provides maximum coverage limits of \$250,000 for dwelling property and contents combined and \$200,000 for homeowners.

Michigan: MCLS § 500.2901 to § 500.2954 sets forth the Michigan FAIR Plan. The Plan is governed by a board of 13 governors. Currently, the Plan offers coverages for fire dwelling and homeowners risks, however, neither the governing provisions nor additional resources specified the maximum coverage limits. Finally, the Plan provides theft coverage through its homeowners and dwelling fire coverages.

Minnesota: Minn. Stat. § 65A.31 to § 65A.42 sets forth the Minnesota Fair Plan, which is administered by a board of

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nine directors. Currently, the Plan offers maximum coverage limits of \$500,000 on both fire dwelling and homeowners risks. Finally, theft coverage is included in the homeowners coverage.

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