

Chapter Ins 2

LIFE INSURANCE

Ins 2.01	Estoppel by report of medical examiner (p. 3)	Ins 2.08	Special policies and provisions; prohibitions, regulations, and disclosure requirements (p. 16-1)
Ins 2.02	Stock life insurance corporations writing participating policies (p. 3)	Ins 2.09	Separate and distinct representations of life insurance (p. 20)
Ins 2.03	Policies not dated back to lower insurance age (p. 5)	Ins 2.12	Exceptions to unfair discrimination (p. 21)
Ins 2.04	Substandard risk rates (p. 5)	Ins 2.13	Separate accounts and variable contracts (p. 23)
Ins 2.05	Separate statement of premiums for certain disability insurance benefits included in life or endowment insurance policies (p. 5)	Ins 2.14	Life insurance solicitation (p. 29)
Ins 2.07	Replacement of life insurance policies; disclosure requirements (p. 9)	Ins 2.15	Annuity benefit solicitation (p. 42-3)
		Ins 2.16	Life insurance advertisement; unfair trade practice (p. 42-12)

Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 2.02 Stock life insurance corporations writing participating policies. (1) **PURPOSE.** The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including ss. 601.04, 601.42, 601.43, 628.34, 632.62, Stats., and chs. 611 and 618, Stats.

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by s. Ins 6.75 (1) (a) in the form of participating policies.

(3) **LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS.** The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of a) 10% of such profits or b) 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) **LICENSE REQUIREMENTS.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

Register, October, 1982, No. 322

(a) No profits on participating policies and contracts in excess of the larger of 10% of such profits or 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(b) The profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company.

(c) Such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually.

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) **EXCEPTIONS.** In accordance with s. 632.62, Stats., the agreement required by sub. (4) (e) of this rule may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) **ANNUAL FILING.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by s. 601.42, Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by ss. 201.045 and 201.34, Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, s. 206.36, Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. SS. 206.51 (1)

— *The size and frequency of premium payments.* Some contracts specify how much and how often you must pay premiums. These are called *scheduled premium annuities*. Others allow you to pay as much as you wish whenever you want to, within specified limits. These are called *flexible premium annuities*. There are also *single premium annuities* which require only one premium payment.

— *The cash surrender benefits.* Except for immediate annuities, most annuities build up cash values which you will get back if you surrender before benefits begin. This amount will vary from contract to contract. If you surrender in the early years, you may get back less than you have paid to the company.

— *The death benefits.* Death benefits in a deferred annuity are usually equal to either the premiums paid to the company or the cash value, whichever is greater.

WHICH ANNUITY SHOULD I BUY?

It is up to you to decide which type of annuity fits your needs. You should ask yourself —

- Do I want fixed or variable benefits?
- Do I want an income just for myself or do I want to leave something to a beneficiary?
- Do I want to pay one single premium or a scheduled or flexible series of premiums?
- Am I sure that I can afford the premiums and that I won't have to cancel the contract in the early years?
- Do I want to combine my annuity with a life insurance contract?

FINDING A GOOD BUY

Buying an annuity is a major financial decision which should be considered carefully. Here are some tips on what to look for:

- You must be given a Preliminary Statement of Benefit Information when you are thinking of buying an annuity. You will receive a complete Statement of Benefit Information when the annuity is delivered, and you can get one now if you ask for it. By obtaining Statements of Benefit Information for similar annuities from several companies and comparing them, you can select the best buy.
- Use the Statement of Benefit Information to compare the size of income benefits received under similar annuities, as well as the size of premiums. You should also be aware of the size of the cash surrender values, how long you will be putting money in, and the way the benefits are paid.
- If a sales presentation emphasizes the investment properties of annuities, be sure you know the "effective yields at maturity". These are the interest rates at which the total amount of your premiums will accumulate to the illustrated and guaranteed cash values for the year benefits begin. Sometimes higher interest rates are quoted, but these are applied to only part of your premiums.

Ins 2

- The "effective yields at maturity" are useful for the comparison of similar annuities and for comparison with any "yield" or "return" which you may have been shown. Do NOT use these yields, however, to compare the annuity with alternative investments.
- Check the size of the cash surrender values in the early years of the contract compared to the premiums paid in. If you surrender an annuity contract during the first few years, you often will get back less than you have paid in.
- Be sure to distinguish between guaranteed and non-guaranteed values in the contract. "Illustrated" values are based on current interest and dividend levels which may or may not apply in the future. Compare annuities using both illustrated and guaranteed values.
- Be quite sure that you can afford the premium payments. Find out what happens if you stop payments before benefits begin.
- If you are thinking of buying an individual retirement account (IRA), be sure that you are eligible for the IRA and that you understand what will happen if you lose your eligibility or are unable to continue payments for some other reason.
- When tax savings are illustrated, find out what assumptions are being made. If the assumptions do not apply to your case, the illustrations will not be meaningful.
- Find a professional who understands annuities as part of a total financial picture. You may want to get advice from several people before making a final decision.

If you have a specific complaint or cannot get the answers you need from an agent or a company, please contact the

Office of the Commissioner of Insurance
123 West Washington Avenue
Madison, Wisconsin 53702
(608) 266-0103

Ins 2.16 Life insurance advertisement; unfair trade practice. (1)
FINDINGS. (a) Information gathered by the office of the commissioner of insurance shows that many solicitations, representations and advertisements for life insurance display yields on cash values which are misleading because they do not disclose the way in which this yield is used, what amounts are guaranteed, or other factors which affect the rate of return.

(b) The commissioner of insurance finds that such solicitations, representations and advertisements are misleading, deceptive, provide an unfair inducement and restrain competition unreasonably and therefore constitute an unfair trade practice under s. 628.34 (12), Stats., and that the information required in this rule is consistent with ss. 601.01 and 628.34, Stats., and will improve the ability of prospective buyers of life insurance to select appropriate coverage under s. 628.38, Stats.

(2) **PURPOSE.** (a) The purpose of this section is to require insurers to include in advertisements for life insurance which show a rate of return on cash values or premiums, information on the factors which affect the

calculation of the yield. This section also places restrictions on the use of nonguaranteed amounts in life insurance advertisements.

(b) This section interprets and implements ss. 628.34 (12) and 628.38, Stats.

(3) DEFINITIONS. In this section:

(a) "Guaranteed interest rate" on a policy means the lowest rate of interest which may be paid on cash values during the lifetime of the contract.

(b) "Illustrated rate" means a rate shown in a solicitation, representation or advertisement, which may be guaranteed for a limited period of time, but is not guaranteed for the lifetime of the contract.

(4) SCOPE. (a) Except as provided in par. (b), this section applies to any solicitation, representation or advertisement in this state of any life insurance specified in s. Ins 6.75 (1) (a) or (b), made directly or indirectly by or on behalf of any insurer, fraternal benefit society, agent, or the state life insurance fund.

(b) This section shall not apply to:

1. Annuities
2. Credit life insurance
3. Group life insurance
4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employee retirement income security act of 1974 (ERISA).
5. Life insurance policies registered as securities.

(5) DISCLOSURE. (a) All life insurance solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also include:

1. A general statement describing the existence of first year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied;
2. The guaranteed rate of interest paid on the cash value;
3. The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, if interest on the first \$1,000 of cash value is limited to the guaranteed rate this shall be disclosed;
4. An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case;
5. An indication of any other significant factors which affect the manner in which cash values are computed.

(b) All information required to be disclosed shall be set out in such a manner as not to minimize or render any portion obscure.

1. If the advertisement shows nonguaranteed interest rates for premium or cash value accumulation, the guaranteed rates shall be disclosed with equal prominence.

2. In the case of printed advertisements, all information required to be disclosed shall appear in close proximity to the interest rate, in a type size and style similar to that in the text of the advertisement.

(6) **NONGUARANTEED AMOUNTS.** (a) Nonguaranteed features of a policy, if illustrated in a life insurance solicitation, representation or advertisement, may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, and other variable components currently used by the insurer. For purposes of this paragraph, an interest rate, dividend scale, or other variable component which has been publicly declared by the insurer with an effective date not more than three months subsequent to the date of declaration shall be considered current.

(b) Nonguaranteed amounts may not be used in any life insurance advertisement unless accompanied in close proximity and with equal prominence by the corresponding guaranteed amounts.

(7) **SEVERABILITY.** If any provisions of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the parts of this section are declared to be severable.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82.