

**ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE REPEALING,
AMENDING, REPEALING AND RECREATING AND CREATING A RULE**

To repeal INS 4.10 (3)(c)2., (3)(c)3., (8)(e), (10)(d), (13)(b), (14)(b) and (14)(c); to amend INS 4.10 (3)(a)3., (3)(b), (3)(g), (4)(b), (4)(c), (7)(a), (7)(d), (7)(e), (8)(b), (8)(d), (9)(b), (9)(c), (10)(e), (11)(a), (11)(a)3., (11)(c), (11)(e), (12)(b), (12)(h), (13)(d), (14)(a)2., (14)(a)5., (14)(a)6. and (14)(a)12.; to repeal and recreate INS 4.10 (18) and (19); and to create INS 4.10 (4)(d), (13)(d) and (13)(e), Wis. Adm. Code, relating to changes in the requirements for the Wisconsin Insurance Plan.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 600.01(2), 601.41(3), 601.42, 619.01 and 628.34(12), Stats.

Statutes interpreted: ss. 600.01, 619.01 and 628.34 (12), Stats.

The Wisconsin Insurance Plan is a risk sharing facility providing insurance coverage on certain types of properties not acceptable for coverage from regular insurance companies.

The definition of a farm is revised to require gross annual receipts in excess of \$5000 for a risk to be considered a farm. Rooming and boarding houses and nurses and sister' homes are removed from the definition of a habitational risk to allow for higher limits to be written on these risks. Older terminology is removed from some definitions and replaced by current terminology where appropriate.

The maximum limits of coverage for dwelling risks are increased to \$200,000 for the dwelling and \$100,000 for personal property from the current \$100,000 maximum for both coverages combined.

A new section is added to set the maximum limits of coverage for homeowner risks at \$200,000 for the dwelling, 10% of the dwelling amount for other structures, 50% for personal property, and 10% for loss of use. The homeowner maximum for personal liability is \$100,000 and the maximum for medical payments coverage is \$1000.

The requirement for the Plan to seek to place excess coverage limits over the Plan's applicable limits is removed.

Duties of the Governing Committee are revised to allow for voting by proxy and remove the provision requiring the full Governing Committee to approve any expenditures not included in the annual budget. The Plan will no longer be required to mail the annual budget to all insurers. The type of reports submitted by the Governing Committee to the Commissioner is made less restrictive.

The procedure to call for a special meeting of the Governing Committee is revised to state this type of meeting can be called by 10 or more insurers. At the special meeting the Governing Committee would have voting rights on any matter within its authority. Current rules allow both the insurers and the Governing Committee to call a special meeting and appear to provide voting rights to the insurers, not the Governing Committee. Another section of this rule already allows the Governing Committee to meet as often as may be required.

Inspection procedures of the Plan are revised to allow the Governing Committee to waive inspections for specified classes of risks and not require the applicant to be present at an inspection. Current rules allow inspection waivers only for risks requesting burglary or theft coverage and require the applicant or a representative to be present at an inspection.

Underwriting procedures of the Plan are revised to clarify the Plan may require underwriting information in addition to the application before binding coverage or deciding whether to accept or decline a risk. Declination procedures are revised to clarify the Plan may decline to insure a risk based on property or liability underwriting standards.

Notification of hearing procedures are revised to comply with changes previously made to subdivision (16) and to remove the requirement to send action reports to the Commissioner.

Mailing procedures are revised to state the Plan can determine whether to mail the policy to the applicant or to the agent for delivery to the applicant. Current rules have the Plan delivering the policy to the applicant.

Underwriting standards of the Plan are revised to:

- Require active rehabilitation work on property vacant more than 60 days to be acceptable for insurance coverage. Current rules do not require active work.
- Allow for underwriting previous loss history or matters of public record concerning any person insured under the policy. Current rules apply only to the applicant.
- Add a requirement for the applicant to purchase a business liability policy with limits of at least \$100,000 per occurrence if a homeowner risk has a business operating from the home.
- Add a requirement for the applicant to purchase special liability policy with limits of at least \$100,000 per occurrence covering horses or other riding animals if a homeowner risk has three or more horses or other riding animals.
- Clarify the Plan may cancel in the first 60 days for new business or non-renew a risk if it does not meet any of the reasonable underwriting standards for property or liability coverage.
- Allow the Plan to cancel in the first 60 days for new business or non-renew a policy if the insured does not repair the property after 60 days from the payment of any loss. Current rules apply only to fire losses.
- Allow the Plan to consider all losses caused by conditions which are the responsibility of any insured in deciding whether to cancel or non-renew a policy. Current rules apply only to fire losses under the responsibility of the owner named insured.

The amendments summarize the cooperation requirements and authority limitations of insurance agents. Agents cannot bind coverage, alter policies, settle losses, act on behalf of, or commit the Plan to any course of action.

SECTION 1. Ins 4.10 (3)(a)3. and (3)(b) are amended to read:

Ins 4.10 (3)(a)3. Coverage at least equivalent to that provided in an actual-cash-value a modified coverage form homeowners policy.

(3)(b) "Farm risks" mean means ~~those risks eligible to be written under the customary rates, premiums, and policy forms approved by the commissioner for farm property.~~ all buildings and their contents whether occupied by the owner or by an employee or by a tenant, located on or used in connection with land devoted to any one or more of the following purposes and where gross annual receipts from those purposes are in excess of \$5,000:

1. Cultivation of the soil
2. Rearing or keeping of livestock or poultry
3. Producing fruit, grain, vegetables, hay or other produce

SECTION 2. Ins 4.10 (3)(c)2. and 3. are repealed.

SECTION 3. Ins 4.10 (3)(g), (4)(b) and (4)(c) are amended to read:

Ins 4.10 (3)(g) "Motor vehicles" means vehicles which are self-propelled, ~~including trackless trolley buses.~~

(4)(b) The maximum limits of coverage for the type of basic property insurance defined in sub. (3) (a) 1. which may be placed under the Plan are ~~\$100,000~~ \$200,000 on the dwelling and \$100,000 on personal property for any habitational risk at one location and \$500,000 on any other eligible property at one location. ~~If the full insurance value at one location is in excess~~

~~of applicable limits, the Plan, upon specific application, shall seek to place the additional amounts of coverage.~~

(4)(c) The maximum limits of coverage for the type of basic property insurance defined in sub. (3) (a) 2. which may be placed under the Plan are \$5,000 on any habitational risk at one location and \$15,000 on any other eligible property at one location. ~~If the full insurance value at one location is in excess of applicable limits, the Plan, upon specific application, shall seek to place the additional amounts of coverage.~~

SECTION 4. Ins 4.10 (4)(d) is created to read:

Ins 4.10 (4)(d) The maximum limits of coverage for the type of basic property insurance defined in sub. (3) (a) 3. which may be placed under the Plan are \$200,000 on the dwelling with the customary percentage limits for other structures, personal property and loss of use and \$100,000 on personal liability and \$1,000 medical payments to others for any risk at one location.

SECTION 5. Ins 4.10 (7)(a), (7)(d), (7)(e), (8)(b) and (8)(d) are amended to read:

Ins 4.10 (7)(a) The governing committee shall meet as often as may be required to perform the general duties of the administration of the Plan or on the call of the commissioner. Eight members of the committee present or by proxy shall constitute a quorum. Members of the committee who choose to appoint a proxy shall give a written proxy to the person elected to act as proxy. The written proxy shall then be filed with the governing committee, thus ensuring the validity of the proxy's actions as the governing committee performs its duties.

(7)(d) The manager shall annually prepare an operating budget which shall be subject to approval of the governing committee. ~~The budget shall be furnished to the insurers after approval. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the governing committee.~~

(7)(e) The governing committee shall submit to the commissioner periodic reports setting forth ~~the number of requests for inspection, the number of risks inspected, accepted, declined and conditionally declined, the number of reinspections made, and such other information requested by the~~ commissioner.

(8)(b) A special meeting ~~may be called at any time by the governing committee and shall be called by the governing committee within 40 days of receiving a written request from any 10 insurers, not more than one of which may be in a group under the same management or ownership.~~

(8)(d) Any matter not inconsistent with the law or this section may be proposed and voted upon ~~by mail by unanimous action of the members of the governing committee present and voting at any special meeting of the~~ committee. Notice of such proposal shall be mailed to each insurer not less than 20 days prior to the special meeting .

SECTION 6. Ins 4.10 (8)(e) is repealed.

SECTION 7. Ins 4.10 (9)(b) and (9)(c) are amended to read:

Ins 4.10 (9)(b) ~~With regard to property insurance defined in sub. (3)~~
~~(a) 2,~~ An inspection need not be made if the governing committee determines

that insurance can be provided for specified classes of risks on the basis of representations of the applicant or the insurance agent.

(9)(c) The Plan may bind coverage. The Plan may wait until receipt of the inspection report or receipt of additional underwriting information before determining whether to bind coverage.

SECTION 8. Ins 4.10 (10)(d) is repealed.

SECTION 9. Ins 4.10 (10)(e), (11)(a), (11)(a)3., (11)(c), (11)(e), (12)(b) and (12)(h) are amended to read:

Ins 4.10 (10)(e) After the inspection, a copy of the completed inspection report and any relevant photographs shall be kept on file by the Plan. The report shall ~~contain a rate work sheet, including~~ include a description of any deficient physical condition charges proposed by the inspector. A copy of the inspection report shall be made available to the applicant or agent upon request.

(11)(a) After receipt of the application, the inspection report and any additional underwriting information requested from the applicant, the Plan shall within 5 business days complete and send to the applicant an action report advising him or her of one of the following:

(11)(a)3. That the risk is declined because it fails to meet reasonable underwriting standards as set forth in sub. (12) or sub. (13). Reasonable underwriting standards as set forth in sub. (12) or sub. (13) shall not include neighborhood or area location or any environment hazard beyond the control of the property owner.

(11)(c) If the risk is accepted, the Plan, upon receipt of the premium, shall deliver the policy to the applicant or to the licensed agent designated by the applicant for delivery to the applicant ~~upon payment of the premium to the Plan.~~ The Plan shall remit the commissions to the licensed agent designated by the applicant; if applicant. If no licensed agent is so designated, the policy shall be delivered to the applicant and the commission shall be retained by the Plan.

(11)(e) If a risk is declined under par. (a) 3., the Plan shall promptly send copies of the inspection and action reports to the ~~property owner and to the commissioner~~ applicant and shall advise the ~~property owner~~ applicant of the right to appeal and the appeal procedure a hearing set forth in sub. ~~(16) (b) (c) and (d)~~ (16) (a).

(12)(b) The property's present use such as extended vacancy or extended unoccupancy of the property for 60 consecutive days. Properties that are vacant or unoccupied for more than 60 days may be insured while rehabilitation or reconstruction work is actively in process meaning that the insured or owner should make monthly progress in order to complete the rehabilitation or reconstruction within a one year time frame. ~~(other than for rehabilitation purposes) or the improper storage of flammable materials.~~

(12)(h) Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

SECTION 10. Ins 4.10 (13)(b) is repealed

SECTION 11. Ins 4.10 (13)(d) is amended to read:

Ins 4.10 (13)(d) Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

SECTION 12. Ins 4.10 (13)(d) and (e) are created to read:

Ins 4.10 (13)(d) Liability insurance may not be provided where there is a business operating at the insured location, unless the applicant has in force a business liability policy with limits of at least \$100,000 per occurrence providing premises liability coverage.

(13)(e) Liability insurance shall not be provided where the applicant owns three or more horses or other riding animals, unless the applicant has in force a liability policy with limits of at least \$100,000 per occurrence providing coverage for the ownership and use of these horses or these other riding animals.

SECTION 13. Ins 4.10 (14)(a)2., (14)(a)5., (14)(a)6. and (14)(a)12. are amended to read:

Ins 4.10 (14)(a)2. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable under ~~Plan rules~~ sub. (12) or (13).

(14)(a)5. ~~Fire~~ Unrepaired damage exists and the insured has stated that repairs will not be made or such time has elapsed as clearly indicates that the damage will not be repaired. The elapsed time under this subdivision is a length of time over 60 days where the damage remains unrepaired, unless there are known to be extenuating circumstances.

(14)(a)6. After a ~~fire~~ loss, permanent repairs following payment of the claim have not been commenced within 60 days, unless there are known to be

extenuating circumstances. The 60-day period starts upon acceptance of payment of the claim.

(14)(a)12. The building property has been subject to more than 2 fires losses, each loss amounting to at least \$500 or 1% of the insurance in force, whichever is greater, in the immediately preceding 12-month period, or more than 3 such fires losses in the immediately preceding 24-month period, provided that the cause of such fires losses is due to the conditions which are the responsibility of the owner named insured or due to the actions of any person defined as an insured under the policy.

SECTION 14. Ins 4.10 (14)(b) and (14)(c) are repealed.

SECTION 15. Ins 4.10 (18) is repealed and recreated to read:

Ins 4.10 (18) In cooperation with the insurance commissioner, the Plan shall undertake a continuing education program with insurers, agents and consumers about the Plan's insurance program and its availability. All insurers and agents shall cooperate fully in the continuing education program.

SECTION 16. Ins 4.10 (19) is repealed and recreated to read:

Ins 4.10 (19) COOPERATION AND AUTHORITY OF AGENTS. (a). Each insurer shall require its licensed agents to cooperate fully in the accomplishment of the intents and purposes of the plan.

(b) Licensed insurance agents may not act as agents for the Plan.

(c) Licensed insurance agents may not do any of the following:

1. Bind coverage for the Plan.

2. Alter or change policies issued by the Plan.

3. Settle losses of the Plan.

4. Act on behalf of the Plan or commit the Plan to any course of action.

(d). Insurance agents shall assist applicants who need to apply for coverage under the plan and shall submit applications that meet the requirements of sub. (9). Agents shall follow the rules and procedures of the Plan.

SECTION 17. These changes will take effect on the first day of the first month after publication, as provided in s. 227.22(2)(b), Stats.

Dated at Madison, Wisconsin, this _____ day of November, 1998.

Randy Blumer
Commissioner of Insurance