

## Form Filing Checklist - Contractual Liability Policies\*

**See Ins 6.05, Wis. Adm. Code, For Requirements to File Insurance Forms**

### DISCLAIMER

*Form filing checklists are intended only as guides for submitting various policy forms to the Office of the Commissioner of Insurance (OCI). The checklists are summaries and are not intended as an OCI directive nor an interpretation of technical legal questions. Although efforts have been made to ensure that the checklists are current and accurate, information is subject to change on a regular basis without prior notice.*

ALL P&C Coverages, applicable to Wisconsin, as set forth in the NAIC Uniform Property & Casualty Product Coding Matrix. The matrix can be found at [https://content.naic.org/sites/default/files/property-casualty-pcm\\_0.pdf](https://content.naic.org/sites/default/files/property-casualty-pcm_0.pdf)

\* This checklist applies to Contractual liability insurance policies (CLIPs) and Reimbursement insurance policies providing proof of financial security for vehicle protection product warranties authorized under s. 100.203, Wis. Stat., Warranties authorized under s. Ins 15, Wis. Adm. Code and Property Service Contracts under s. 616.50, Wis. Stat. It is **in lieu of** the P&C (General) Form Filing checklist.

The cites in the second column reference Wisconsin statutes, unless they begin with "Ins", (which indicates a Wisconsin administrative code [regulation]).

<b>General Filing Requirements</b>	<b>Reference</b>	<b>Comments</b>
Transmittal Document	601.42 & Ins 6.05(4)(a)1	SERFF incorporates the required transmittal documents. The "Help" link in SERFF provides access to instructions and tutorials.
Certificate of Compliance and Readability	Ins 6.05(4)(a)2, Ins 6.05 Appendix A, Ins 6.07 (4)	Include information identified in SERFF form filing instructions. Under the form schedule tab, provide a Readability score for each form shall be stated in the cover letter or as a data element in an electronic filing.
<b>General Policy Form Requirements</b>	<b>Reference</b>	<b>Comments</b>
Mutual policyholders' voting rights	611.42(4)(b)	Notice of time and place of meetings or elections must be conspicuously printed on each policy.
Hypothetical and Variable Data	Ins 6.05(4)(a)5	Each form must be in its final printed format or typed facsimile exactly as it will be offered for issuance or delivery in the state of Wisconsin. Exceptions include hypothetical data and other appropriate variable material that should be bracketed.
Arbitration and Arbitration	631.85, 631.20(1)(a) & 616.54 (17)	An insurance policy may contain provision for independent appraisal and compulsory arbitration, subject to the provisions of 631.20. Form submissions containing such provisions will be deemed approved pursuant to s. 631.20 (1) (a).
Premium return in event of total loss	628.34(3) & 616.54 (18)	Insurer cannot fully earn the premium in event of a total loss as this would be charging different premiums for the same class of business, which is unfairly discriminatory.
Timely payment of claims	628.46 & 616.54 (10)	Applies to contractual liability and service contract reimbursement policies.

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General Policy Requirements	Reference	Comments
Oral contracts and Binders	631.05	Oral contracts and written binders are not prohibited. A policy should be issued as soon as possible after issuance of binder or negotiation of oral contract
Binders	Court Case	Binders are subject to the same terms and conditions as the policy. The Wisconsin Supreme Court decision, <u>Terry v. Mongin</u> , 105 Wis. 2d 575, supports the point that the binder is subject to the same terms and conditions as the policy. Section 631.36 (2) (c), Wis. Stat., contains the notice requirement to cancel a new policy.
Representations, warranties and conditions	631.11	Policy language may allow policy rescission for misrepresentation, breach of affirmative warranty or statements made in negotiations for an insurance contract. The statement, representation, or warranty must be stated in: (1) the policy; (2) signed written application made part of the policy; or (3) a written communication provided by insurer to insured within 60 days after effective date of policy.
Incorporation by reference	631.13	Cannot incorporate by vague reference to another document, form or statute number.
General Conditions	631.20 (2) (a)	General conditions are that a form may not be inequitable, unfairly discriminatory, misleading, deceptive, obscure or encourage misrepresentation
Misleading	631.20 (2) (a) 1	A form may not be misleading because its benefits are too restricted to achieve the purposes for which the policy is sold.
TRIA/TRIPRA: Terrorism Exclusions	Ins 6.76	<b>Under the Federal TRIA/TRIPRA, insurers must make coverage available for certain terrorism acts. Terrorism exclusions</b> for terrorism as used by TRIA/TRIPRA are permitted for <b>commercial lines</b> . Wisconsin is a standard fire state and full policy limits apply for a loss from fire/lightning. <b>Terrorism exclusions</b> are not permitted for <b>worker's compensation</b> or <b>personal lines coverages</b> .
Too obscure or lessen	631.20 (2) (a) 2	A form may not contain provisions whose natural consequence is too obscure or lessen competition.
Verbose or complex	631.20 (2) (a) 3	A form may not be unnecessarily verbose or complex in language.
Physical aspects	631.20 (2) (a) 4	A form may not be misleading, deceptive, or obscure because of such physical aspects as format, typography, style, color, material or organization.
Full corporate name	631.20(2)(c)	Full corporate name must appear on the face page and full address somewhere in policy.
Explicit approval required	631.21 and 631.81 (2)	Any clause that requires more expeditious notice than first class mail or limits the payments in a policy must receive OCI approval before it can become a part of a policy. A requirement for certified mail notice or a vague clause limiting payment without explicit approval renders the clause(s) null and void.
Clauses required to be on first page	631.31, 631.64, and 631.65	Full corporate name: several liability, assessability on first page of policy (displayed conspicuously and separately from other clauses).
Termination or alteration of insurance contracts	631.36	Cancellation, non-renewal, and policy term alteration provisions should conform to this law. The general provisions as given in the statute should be listed along with the timing required by the law (10 or 60 days). Notice should be by first class mail or delivery to the insured.
Insurer may not void coverage for new business for NSF check/credit card/EFT payment	631.36 (2)	Insurer may not void coverage for dishonored premium payment submitted with an application when coverage is bound by the agent or insurer. Insurer must provide a 10-day notice for nonpayment. Exception – if the check, credit card, or EFT payment was made with intent to deceive.

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General Policy Requirements	Reference	Comments
Other insurance provisions	631.43	When 2 or more policies promise to indemnify against the same loss, no “other insurance” provision may reduce the aggregate protection below the lesser of the actual insured loss or the total indemnification promised by the policies absent the provision.
Limitations	631.45	Limitations of loss to be paid by an insurer.
Nonwaiver Clause	631.48	An insurer may insert in any insurance policy a provision that no change in the policy is valid unless approved by an executive officer of the insurer, or unless the approval is endorsed on the policy or attached to it, or both, and that no agent has authority to change the policy or waive any of its provisions.
Notice and proof of loss	631.81 (1)	A notice of loss should be made as soon as reasonably possible and within 1 year of the time required by the policy. Failure to give notice does not invalidate or reduce a claim unless the insurer is prejudiced by the failure to give a notice. An “immediate” requirement of a loss notice would not comply.
Limitation of actions	631.83	No policy may limit the time for beginning an action to less than that authorized by statutes, prescribe in what court action may be brought, nor provide that no action may be brought.
Exclusions relating to domestic abuse	631.95	A policy providing property coverage may not exclude coverage for loss resulting from intentional acts nor deny payment to an insured if the loss was caused by the act, or pattern, of abuse or domestic abuse, if the insured did not cooperate in or contribute to the creation of the loss and the person who committed the act or acts is criminally prosecuted for the act or acts. Payment to the innocent insured may be limited to that person’s insurable interest in the property or reduced by payments to a mortgagee.
Permissive joinder of parties	803.04	Any wording that states the insurer cannot be joined in an action against the insured is a violation of this statute.
Subrogation (Rights of Recovery)	Court Case	The insurer has the right to subrogation collections but only after the insured has been made whole and is fully compensated for damages. This is from the Wisconsin Supreme Court decision, <u>Rimes v. State Farm Mutual Automobile Insurance Company</u> , 106 Wis. 2d 263.
Required provisions of <u>liability</u> insurance policies	632.22	Every liability policy should provide that bankruptcy or insolvency of the insured shall not diminish the liability of the insurer.
Direct action against the insurer (liability policies)	632.24	Persons should be able to recover from the insurer irrespective of whether the liability is established. If the policy reads that action can be taken only after a judgment or trial, it violates the statute.
Notice to an agent	632.26	Notice to an agent is the same as giving notice to the company. A lack of a notice within a specified time does not invalidate a claim against insurer.
Refund calculation when insured cancelling a policy	Ins 6.10 (4) (b)	An insurer must provide notice that insured may pay a substantial penalty (less than pro-rata return of premium) if insured cancels policy prior to its expiration date. Proper notice in application, on declarations page or in a separate notice.
Refund calculation when insurer cancelling a policy, including for nonpayment	Ins 6.10 (4) (c)	An insurer who cancels a policy, including cancelling for nonpayment, may not refund less than the pro rata unearned premium.
Applications	Ins 6.54 (3) (a)	Applications for auto insurance or applications for residential property (not more than four units) should not ask about physical or mental impairments. Also see ss. 625.12 (2) and 106.52 (3) (a) 4, Wis. Stat., for additional information.
Mold, Fungi, etc. limitations	Ins 6.76	Wisconsin is a standard fire state and full policy limits apply to a property loss from fire/lightning
Discrimination based on sex	Ins 6.55	Discrimination based on sex prohibits discrimination in coverage and terms. Rate differentials must be supported by credible information.

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**Additional Requirements for Contractual Liability Insurance Policies (CLIPs) or Reimbursement Insurance Policies providing proof of financial security for Vehicle Protection Product Warranties authorized under s. 100.203, Wis Stats. and:**

**For Warranties authorized under s. Ins 15, Wis. Adm. Code:**

Policy Requirements	Reference	Comments
Termination or non-renewal of the insurance contract	Ins 15.01 (8) (d)	The insurance contract must contain a provision under which the insurer shall notify the Commissioner in writing of the termination or non-renewal of the insurance contract at least 60 days prior to the termination or non-renewal.
Insurance contract must cover all obligations	Ins 15.01 (8) (e)	The insurance contract must cover the obligations under the warranty contracts issued during the period of time that the insurance contract is in force.

**For Vehicle Protection Product Warranties authorized under s. 100.203, Wis Stats and Rust Proofing Warranties authorized under s. 100.205, Wis. Stats.:**

Policy Requirements	Reference	Comments
Warranty holder may file payment due claim with insurer	632.185 (2) (c)	If the warrantor does not provide payment due under the terms of the warranty within 60 days after the warranty holder has filed proof of loss according to the terms of the warranty, the warranty holder may file for a reimbursement directly with the issuer of the warranty reimbursement insurance policy.
Insurance contract must cover all obligations	632.185 (2) (b)	The insurance contract must cover the obligations under the warranty contracts issued during the period of time that the insurance contract is in force.
Insurer has received premium if warranty holder pays for vehicle protection product	632.185 (2) (d)	the issuer of the warranty reimbursement insurance policy has received payment of premium if the warranty holder paid for the vehicle protection product covered under the warranty and that the insurer's liability under the policy may not be reduced or relieved by a failure of the warrantor to report to the insurer the issuance of a warranty.
Termination or non-renewal of the insurance contract	632.185 (2) (e) 1	The insurance contract must contain a provision under which the insurer shall notify the Commissioner in writing of the termination or non-renewal of the insurance contract at least 60 days prior to the termination or non-renewal.
Cancellation of insurance contract does not reduce insurer obligation	632.185 (2) (e) 2	The cancellation provision in the policy must provide that the cancellation of the policy does not reduce the issuer's responsibility with respect to warranties that apply to vehicle protection products sold prior to the date of cancellation.

**For Service Contracts authorized under s. 616, Wis. Stats.:**

Policy Requirements	Reference	Comments
Service contract holder may file payment due claim with insurer	616.54 (6) (a) 1	The insurance policy must state that, if the provider covered under the policy does not provide, or reimburse or pay for, a service that is covered under a service contract insured under the insurance policy within 60 days after a service contract holder provides proof of loss, or in the event of the provider's insolvency or other financial impairment, the service contract holder may file a claim with the insurer issuing the insurance policy for reimbursement, payment, or provision of the service.
Insurance contract must cover all obligations	616.54 (6) (a) 2	The insurance policy must state that the insurer issuing the policy shall assume full responsibility for administering and paying claims and other obligations under service contracts insured under the policy if the provider or designated administrator fails to do so.

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Policy Requirements	Reference	Comments
Termination or non-renewal of the insurance policy	616.54 (6) (a) 3	The insurance policy must contain a provision under which the insurer shall notify the Commissioner in writing of the termination or non-renewal of the insurance contract at least 60 days prior to the termination or non-renewal.
Insurer has received premium if service contract holder pays for contract	616.54 (6) (c)	An insurer issuing a reimbursement insurance policy to a provider is considered to have received the premium for that insurance policy upon payment by a consumer of the fee for a service contract issued by the insured provider.
Termination or nonrenewal of insurance contract does not reduce insurer obligation	616.54 (6) (d)	The termination or nonrenewal of a provider's reimbursement insurance policy does not reduce the insurer's responsibility with respect to service contracts issued by the provider before the date of the termination or, in the case of nonrenewal, the expiration of the policy.