



Tony Evers, Governor of Wisconsin
Nathan Houdek, Commissioner of Insurance

January 16, 2024

Section Ins 3.09, Wis. Adm. Code, relating to mortgage guaranty insurance.

Statement of Scope of a Proposed Rule SS 099-23
SS 099-23 Notice of Preliminary Hearing

In accordance with s. 227.135 (1) and (2), Stats., I hereby certify that I am the individual with the policy-making powers for the Office of the Commissioner of Insurance, that the above-listed Statement of Scope and Notice of Preliminary Public Hearing was published in the Wisconsin Administrative Register No. 815A3 on November 20, 2023. The public hearing was held on December 7, 2023 and a report summarizing the hearing and any comments was received by me on January 16, 2024. I have reviewed the report and I approve this Statement of Scope on this 16th day of January, 2024.

Work may now commence on this proposed rule.

A handwritten signature in black ink, appearing to read "Nathan Houdek".

Nathan Houdek, Commissioner
Office of the Commissioner of Insurance

STATEMENT OF SCOPE

Office of the Commissioner of Insurance

Rule No.: Section Ins. 3.09, Wis. Adm. Code

Relating to: Mortgage Guaranty Insurance

Rule Type: Permanent

1. Finding/nature of emergency:

N/A

2. Detailed description of the objective of the proposed rule:

Section Ins. 3.09, Wis. Adm. Code establishes minimum requirements for the transaction of mortgage guaranty insurance. Recently, the National Association of Insurance Commissioners (NAIC) adopted revisions to the Mortgage Guaranty Insurance Model Act. These revisions are aimed at modernizing regulations regarding the mortgage guaranty business. The Office of the Commissioner of Insurance (OCI) finds that it is appropriate to repeal Section Ins. 3.09, Wis. Adm. Code and replace it with an updated rule that is more consistent with the Mortgage Guaranty Insurance Model Act. This will serve the dual purposes of modernizing the language of Section Ins. 3.09, Wis. Adm. Code and promoting uniformity amongst the states that regulate the mortgage guaranty business, like Wisconsin.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

As stated above, Section Ins. 3.09, Wis. Adm. Code currently sets forth the minimum requirements for the transaction of mortgage guaranty insurance. The proposed revisions to Section Ins. 3.09 will modernize the language of this rule. Some of the key revisions include: (1) clarifying that contingency reserves are to be based on direct premium earned, unless held by the reinsurer; (2) updating the language for the process of releasing excess contingency reserves; and (3) increasing the minimum capital requirements for newly formed mortgage guaranty companies.

Alternatives to repealing and replacing Section Ins. 3.09, therefore, would be to either leave Section 3.09 unchanged or to make minor revisions to this rule to incorporate some of the revisions to the Mortgage Guaranty Insurance Model Act. Repealing and replacing Section Ins. 3.09 with a rule that more closely tracks the revised Mortgage Guaranty Insurance Model Act, however, will best serve the interests of promoting uniformity and modernizing the language of Section Ins. 3.09.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Commissioner has the general authority to promulgate rules necessary to administer and enforce chs. 600 to 655, Wis. Stat., as provided under ss. 227.11 (2) (a) and 601.41 (3), Wis. Stat. The proposed rule updates a regulatory framework under s. Ins 3.09, Wis. Adm. Code, which is specific to the transaction of mortgage guarantee insurance. First, the proposed rule implements and interprets ss. 601.01 and 627.05, Wis. Stat., and 6.75 (2) (i) and (j), Wis. Adm. Code., which authorizes the Commissioner to define and delimit by rule classes of insurance for various regulatory purposes including determining the financial needs of insurers under 611.19, Wis. Stat., and other comparable chapters, Rev. 10.05.2022

providing instructions for reports and replies under 601.42, Wis. Stat., and exercising other regulatory powers.

The proposed rule implements and interprets numerous statutes authorizing the Commissioner to promulgate rules addressing various financial requirements for insurers, which include ss. 611.19 (initial capital and surplus), 611.24 (Segregated Accounts), 620.02 (segregated account investments), and 623.02 to 623.04 and 623.11 (accounting principles). The rule also implements and interprets 618.21, Wis. Stat., which applies the above referenced financial requirements to nondomestic insurers. Finally, this rule implements and interprets ss. 601.42 (2) and 628.34 (12), Wis. Stat., which authorizes the Commissioner to prescribe forms and unfair trade practices, respectively.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

75 hours

6. List with description of all entities that may be affected by the proposed rule:

Insurers offering or seeking to offer mortgage guaranty insurance.

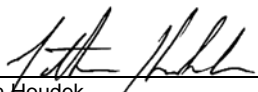
7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

OCI is not aware of any federal law or regulation intended to address this issue.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

OCI anticipates that the proposed repeal and replacement of Section Ins. 3.09 may have some economic impact on insurers in the mortgage guaranty space, particularly newly formed mortgage guaranty companies. However, OCI also anticipates that the proposed rule will help support the economic stability of the mortgage guaranty insurance market. OCI does not anticipate an economic impact on small businesses.

Contact Person: Andrea Davenport, 608-266-0080



Nathan Houdek
Wisconsin Commissioner of Insurance

10/12/2023

Date

October 16, 2023

Date Submitted



Tony Evers

Office of the Governor | State of Wisconsin

October 26, 2023

By Electronic Mail Only

Dear Secretaries and Agency Heads:

On this day, I approved the following statements of scope pursuant to Wis. Stat. § 227.135(2):

- A statement of scope by the Department of Natural Resources, submitted October 13, 2023, relating to revisions to subch. II of ch. NR 809 related to control of lead and copper in public drinking water, to be consistent with revisions to the federal Lead and Copper Rule and the federal Lead and Copper Rule Improvements. (Wis. Admin. Code ch. NR 809); and
- A statement of scope by the Department of Natural Resources, submitted October 6, 2023, relating to the Deer Management Assistance Program (Wis. Admin. Code ch. NR 10); and
- A statement of scope by the Department of Corrections, submitted February 23, 2023, relating to inmate classification, sentence and release provisions (Wis. Admin. Code ch. DOC 302); and
- A statement of scope by the Office of the Commissioner of Insurance, submitted October 12, 2023, relating to mortgage guaranty insurance (Wis. Admin. Code ch. Ins. 3); and
- A statement of scope by the Department of Justice, submitted October 2, 2023, relating to handgun transfers (Wis. Admin. Code ch. Jus 10).

On this day, I approved the following proposed administrative rules pursuant to Wis. Stat. § 227.185:

- A proposed rule by the Department of Financial Institutions, submitted July 18, 2023, relating to authorizing the use of mobile and intermittent branches by state banks, eliminating obsolete provisions, correcting cross-references, eliminating rules that conflict with statutes, correcting errors, modifying the structure of existing rules in nonsubstantive ways, and clarifying rules governing collection agencies (Wis. Admin. Code chs. DFI-Bkg 3, 4, 8, 11, 14-19, 40-43, 73-78; DFI-SL 1, 3, 5, 6, 9, 12, 13, 15-17, 21; DFI-SB 2, 6, 12, 13, 16, 21, 22; DFI-WCA 1); and
- A proposed emergency rule by the Department of Public Instruction, submitted October 18, 2023, relating to student teaching equivalency (Wis. Admin. Code ch. PI 34); and

- A proposed rule by the Department of Agriculture, Trade and Consumer Protection, submitted August 4, 2023, relating to soil and water resource management and affecting small businesses (Wis. Admin. Code ch. ATCP 50).

Please direct any questions about this letter to my policy director, Katie Domina.

Sincerely,



Tony Evers
Governor

cc: Mel Barnes, chief legal counsel (mel.barnes@wisconsin.gov)
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