

WISCONSIN LEGISLATIVE COUNCIL STAFF



**RULES CLEARINGHOUSE**

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

---

**CLEARINGHOUSE REPORT TO AGENCY**

---

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 99-034**

AN ORDER to amend Ins 16.01 (7) (a); and to create Ins 16.01 (6) (b), relating to annual billings for the examination of domestic insurers.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

02-17-99      RECEIVED BY LEGISLATIVE COUNCIL.  
03-17-99      REPORT SENT TO AGENCY.

RNS:GAA:kjf;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 99-034

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

a. SECTION 1 of the rule creates s. Ins 16.01 (6) (b). However, since there is no s. Ins 16.01 (6) (a), it is necessary to renumber s. Ins 16.01 (6) as s. Ins 16.01 (6) (a). DWS

b. In the text of the existing rule, s. Ins 16.01 (7) (a) "Net Premiums Earned or Premiums & Annuity Considerations" should not be capitalized. It is suggested that this be shown as stricken through and replaced by the corrected terminology "net premiums earned or premiums and annuity considerations." [See s. 1.01 (4), Manual.] Also, "s." should be inserted preceding "Ins 7.02". DWS

c. In s. Ins 16.01 (7) (a), following the stricken material ending with "~~insurer~~," "be" should be stricken through and "is" should be inserted. DWS

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

The rule refers to "domestic insurers located primarily out of state for examination purposes." There is no explanation of how a domestic insurer could be "located primarily out of state for examination purposes." It is suggested that either a definition or explanation be included in the rule. DWS

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

To create Ins 16.01 (6) (b) and to amend Ins 16.01 (7) (a) , Wis. Adm. Code, relating to annual billings for the examination of domestic insurers.

---

**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE**

Statutory authority: ss. 601.41(3), 601.43, 601.44 & 601.45, Stats.

Statutes interpreted: ss. 601.45 (1), Stats.

Analysis: Under current rule structure, each year OCI bills domestic insurers for a proportion of the estimated total cost of administering that year's examinations program in an amount generally determined by comparing each insurer's premium volume. Today approximately 50 "domestic" insurers maintain headquarters and records outside of the State of Wisconsin. Examination of these insurers requires out of state travel and additional expenses that are not currently factored into the billing structure for each individual domestic insurer. S. 601.45 (1) Stats. requires that examinees pay the reasonable costs of examinations and allows the commissioner to determine the system of billing, actual expenses, shared expenses or both. This change in the rule will retain the concept of domestic insurers proportionally sharing examination expenses and add a factor to recognize the added costs associated with domestic insurers which require out of state examinations. Those insurers will pay higher assessments to offset those added costs. This will more equitably distribute the examination costs among insurers. The proposed amendments to the rule will not result in an increase to the aggregate amount charged the domestic insurance industry for administering OCI's examinations program.

---

**SECTION 1. Section Ins 16.01 (6) is renumbered s. Ins. 16.01 (6) (a)**

**SECTION 2 . Section Ins 16.01 (6) (b) is created to read:**

Ins 16.01 (6) (b) Domestic insurers located primarily out of state for examination purposes shall be billed according to the formula in par. (a) adjusted for the additional expense associated with the out of state examinations. However, the total billings to all

domestic insurers shall not exceed the estimated cost of administering the insurer examinations program, as determined according to sub. (4), in any one year.

**SECTION 3. Section Ins 16.01 (6) ( c ) is created to read:**

Ins 16.01 (6) ( c ) The following shall be considered when determining whether a domestic insurer is located primarily out of state for examination purposes:

1. The insurer's mailing address.
2. The location of the insurer's administrative offices.
3. The primary location of the insurers books and records.
4. The location where the insurer and its service providers perform accounting, administration, investment, underwriting, claims, data processing and other key business functions.
5. The location of the offices of the insurer's officers and the location of its board of directors, policyholder or shareholder meetings.
6. Whether the commissioner must visit out of state locations in order to efficiently and thoroughly conduct the examination.

**SECTION 3. Section Ins 16.01 (7) (a) is amended to read:**

Ins 16.01 (7) (a) The maximum annual billing for any insurer shall be 1% of ~~Net Premiums Earned or Premiums & Annuity Considerations~~ net premiums earned or premiums and annuity considerations reported in the applicable annual statement listed in s. Ins 7.02, for business of the second calendar year preceding the year of billing, subject to a requirement that the minimum bill ~~for any insurer~~ be is \$1000 for domestic insurers located primarily out of state for examination purposes and \$300 for all other domestic insurers.

**SECTION 4 . The note located after Ins 16.01 (9) is replaced with the following:**

**Note:** Any method for yearly billing of all domestic insurers for examination costs will be somewhat imprecise and arbitrary. This rule attempts to spread those costs in an equitable manner by adjusting billings according to insurers' premiums and the additional costs associated with performing examinations of domestic insurers located primarily out of state.

EFFECTIVE DATE: This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro), Stats. and shall first apply to annual billings beginning February 2000.

Dated at Madison, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

---

Connie L. O'Connell  
Commissioner of Insurance

**FISCAL ESTIMATE WORKSHEET**

1999 Session

Detailed Estimate of Annual Fiscal Effect DOA-2047 (R10/94)	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	LRB or Bill No./Adm. Rule No. <b>INS. 16.01</b>	Amendment No.
--	---	--	---------------

Subject: ANNUAL BILLINGS FOR THE EXAMINATIONS OF DOMESTIC INSURERS

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
**0**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 0	\$ 0
(FTE Position Changes)	( FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$ 0</b>	<b>\$ - 0</b>
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ - 0
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues -	Increased Rev.	Decreased Rev.
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$ 0	\$ - 0
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$ 0</b>	<b>\$ - 0</b>

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency Prepared by: (Name & Phone No.) <b>Steve Mueller 267-2833</b>	Authorized Signature/Telephone No. <i>Conne J O'Connell</i>	Date <b>2/16/99</b>
---	--	------------------------

FISCALESTIMATE  
DOA-2048 N(R10/98)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

**ANNUAL BILLINGS FOR THE EXAMINATION OF DOMESTIC INSURERS**

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

- 1. Increase Costs
  - Permissive
  - Mandatory
- 2. Decrease Costs
  - Permissive
  - Mandatory

- 3. Increase Revenues
  - Permissive
  - Mandatory
- 4. Decrease Revenues
  - Permissive
  - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
  - Villages
  - Cities
  - Counties
  - Others \_\_\_\_\_
  - School Districts
  - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Long-Range Fiscal Implications

Agency Prepared by: (Name & Phone No.)

Steve Mueller 267-2833

Authorized Signature/Telephone No.

*Connie L. O'Connell*

Date

2/16/99





State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson  
Governor  
Connie L. O'Connell  
Commissioner

121 East Wilson Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 266-3585 • Fax: (608) 266-9935  
E-Mail: [ocioci@mail.state.wi.us](mailto:ocioci@mail.state.wi.us)  
[http://badger.state.wi.us/agencies/oci/oci\\_home.htm](http://badger.state.wi.us/agencies/oci/oci_home.htm)

REPORT ON Section Ins 16.01, Wis. Adm. Code, relating to  
annual billings for the examination of domestic insurers

Clearinghouse Rule No 99-034  
Submitted Under s. 227.19 (3), Stats.  
The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

see analysis

(b) Modifications made in proposed rule based on testimony at public hearing:

none

(c) Persons who appeared or registered regarding the proposed rule:

Appearances For:

none

Appearances Against:

none

Appearances For Information:

Gary Radloff, Association of Wisconsin HMO's, 2 E Mifflin St., Madison WI  
53703

Registrations For:

none

Registrations Against:

none

Registrations Neither for nor against:

none

Letters received:

none

(d) Response to Legislative Council staff recommendations

All comments were complied with and corrected.

(e) Regulatory flexibility analysis

1. None of the methods specified under s. 227.14 (2), Stats., for reducing the rule's impact on small businesses were included because all must be treated equally and thus it is not possible to have different rules for one segment of the population.
2. No issues were raised by small businesses during the hearing on the proposed rule.
3. The proposed rule does not impose any additional reporting requirements on small businesses.
4. The proposed rule does not require any additional measures or investments by small businesses.
5. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.
6. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations  
April 16, 1999



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson  
Governor

Connie L. O'Connell  
Commissioner

April 16, 1999

121 East Wilson Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 266-3585 • Fax: (608) 266-9935  
E-Mail: [ocioci@mail.state.wi.us](mailto:ocioci@mail.state.wi.us)  
[http://badger.state.wi.us/agencies/oci/oci\\_home.htm](http://badger.state.wi.us/agencies/oci/oci_home.htm)

HONORABLE JUDITH ROBSON  
SENATE CO-CHAIRPERSON  
JOINT COMM FOR REVIEW OF ADM RULES  
15 SOUTH STATE CAPITOL MADISON WI 53702

Re: Rule, Section Ins 16.01, Wis. Adm. Code, relating to annual billings for the  
examination of domestic insurers

Clearinghouse Rule No. 99-034

Dear Senator Robson:

I am enclosing a copy of this proposed rule which has been submitted to the presiding officers of the legislative houses under s. 227.19 (2), Wis. Stat. A copy of the report required under s. 227.19 (3), Wis. Stat., is also enclosed.

Sincerely,

Connie L. O'Connell  
Commissioner

CLO:SM  
Attachment: 1 copy rule & legislative report