

Chapter Ins 16

REGULATORY STRUCTURES

Ins 16.01 Annual billings for the examination of domestic insurers.

Ins 16.01 Annual billings for the examination of domestic insurers. (1) **PURPOSE.** The purpose of this section is to develop a framework for the regular annual billing of domestic insurers, except for town mutuals and cooperative associations organized under s. 185.981, Stats., to fund the costs of administering examinations as prescribed by s. 601.44, Stats., and to interpret and implement s. 601.45, Stats.

(2) **SCOPE.** The billing structure established by sub. (4) shall apply to all domestic insurers as defined by s. 600.03 (17), Stats., with the exception of town mutuals and cooperative associations organized under s. 185.981, Stats.

(3) **BILLING FOR EXAMINATION CHARGES.** (a) On February 1, 1981, and annually thereafter, each domestic insurer subject to the provisions of this rule shall be billed an amount equivalent to such insurer's share of the estimated cost of conducting the insurer examinations program during that year.

(b) All other insurers and licensees, including town mutual insurers and cooperative associations organized under s. 185.981, Stats., shall be billed on a charge-back basis for the full cost of their examinations, including actual salaries and expenses of examinations and other apportionable expenses.

(c) Domestic insurers which request an examination, the end of the period of which is to be within 3 years of the end of the period of the insurer's last examination, shall be billed on a charge-back basis for the full cost of the conduct of such an examination. This cost shall be in addition to the annual billing of the insurer as determined by sub. (6) and is excluded from the limitations established under sub. (7).

(4) **BILLING STRUCTURE.** (a) The commissioner shall annually, prior to the annual hearing held under sub. (8), estimate the cost of administering the insurer examinations program for the next fiscal year. This amount shall be based on the biennial budget as approved by the legislature. Included in the estimated cost of administering the insurer examinations program shall be:

1. Salaries, fringe benefits and expenses of insurer examination staff, including office overhead;
2. Supplies, office space, training costs, related data processing charges; and,
3. A contingency fund for hiring outside consulting or technical services.

(b) Excluded from this amount shall be the estimated share of the costs of the examination function which shall be provided through funding by insurers and licensees who will be charged for their examinations on a charge-back basis.

(c) In the event that the sum of a year's billings under this rule differs from the actual cost of administering the insurer examinations program, the amount of the difference shall be applied as an adjustment to the estimated cost for the next year's examinations program.

(5) **ACCOUNTING SUMMARY.** On or before November 1 of each year, an accounting summary of the previous fiscal year's examination costs shall be prepared by the commissioner. This summary will be furnished upon request to those insurers subject to this rule.

(6) **DETERMINATION OF INDIVIDUAL BILLINGS.** (a) The amount to be billed each domestic insurer subject to this rule shall be determined so that the billing is equal to a constant of proportion-

ality times the square root of the insurer's premiums, where the constant of proportionality is determined each year so that the total of all billings equals the estimated cost of administering the insurer examinations program described in sub. (4). The formula is stated algebraically as follows:

$$A = k \times \sqrt{P}$$

where A = Annual Amount to be billed each domestic insurer
 k = Constant of Proportionality
 P = Net Premiums Earned or Premiums and Annuity Considerations Reported in the applicable annual statement, for business of the second calendar year preceding the year of billing.

(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.

(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 director, policyholder or shareholder meetings.

(d) Domestic insurers that are members of a holding company system that may be the subject of a supervisory college shall be billed according to the formula in par. (a) adjusted for the additional expense associated with the reasonable expense of the commissioner's participation in supervisory colleges. This adjustment may be in addition to any adjustment under par. (b). However, total billing 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.

6. Whether the commissioner must visit out of state locations in order to efficiently and thoroughly conduct the examination.

(7) **LIMITATIONS ON AMOUNT OF BILLINGS.** The annual bill for each insurer subject to this rule shall be determined utilizing the formula developed for its proportionate share of cost of the examination function, except that:

(a) The maximum annual billing for any insurer shall be 1% of 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.

(b) The annual bill for any insurer billed the previous year shall not exceed 1.2 times the immediately preceding year's bill adjusted for premium growth by multiplying by a factor equal to the second prior year's premium divided by the third prior year's premium. In calculating this adjustment, the year a billing is due shall be considered the current year. This paragraph does not

apply if the second prior year's premium is less than the third prior year's premium.

(c) Notwithstanding the limitations in pars. (a) and (b), the minimum annual bill shall be \$10,000 for domestic insurers located primarily out of state for examination purposes and \$3,000 for all other domestic insurers. This paragraph first applies to annual billings beginning February 1, 2018.

(8) ANNUAL HEARING. The commissioner shall annually schedule a hearing in November under s. 601.41 (5), Stats., to review problems in the area of examinations, the estimated budget established under sub. (4) (a), the accounting summary required under sub. (5) and the formulas established under sub. (6).

(9) DUE DATE. Amounts billed to domestic insurers under sub.

(3) shall be due and payable to the commissioner no later than March 1 of each year.

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.

Note: The revision to subs. (6) and (7) that were published on August 1, 1999, first apply to annual billings beginning February, 2000.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; r. and recr., Register, December, 1980, No. 300, eff. 1-1-81; am. (1), (2), (3) (b), (4) (a) and (b), (5) and cr. (3) (c), Register, December, 1981, No. 312, eff. 1-1-82; corrections in (2), (6) and (7) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1992, No. 436; renum. (6) to be (6) (a), cr. (6) (b) and (c), am. (7) (a), Register, July, 1999, No. 523, eff. 8-1-99; CR 14-071: cr. (6) (d) Register August 2015 No. 716, eff. 9-1-15; **CR 17-015: am. (4) (c), (6) (a), (7) (a), (b), cr. (7) (c) Register December 2017 No. 744, eff. 1-1-18.**