

COMMISSIONER OF INSURANCE

Ins 6 417

(5) RATES. When rates are differentiated on the basis of sex, the insurer must:

- (a) File a brief letter of explanation along with a rate filing.
- (b) Maintain written substantiation of such rate differentials in its home office.
- (c) Justify in writing to the satisfaction of the commissioner the rate differential upon request.
- (d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) PENALTY. Violation of this rule shall subject the insurer to the penalties set forth in s. 601.64, Stats.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.57 Listing of insurance agents by insurers. (1) Submission of an application for an intermediary-agent appointment shall initiate the listing of an agent in accordance with s. 628.11, Stats. The application shall be submitted to the office of the commissioner of insurance on or before the date of appointment. A listing shall become valid upon receipt of the agent listing validation report by the person submitting the listing. The effective date of a valid listing is the date on which the listing was mailed by the insurer. The agent validation report is a computer-generated report prepared by the office of the commissioner of insurance. Billing for initial listing shall be done annually at the same time and at the same rate as renewal listings.

(2) Notice of termination of appointment of individual intermediary-agent in accordance with s. 628.11, Stats., shall be filed prior to or within 15 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 7 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule, the annual listing fee defined in s. Ins 6.57 (4), within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individuals serving as agents for such insurer, according to the commissioner's records as of the notice date. A billing schedule shall be adopted by the commissioner under which listing notices shall be sent to insurers. This schedule shall also designate the calendar month of billing for the various insurers and/or insurer groups.

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats., are hereby established to be:

Resident individual intermediary-agents	\$ 5.00
Nonresident individual intermediary-agents	\$ 15.00

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(5) No insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company.

(6) No intermediary-agent shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer unless the agent is listed with that insurer.

Note: Copies of forms OCI 11-001, for use under sub. (1), and OCI 11-011, for use under sub. (2), may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; r. and recr. Register, March, 1978, No. 267, eff. 4-1-78; cr., (5) and (6), Register, March, 1979, No. 279, eff. 4-1-79; am. (1) and (3), Register, September, 1981, No. 309, eff. 1-1-82; am. (5), Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, April, 1986, No. 364, eff. 5-1-86; am. (1) and (2), Register, January, 1992, No. 433, eff. 2-1-92.

Ins 6.58 Licensing of corporations and partnerships as insurance intermediaries, reinsurance intermediaries, or managing general agents. (s. 628.04, Stats.) (1) **PURPOSE.** The purpose of this rule is to establish procedures for licensure of corporations and partnerships as insurance intermediaries, reinsurance intermediaries or managing general agents.

(2) **LICENSE.** Any corporation or partnership may obtain a license under this section.

(3) **PROCEDURE.** Application for a permanent intermediary license, reinsurance intermediary license or managing general agent license for a corporation or partnership shall be made on application form 11-50 and filed with the commissioner of insurance.

(a) The application must be accompanied by:

1. A licensing fee of \$100.00;
2. Certification that the articles of incorporation or association include the intent, in good faith, to do business as an intermediary, reinsurance intermediary or managing general agent;
3. Certification that the corporation or partnership will transact business in such a way that all acts that may only be performed by a licensed intermediary are performed exclusively by natural persons who are licensed under s. 628.04, Stats., and functioning within the scope of the license, and a list of such persons;
4. If the corporation or partnership is domiciled outside of Wisconsin, an agreement to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the corporation's or partnership's insurance activities in this state, on the basis of service of process under ss. 601.72 and 601.73, Stats.; and
5. A list of all partners, directors or principal officers or persons in fact having comparable power.
6. In the case of a corporation the application must be signed by an officer. In the case of a partnership the application must be signed by a partner.
7. Any bond, policy, designation or information required under s. Ins 47.02 (3) or (5).

(b) Determination of the acceptance or rejection of a completed application shall be made within 60 business days. A completed application consists of form 11-50 and other required material described in par. (a).

(4) **STANDARDS OF COMPETENCE AND TRUSTWORTHINESS.** (a) For partners, directors or principal officers who are licensed at the time of application under sub. (4) as insurance intermediaries, reinsurance intermediaries or managing general agents, those standards as set in s. Ins 6.59 (5) shall apply in lieu of the standards set forth in this section.

(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, reinsurance intermediaries or managing general agents, the following criteria may be used in assessing trustworthiness and competence:

1. Criminal record. The conviction for crimes which are substantially related to insurance.

2. Accuracy of information. Any material misrepresentation in the information submitted on form 11-50.

3. Regulatory action. Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

4. Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(5) **FEEES.** (a) Biennially, on or before January 1 of even numbered years, a regulation fee of \$10.00 for resident and \$30.00 for nonresident intermediaries, reinsurance intermediaries and managing general agents will be billed.

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(b) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(c) The license will be revoked if payment is not made within 60 days after suspension.

(6) **NOTIFICATION OF CHANGES.** Each corporation or partnership licensed or applying for a license shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, location of the business records, or a change in the name and address of the designated representative.

Note: Intermediary corporations and partnerships are subject to the recordkeeping requirements as set forth in s. Ins 6.61 (1).

Application for the licensing of corporations and partnerships is made on form 11-50. Copies can be obtained at the office of the commissioner of insurance.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (5) (a), Register, September, 1981, No. 309, eff. 10-1-81; cr. (6), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (2), r. (3) and (8), renum. (4) to (7) to be (3) to (6), Register, April, 1982, No. 316, eff. 5-1-82; r. form 11-50, Register, October, 1982, No. 322, eff. 11-1-82; am. (3) (a) to (f), Register, December, 1984, No. 348, eff. 1-1-85; correction in (5) made under s. 13.93 (am) (b) 7, Stats., Register, December, 1984, No. 348; emerg. am. (1), (3) (intro.), (a) 1. and 2., (4) (a), (b) (intro.) and 1., (5) (a) and (6), cr. (3) (a) 7., eff. 3-12-93; am (1), (3) (intro.), (a) 1. and 2., (4) (a), (b) (intro.) and 1., (5) (a) and (6), cr. (3) (a) 7., Register, July, 1993, No. 451, eff. 8-1-93.

Ins 6.59 Licensing of individuals as agents, reinsurance intermediaries, or managing general agents. (s. 628.04, Stats.) (1) PURPOSE. The purpose of

this rule is to establish procedures for original licensure and license enlargement of an individual as an insurance agent, reinsurance intermediary or managing general agent.

(2) **EXAMINATION.** An examination is required of each resident applicant for each kind of license authority listed in s. Ins 6.50, except a reinsurance intermediary license. Each examination will test the applicant's basic knowledge of the kinds of insurance to be solicited or function to be performed and the applicant's basic understanding of the applicable laws and regulations.

(3) **FEES.** The following fee schedule is established for residents and non-residents:

Application for one line of authority	\$50.00
Application for 2 lines of authority	\$85.00
Application for 3 lines of authority	\$135.00
Application for 4 lines of authority	\$170.00

(4) **PROCEDURE.** (a) *Application for resident intermediary agents.* Application for a permanent resident agent license, an enlargement of authority or managing general agent authority shall be made on form OCI 11-041 (rev.) at the time of examination. A completed application consists of a completed OCI 11-041 (rev.); an original certificate of prelicensing education dated not more than one year prior to the test date or an original exemption form as required in ch. Ins 26; an original Form DJ-LE-250 provided from the Wisconsin department of justice, crime information bureau, dated not more than 90 days prior to the test date; payment of the fees to the testing vendor; a photograph of the applicant taken by the test service at the time of testing; and any documentation required in answer to questions on the application.

(am) *Application for nonresident intermediary agents.* Application for a permanent nonresident agent license or an enlargement of authority shall be made on form OCI 11-041N (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed OCI 11-041N (rev.); an original certificate of licensing from the state of residence dated not more than 60 days prior to the application date; payment of the fees; and any documentation required in answer to questions on the application.

(as) *Application for reinsurance intermediary-broker or reinsurance intermediary-manager.* Application for a reinsurance intermediary broker or manager license shall be made on form OCI 11-040 and filed with the office of the commissioner of insurance. A completed application consists of a completed application form; an original certificate of licensing from the state of residence, if other than Wisconsin, dated not more than 60 days prior to the application date; an original form DJ-LE-250, if a Wisconsin resident, provided from the Wisconsin department of justice, crime information bureau, dated not more than 90 days prior to the test date; payment of the fees; and any documentation required in answer to questions on the application.

(b) *Scheduling the examinations.* Applicants shall notify the testing vendor, at least 72 hours prior to the scheduled date and time of the examination.

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(c) *Issuance of license.* An applicant for an original license or an enlargement of authority who passes the examination, if required, satisfies the requirements in par. (a), (am) or (as) and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued a license for those kinds of authority for which the applicant is qualified. Determination of the acceptance or rejection of a completed application shall be made within 60 business days of receipt by the office of the commissioner of insurance of the completed application including any documentation required.

(5) **COMPETENCE AND TRUSTWORTHINESS.** The following criteria may be used in assessing trustworthiness and competence:

(a) *Criminal record.* The conviction for crimes which are substantially related to insurance or reinsurance.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on the application form.

(c) *Regulatory action.* Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(6) **FREQUENCY AND LOCATION.** Examinations for each kind of agent authority will be administered at least once a month in accordance with a schedule adopted by the commissioner.

(7) **EXEMPTIONS.** A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3 and 612.33 (2) (a), Stats., who provides windstorm or hail insurance to the town mutual's members through an insurance policy issued by another authorized insurer operating on an assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with s. Ins 6.57.

(8) **CHANGE IN RESIDENCY STATUS.** (a) A licensed nonresident agent, reinsurance intermediary or managing general agent after becoming a Wisconsin resident, may retain authority under the nonresident agent license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease.

(b) A licensed resident agent, reinsurance intermediary or managing general agent after becoming a resident of another state, may retain authority under the resident license for a maximum of 60 days, at which time all authority granted under the resident license shall cease.

(c) If an agent, reinsurance intermediary or managing general agent changes residency status and becomes licensed under the new status, all authority granted by the license issued under the former status shall terminate on the date the new license is issued.

(d) Criteria used by the insurance commissioner to establish residency shall include, but not be limited to:

1. Jurisdiction for payment of state taxes.

2. Jurisdiction for automobile driver's license and motor vehicle registration.

3. Location of voter registration.

4. Location of principal residence, such as owned or rented dwelling, condominium or apartment.

(e) A licensed nonresident agent, reinsurance intermediary or managing general agent, after becoming a resident of a state other than Wisconsin, may retain licensing authority under the nonresident license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease, unless a letter of certification from the new state of residence is provided to the commissioner.

(9) Notwithstanding any other provision of this section, an applicant for a managing general agent license may file an application with the commissioner for a temporary managing general agent license. The temporary license may be issued, if the applicant is otherwise qualified, without examination. A temporary license issued under this subsection terminates on December 31, 1993.

Note: A copy of the forms referenced in subs. (4) (a), (am), (as) and (5) (b), may be obtained from the office of the commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am. (8), Register, June, 1978, No. 270, eff. 7-1-78; cr. (10), Register, September, 1978, No. 273, eff. 10-1-78; am. (3) and (7), Register, February, 1980, No. 290, eff. 3-1-80; r. (6) and (9), renum. (7), (8) and (10) to be (6), (7) and (8), Register, August, 1980, No. 296, eff. 9-1-80; r. and recr. Register, September, 1981, No. 309, eff. 10-1-81; am. (4), cr. (8), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), (3), (4) (a) and (b) and (6), Register, May, 1987, No. 377, eff. 7-1-87; am. (4) (a) and (5) (b), Register, January, 1992, No. 433, eff. 2-1-92; cr. (8) (e), Register, April, 1992, No. 436, eff. 5-1-92; am. (4) (a) and (c), Register, June, 1992, No. 438, eff. 7-1-92; emerg. am. (1), (2), (4) (a), (c), (5) (a), (8) (a) to (c) and (e), cr. (9), eff. 3-12-93; am. (1), (2), (3), (c), (5) (a), (8) (a) to (c) and (e), cr. (4) (am), (as), (9), r. and recr. (4) (a), Register, July, 1993, No. 451, eff. 8-1-93.

Ins 6.61 Intermediary records. (1) **PURPOSE.** This section protects insurance policyholders by prescribing minimum standards and techniques of accounting and data handling of intermediaries to ensure that timely and reliable information will exist and be available to the commissioner. This section implements and interprets ss. 601.42 and 628.34, Stats., by establishing minimum records to be maintained by intermediaries.

(2) **SCOPE.** This section applies to all intermediaries transacting insurance business in this state and to Wisconsin insurance transactions of nonresident intermediaries unless the nonresident is required to maintain records in a similar specified manner by the intermediary's state of domicile.

(3) **DEFINITIONS.** As used in this section:

(a) "Business checking account" means any account utilized by an intermediary for insurance-related transactions.

(b) "Cash disbursed record" means a record showing all monies paid out by the intermediary in connection with insurance.

(c) "Cash receipts record" means a record showing all monies received by the intermediary in connection with insurance.

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(d) "Commission statements" means records or statements which show the commissions and fees allocated to the intermediary for insurance transactions.

(e) "Formal disciplinary action" means consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, forfeitures or actions limiting the intermediary's method of conducting an insurance business.

(f) "Intermediary" means any person, partnership or corporation requiring a license under the provisions of ch. 628, Stats.

(g) "Personnel records" means those records pertaining to anyone who is directly retained or employed by an intermediary in connection with insurance including subagents, secretaries, phone solicitors, and independent contractors.

(h) "Policyholder records" means all records, applications, request for changes, claims, and complaints associated with a policy generated by or through the intermediary.

(4) CASH DISBURSED RECORD. The cash disbursed record shall show the name of the party to whom the payment was made, date of payment, and reason for payment.

(5) CASH RECEIPTS RECORD. The cash receipts record shall show the name of the party who remitted the money, date of receipt, and reason for payment.

(6) COMMISSION STATEMENTS. The commission statements shall show the insured name, policy number, premium, amount of commission, and date allocated or paid or both.

(7) PERSONNEL RECORDS. Personnel records shall include dates of employment, position, description of principal duties, name of employe, and last known address and phone number of employe.

(8) RECORDKEEPING REQUIREMENTS. Beginning on January 1, 1988, each intermediary shall maintain, for a 3-year period, unless a specific period is provided elsewhere, the following records:

- (a) Cash receipts record.
- (b) Cash disbursed record.
- (c) Commission statements.
- (d) Policyholder records.
- (e) Business checking account.
- (f) Personnel records.

(9) SPECIAL REQUIREMENTS FOR NEWLY ISSUED CONTRACTS. Each intermediary shall maintain records for a 3-year period giving the effective date of the coverage on all newly issued contracts.

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