



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Office of the Insurance Commissioner

- Preproposal Statement of Inquiry was filed as WSR 15-13-101; or
 Expedited Rule Making--Proposed notice was filed as WSR _____; or
 Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
 Supplemental Notice to WSR 15-18-033
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)
Sharing of Commissions by Licensed Insurance Producers

Insurance Commissioner Matter No. R 2015-07

Hearing location(s):
Insurance Commissioner's Office
TR 120
5000 Capitol Blvd.
Tumwater, WA 98504-0255

Date: November 24, 2015 Time: 2:00PM

Date of intended adoption: November 25, 2015
(Note: This is **NOT** the **effective** date)

Submit written comments to:
Name: Jim Tompkins
Address: PO Box 40258
Olympia, WA 98504-0258
e-mail rulescoordinator@oic.wa.gov
Fax: 360-586-3109 by (date) November 23, 2015

Assistance for persons with disabilities:
Contact: Lorie Villaflores by November 23, 2015
TTY (360) 586-0241 or (360) 725-7087

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The proposed rules will consider amending and/or adopting new rules to provide guidance to insurance producers regarding the sharing of commissions in conformance with new legislation (ESSB 5743).

Reasons supporting proposal: In August of 2014 the Commissioner adopted rules providing guidance to licensed insurance producers as to what may or may not constitute sharing commissions with non-licensed persons. During the 2015 legislative session, legislation (ESSB 5743) was enacted that amended some of the statutes regarding what constitutes rebates and inducements, which in turn impacts the rules adopted in 2014.

Statutory authority for adoption: RCW 48.02.060 and RCW 48.17.005.

Statute being implemented: RCW 48.17.490

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

DATE
October 16, 2015

NAME (type or print)
Mike Kreidler

SIGNATURE

TITLE
Insurance Commissioner

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 16, 2015

TIME: 2:10 PM

WSR 15-21-049

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jim Tompkins	PO Box 98504-0258 Olympia, WA 98504-0258	(360) 725-7036
Implementation....John Hamje	PO Box 98504-0255 Olympia, WA 98504-0255	(360) 725-7262
Enforcement..... John Hamje	PO Box 98504-0255 Olympia, WA 98504-0255	(360) 725-7262

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The proposed rule replaces WAC 284-17-800, WAC 284-17-820, and WAC 284-17-830 in order to bring guidance regarding the sharing of commissions in conformance with Senate Bill 5743. The repealed sections had not gone into effect yet. The proposed rule will not cause producers to incur any noteworthy new costs and therefore does not require a Small Business Economic Impact Statement under the provisions of RCW 19.85.025(3).

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Jim Tompkins

Address: PO Box 40258
Olympia, WA 98504-0258

phone (360) 725-7036

fax (360) 586-3109

e-mail rulescoordinator@oic.wa.gov

No: Please explain:

NEW SECTION

WAC 284-17-805 Charitable contributions. (1) An insurance producer may pay or assign all or a portion of a commission, fee, or other consideration received in connection with the sale, solicitation, or negotiation of insurance to a bona fide charitable or nonprofit organization as defined in chapter 48.30 RCW if all of the following conditions are met:

(a) The insured or prospective insured has no influence over which bona fide charitable or nonprofit organization receives the payment or assignment;

(b) The payment or assignment is not made in the insured's or prospective insured's name;

(c) The insured or prospective insured is not entitled to a tax benefit for the payment or assignment; and

(d) The insured or prospective insured does not select or influence the selection of the person or persons who benefit from the bona fide charitable or nonprofit organization.

(2) An insurance producer may sponsor events for, or make contributions to a bona fide charitable or nonprofit organization if the sponsorship or contribution is not conditioned upon any person affiliated with or interested in the bona fide charitable or nonprofit organization applying for or obtaining insurance through the insurance producer.

(3) An insurance producer may not sponsor events for or make contributions to a bona fide charitable or nonprofit organization if the sponsorship or contribution is conditioned upon the referral of insurance business to the insurance producer or endorsement of the insurance producer or insurance product by the bona fide charitable or nonprofit organization.

NEW SECTION

WAC 284-17-825 Referrals. (1) An unlicensed individual who receives referral compensation under section 3(1) or a referral fee under section 3(4), chapter 272, Laws of 2015 is not selling, soliciting, or negotiating insurance if all of the following conditions are met:

(a) The referral compensation or fee does not depend upon whether the referral results in a purchase or sale;

(b) If insurance is purchased, the purchase is not a factor in determining the value of the referral compensation or the amount of the referral fee; and

(c) The recipient of the referral compensation or fee does not make representations to the prospective insured about the terms of or specific need for a policy.

(2) Referral compensation given to an individual under section 3(1), chapter 272, Laws of 2015 is limited to no more than one hundred dollars in value per referring individual in any consecutive twelve-month period.

NEW SECTION

WAC 284-17-835 Promotional games of chance. An insurance producer may conduct a promotional game of chance provided that:

(1) The promotional game of chance is undertaken solely for the purpose of advertising and promoting the insurance producer;

(2) No person eligible to receive the prize is required to apply for insurance, purchase insurance, refer a person to the insurance producer, or pay any other consideration to enter the promotional game of chance;

(3) The promotional game of chance is open to the general public;

(4) The value of the prize is limited to one hundred dollars in value;

(5) No person receives a total of prizes exceeding one hundred dollars in value in the aggregate in any consecutive twelve-month period from the insurance producer; and

(6) The promotional game of chance complies with chapter 9.46 RCW and any and all other applicable Washington state statutes and rules.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-17-800	Charitable contributions.
WAC 284-17-820	Referrals.
WAC 284-17-830	Promotional games of chance.