

Separate premium account reference card

The separate premium account is a fiduciary account that holds funds that belong to someone else.

What is the general premium handling requirement?

When you receive premium funds, including return premiums, premium finance proceeds, and surplus line premium taxes, you must:

- Deposit all the funds into a separate premium account at the bank; and
- Maintain the funds in the account (fully intact) until you pay the party entitled to the funds (insurer, broker, premium finance company, insured client, or the state).

Reference laws and rules: RCW 48.17.600(1); RCW 48.17.480(3); RCW 48.15.180(1)(c); WAC 284-12-080(2); WAC 284-12-080(5)

What type of bank account is required?

A regular checking and/or savings account is acceptable as long as a federal government entity insures the account. Many banks offer brokerage accounts that are not insured. These accounts do NOT comply with state requirements. If you don't know if the account is insured, ask the bank.

Reference laws and rules: RCW 48.17.600(1); RCW 48.15.180(1)(c); WAC 284-12-080(3)

How should I name the account?

You must name the separate premium bank account to clearly state its purpose as a fiduciary account and distinguish it from an operating account. For example, the following are appropriate names: "ABC Agency Client Premium Account" or "ABC Agency Client Premium Fund."

Reference laws and rules: RCW 48.17.600(1); RCW 48.15.180(1)(c); WAC 284-12-080(2)

Who is entitled to the interest earned on the account?

Interest earned on a separate premium account belongs to the producer or surplus line broker, unless the insurer or insured client agreement states otherwise.

Reference rule: WAC 284-12-080(7)

This card is intended as a Quick Reference Guide for insurance producers and surplus line brokers. We make every effort to ensure that it is correct. When using this card, please understand it is not intended to replace RCWs or WACs in their entirety.

Can I deposit additional funds (money) in the separate premium account?

You may deposit additional funds in the separate premium account as a reserve to cover client NSF (non-sufficient funds) checks, bank fees, agency bill cancellation return premiums, and other contingencies. However, you must be able to identify and track these additional funds. For example, an agency may decide to deposit \$2,500 in the account as an initial reserve. Each month, the agency should be able to identify the remaining "reserve" amount in the account. (A properly prepared reconciliation of the account can help to identify the remaining amount.)

Reference laws and rules: RCW 48.17.600(3); RCW 48.15.180(1)(c); WAC 284-12080(2)(a)

How are surplus line premium taxes handled?

You must deposit surplus line premium taxes into a separate premium account and hold it in the account (fully intact) until you pay it to the state.

Reference laws and rules: WAC 284-12.080(11)

Can bank charges be assessed on the separate premium account?

Bank fees are permitted to come out of the separate premium account. However, the bank charges cannot deplete the premium, the return premium, or the surplus line premium taxes in the account. If you don't maintain additional funds in the account sufficient to cover the bank charges, then you must deposit additional funds in the account each month to replenish the account for the bank charges. (Some banks may agree to assess the bank charges against the operating account rather than the separate premium account.)

Reference rules and laws: WAC 284-12-080(4)(a); WAC 284-12-080(7)

What is commingling?

Commingling occurs when you don't have proper segregation of funds. Commingling is prohibited by RCW 48.17.600(2) because it leads to misuse of client funds, shortages in accounts, and inability to pay insurers entitled to the premium.

Some examples of commingling include:

- Depositing premium funds, return premium funds, or surplus line premium taxes into any account other than the separate premium account(s).
- Commission income is directly deposited by an insurer into the separate premium account, rather than the operating account.

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Question 1: How can I process one customer check that includes our agency's policy fee and the insurance premium without commingling?

Scenario: Landscape Supreme provides a \$1,900 check payable to your agency that includes the \$100 policy fee the agency charges on all "brokered" accounts.

Answer: You have two options:

1. If both the separate premium account and the operating account are at the same bank, the bank may permit a "split" deposit. The \$100 policy fee is deposited into the operating account and the \$1,800 premium is deposited into the separate premium account.
2. If a split deposit is not possible, then the entire check is deposited into the separate premium account. The \$100 policy fee is subsequently paid out of the separate premium account to the operating account. It's important to document the individual policy fees comprising the amount of the payment to the operating account.

Reference rules: WAC 284-12-080(4)(g)

Question 2: When should I remove the agency's policy fee from the separate premium account?

You should remove it as soon as the fee is deposited into the account (cleared the bank). Agency fees are considered "earned" when received. However, you're allowed to leave the fee in the separate premium account as "additional funds."

Question 3: What about commissions for agency bill accounts?

Please see the "Agency Bill Accounts Reference Card".

Reference laws and rules: (Refer to maintaining "additional funds" in the account.) RCW 48.17.600(3); RCW 48.15.180(1)(c); WAC 284-12-080(2)(a)