ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING, REPEALING AND CREATING AND CREATING A RULE

To repeal Ins 6.63(1)(b); 28.04(1)(b)2. and 3.; 28.04(1)(h); 28.04(2)(b); 28.06(1)(a); 28.09

To renumber Ins 28.04(1)(i)

To renumber and amend Ins 28.04(1)(b)1.; 28.04(2)(c)

To amend Ins 2.13(12)(intro); 5.17(3)(e); 6.57(3), (5) and (6); 6.58(5)(a) and (b); 6.59(2) and (3); 6.59(4)(a); 6.59(4)(b) and (c); 6.59(8)(a), (b), (c) and (e); 6.61(15); 6.63(1)(a); 6.63(2) and (3); 26.03(1), (3m) and (5); 26.04(2)(a) and (f); 26.05(1)(f); 26.05(2) and (3); 26.06(1)(intro.), (a), (d) and (g); 26.07 (1), (1)(a), (e) and (2); 26.08; 26 APPENDIX 5; 28.03(3); 28.04(1)(g); 28.04(2)(a); 28.06(2)(b)3.; 28.06(5)(a) and (f); 28.06(1)(d); 28.06(7)(b)

To repeal and recreate Ins 26.09

To create Ins 2.13(12m); 6.50(2)(a)6.; 6.50(2)(b)7. and 8.; 6.59(4)(an) and (ap); 26.05(2g) and (2r); 26.06(2)(b)4., 5., 6., and 7., (2g) and (2r); and 28.06(1)(f), Wis. Adm. Code,

Relating to licensing, prelicensing and continuing education for insurance agents and affecting small business.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. **Statutes interpreted:**

   ss. 600.01, 628.04, 628.34(12), Stats.

2. **Statutory authority:**

   ss. 600.01 (2), 601.41 (3), 601.42, 628.04, 628.04(1c), 628.34 (12), Stats.

3. **Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

   OCI has authority to set the initial licensing procedures and renewal requirements for insurance agents in the state of Wisconsin. These changes modify the existing requirements to conform to NAIC model requirements for agents in all states.

4. **Related statutes or rules:**

   None.

5. **The plain language analysis and summary of the proposed rule:**

   This rule changes the agent licensing requirements to conform to the NAIC model requirements for licensing and regulation of insurance agents. Three

new lines of authority, variable life, crop and surety are created to bring Wisconsin in conformance with the lines in the NAIC model. For the variable line, there will be a 6 month transition period where an agent can solicit under either the current licensing requirements or the new ones. After that period, the agent would only be able to solicit under the new requirements.

These proposals will now allow online, self study and correspondence course credits to satisfy the existing prelicensing education requirements. This conforms Wisconsin to requirements under the NAIC model. Prelicensing course providers will be required to pay the same course approval fees as currently paid by continuing education providers.

The NAIC model requires that the state of residence use fingerprint identification for crime checks. There are 16 States that now require fingerprinting of their resident insurance agent applicants including AK, AZ, CA, CT, FL, ID, MT, NJ, NV, PA, OH, OR, TN, UT, WA and WV. Wisconsin statutes permit the commissioner to require fingerprints for this purpose (see 628.04(1c), Stats.) Currently, resident agent applicant's criminal records are checked using only the Department of Justice, Crime Information Bureau ("CIB"). The CIB database contains no information about federal convictions or convictions in other states. The CIB matches are currently done using a name match and can result in inaccurate matches. A fingerprint match is the only method that the CIB match can be verified. Thus a person who applies for a Wisconsin insurance license could fail to disclose significant convictions under federal law, in other states or even Wisconsin and OCI would have no method to catch the falsehood. OCI would license the person not knowing that the public may be at significant risk.

The FBI requires fingerprint in order to provide criminal records to the Commissioner. Other Wisconsin agencies currently require fingerprint crime checks with the FBI as part of their licensing process including:

The WI Dept. of Financial Institutions - Securities Division does not collect fingerprints but uses the national Financial Industry Regulatory Authority (FINRA) to conduct fingerprint criminal checks.
Teacher licenses under s. 118.19(10)c, Stats.
Private Detective licenses under RL 31.03(b), Wis. Adm. Code
Private Security Guard licenses under RL 31.036(1)(b), Wis. Adm. Code
Wholesale Pharmacy Distribution Reps under s. 450.071(3)(c)9, Stats.

The current testing vendor contracted with OCI holds the current statewide contract for fingerprinting, and provides those services for the licenses identified above except FINRA. Pursuant to the current contract, the fingerprints collected would be used only to do an FBI and CIB crime check and then destroyed under the contract with the current testing vendor utilized by OCI.

Another change proposed is to raise the application fee for the initial licensing of insurance agents. Currently, the fees OCI collects from insurance agent applicants are less than what OCI pays to have the licensing examination administered. As with most state contracts, the contract for the administration of the licensing examination was recently rebid with the new contract effective July 1, 2009. This new contract contains higher charges for examination and processing and makes the current fee structure even more inadequate. Unless the initial licensing fees

are raised, OCI will not be able to administer the licensing program without incurring substantial debt.

A similar situation exists with the agent renewal fees. The cost of continuing regulation of agents after they are licensed has increased and the current fee is inadequate.

6. **Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

   None

7. **Comparison of similar rules in adjacent states as found by OCI:**

   All states are modifying their procedures regarding continuing education, prelicensing education and lines of authority to conform to the NAIC models as Wisconsin is doing in this revision. There are 16 States that now require fingerprinting of their residents insurance agent applicants including AK, AZ, CA, CT, FL, ID, MT, NJ, NV, PA, OH, OR, TN, UT, WA and WV.

   Fees do vary by state and are as follows for Wisconsin's 4 adjacent states:
   (Wisconsin includes the testing fee in the current and proposed fees.)

   Illinois: **Resident Application:** $180 plus testing fee of $103/line;
   Nonresident Application: $250;
   Resident Renewal: Biennial fee of $180/line of authority;
   Nonresident Renewal: Biennial fee of $250

   Iowa: **Resident Application:** $50 plus testing fee of $71/line;
   Nonresident Application: $50;
   Resident Renewal: Biennial fee of $50;
   Nonresident Renewal: Biennial fee of $50;

   Michigan: **Resident Application:** $10 plus testing fee of $51/line;
   Nonresident Application: $10;
   Resident Renewal: Biennial fee of $10;
   Nonresident Renewal: No Renewal Fees;

   Minnesota: **Resident Application:** $40 plus $50/line
   plus testing fee of $51/line;
   Nonresident Application: $40 plus $50/line of authority;
   Resident Renewal: Biennial fee of $40 plus $50/line;
   Nonresident Renewal: Biennial fee of $40 plus $50/line;

8. **A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

   NAIC Model Agent Licensing laws

9. **Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

   The fee increases are minimal. See item 11 for more detail.

10. **See the attached Private Sector Fiscal Analysis.**

11. A description of the Effect on Small Business:

This rule may have an effect on small businesses.

Raising the application fees will affect the cost for new agents and agents seeking to expand their authority. It would be a one time fee at the time of licensing and thus have minimal impact. The fee increase is needed to cover the increased costs of testing for that line of authority and in issuing new licenses.

The biennial renewal fee increases would increase the costs for currently licensed agents every 2 two years when the fee is due. The increases are very minimal -- $5 per year for resident agents and $10 per year for non resident agents.

Other changes would allow agents to take continuing education credits online, by correspondence course or by self study, thus giving agents more choices in how to gain the required credits. This probably would reduce costs for agents and would not require the agents to physically attend the continuing education classes.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at:
http://oci.wi.gov/ocirules.htm

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110
Email: inger.williams@wisconsin.gov
Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474
Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Robert Luck
Legal Unit - OCI Rule Comment for Rule Ins 6
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Street address:

Robert Luck
Legal Unit - OCI Rule Comment for Rule Ins 6
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53703-3474

Email address:

Robert Luck
robert.luck@wisconsin.gov

Web site: **http://oci.wi.gov/ocirules.htm**

The rule changes are:

SECTION 1. Ins 2.13(12)(intro.) is amended to read:

Ins 2.13(12) AGENT QUALIFICATIONS. ~~Any~~ Prior to [Legislative Reference Bureau to insert the 1st day of the 7th month after the effective date], any person selling or offering for sale a variable contract shall have a valid license under s. Ins 6.59(4)(an) authorizing the solicitation of variable life insurance and variable annuity products as defined in s. Ins 6.50(2)(a)6. or a valid license under s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a), and shall ~~have passed any of the following alternative security examinations administered by the national association of securities dealers:~~ provide verification of required registration by the Financial Industry Regulatory Authority (FINRA) registered for Series 6 or Series 7.

SECTION 2. Ins 2.13(12m) is created to read:

Ins 2.13(12m) AGENT QUALIFICATIONS. On or after [Legislative Reference Bureau to insert the 1st day of the 7th month after the effective date], any person selling or offering for sale a variable contract shall have a valid license under s. Ins 6.59(4)(an), authorizing the solicitation of variable life insurance and variable annuity products as defined in subd. Ins 6.50(2)(a)6.

SECTION 3. Ins 5.17(3)(e) is amended to read:

Ins 5.17(3)(e) Mailing by the office to a person regulated by the office at the latest mailing address the person has on file with the office constitutes presumptive proof of service.

SECTION 4. Ins 6.50(2)(a)6. is created to read:

Ins 6.50(2)(a)6. Variable life and variable annuity products - insurance coverage provided under variable life insurance contracts and variable annuities.

SECTION 5. Ins 6.50(2)(b)7. and 8. are created to read:

Ins 6.50(2)(b)7. Crop - Insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

8. Surety - Insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust.

SECTION 6. Ins 6.57(3), (5) and (6) are amended to read:

Ins 6.57(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule and in a payment type prescribed by the commissioner, the annual appointment 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 agent 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~~ appointment notices shall be sent to insurers. ~~This schedule shall also designate the calendar month of billing for the various insurers and/or insurer groups.~~

(5) No insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent ~~listed~~ appointed with that insurer.

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

SECTION 7. Ins 6.58(5)(a) and (b) are amended to read:

Ins 6.58(5) FEES. (a) Biennially, at least 60 days prior to February 15 of even numbered years, a regulation fee notice of ~~$25.00~~ $35.00 for resident and ~~$50.00~~ $70.00 for nonresident insurance intermediary firms, reinsurance intermediaries and managing general agents will be sent to each entity by first class mail at the address on file with the office of the commissioner of insurance.

(b) If payment of the biennial regulation fee is not made prior to February 15, in a payment type prescribed by the commissioner, the license will be ~~suspended~~ revoked. ~~If payment is made during the suspension, the license will be reinstated.~~

SECTION 8. Ins 6.59(2) and (3) are amended to read:

Ins 6.59(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, managing general agent, variable life or variable annuity and ~~a~~ the limited line travel, crop and surety insurance ~~license~~ licenses. 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 nonresidents:

Application for one line of authority	~~$50.00~~	$75.00
Application for 2 lines of authority	~~$85.00~~	$150.00
Application for 3 lines of authority	~~$135.00~~	$225.00
Application for 4 lines of authority	~~$170.00~~	$300.00
Application for 5 lines of authority		$375.00
Application for a Surplus Lines License		$100.00

SECTION 9. Ins 6.59(4)(a) is amended to read:

Ins 6.59(4)(a) *Application for resident intermediary agents.* Application for a permanent resident agent license or an enlargement of authority requiring an examination shall be made on-line following successful completion of any required prelicensing education and the examination. A completed application consists of the agent's name, the current address for the residence of the applicant; the current mailing address for the applicant; an original exemption form as required under ch. Ins 26, if required by s. Ins 26.04 (3); an electronic confirmation of prelicensing education completion for the specific lines of authority ~~or a paper "Certificate of Prelicensing Education"~~; fingerprints to be provided in a format specified by the commissioner to complete, an electronic confirmation of criminal history ~~provided~~ from the Wisconsin department of justice, crime information bureau, and the federal bureau of investigation completed not more than 180 days prior to the test date; payment of the fees to the testing vendor, an electronic photograph of the applicant taken by the test service at the time of testing; confirmation of previous license in another state, if applicable; and any documentation required in answer to questions on the application.

SECTION 10. Ins 6.59(4)(an) and (ap) are created to read:

Ins 6.59(4)(an) *Application for Variable life and variable annuity products.* Application for a permanent resident agent variable life and variable annuity products license or an enlargement of authority to include variable life and variable annuity products license shall be made on-line or on form OCI 11-041R (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed form OCI 11-041R (rev.) giving the current address for the residence of the application; the current mailing address for the applicant; payment of the fees; any documentation required in answer to questions on the application; and verification of required registration by the Financial Industry Regulatory Authority (FINRA) registered for Series 6 or Series 7.

(ap) *Application for limited travel, crop, or surety agent license.* Application for a permanent resident agent travel, crop or surety agent limited license or an enlargement of authority to include travel, crop or surety limited license shall be made on-line or on form OCI 11-041R (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed form OCI 11-041R (rev.) giving the current address for the residence of the applicant; the current mailing address for the applicant; payment of the fees; and any documentation required in answer to questions on the application.

SECTION 11. Ins 6.59(4)(b) and (c) are amended to read:

Ins 6.59(4)(b) *Scheduling the examinations.* Applicants shall notify the testing vendor, at least ~~72 hours~~ <u>one business day</u> prior to the scheduled date and time of the examination.

(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. <u>Examination scores are valid for 30 days. Failure to apply for a license within 30 days will require candidate to re-take the examination.</u> Determination of the acceptance or rejection of a completed application shall be made within ~~60 business~~ <u>90</u> days of receipt by the office of the commissioner of insurance of the completed application including any documentation required.

SECTION 12. Ins 6.59(8)(a), (b), (c) and (e) are amended to read:

Ins 6.59(8)(a) *Change in Residency Status.* 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.

(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 <u>or other comparable evidence</u> from the new state of residence is provided to the commissioner.

SECTION 13. Ins 6.61(15) is amended to read:

Ins 6.61(15) CHANGE OF NAME OR ADDRESS. Each intermediary shall, within 30 days, notify the commissioner of insurance in writing of any change in the intermediary's name ~~or~~ , residence address, and mailing address.

SECTION 14. Ins 6.63 (1)(a) is amended to read:

Ins 6.63(1)(a) ~~For renewal fees due after December 31, 2007, the regulation amount~~ The renewal fee to be paid biennially in a payment type prescribed by the commissioner, by each licensed individual intermediary-agent is ~~established to be~~:

Resident agent . . . . . ~~$25.00~~ $35.00
Nonresident agent . . . . . ~~$50.00~~ $70.00

SECTION 15. Ins 6.63(1)(b) is repealed.

SECTION 16. Ins 6.63(2) and (3) are amended to read:

Ins 6.63(2) ~~After December 31, 2006, renewal~~ Renewal fees are due on the last day of the intermediary's birth month every other year. ~~Fees for intermediaries with a current license issue in an odd numbered year are due in each odd numbered year. Fees for intermediaries with a current license issued in an even numbered year are due in each even numbered year.~~ OCI will send a form OCI ~~11-51~~ 11-051 renewal fee notice by first-class mail at least 60 days prior to the fee due date to each intermediary at the ~~residence~~ mailing address on file with the office of the commissioner of insurance.

(3) Any resident individual intermediary whose license is revoked for failing to pay renewal fees, failing to complete required continuing education or failing to pay delinquent taxes may, within 12 months from the revocation date ~~for failing to pay delinquent taxes or within 10 months from the revocation date for failure to pay a renewal fee or complete continuing education~~, apply to be relicensed for the same license without completing prelicensing education or passing a written examination. Resident licensees who are required to complete continuing education must have all previous requirements met. The application fee shall be as specified in s. 628.10(5)(a). If a resident license has been revoked for more than 12 months ~~for failing to pay delinquent taxes or revoked for more than 10 months for failure to pay a renewal fee or complete continuing education~~, the intermediary shall, in order to be relicensed, satisfy the examination and licensing requirements established by s. Ins 6.59.

SECTION 17. Ins 26.03(1), (3m) and (5) are amended to read:

Ins 26.03(1) "Accredited institution of higher education" means a law school accredited by the American bar association or other schools accredited by ~~one of the regional institutional~~ any accrediting ~~commissions~~ commission or ~~associations~~ association which ~~have~~ has been recognized by the U. S. ~~commission~~ Department of ~~education~~ Education.

(3m) "Credit hour" means a period of study, included as a part of a course, consisting of no less than 50 minutes of classroom instruction, or 4500 words per credit hour for correspondence, self-study, or on-line courses.

(5) "Exemption form" means a completed form OCI 11-026 (rev) ~~as described in appendix 6~~.

SECTION 18. Ins 26.04(2)(a) and (f) are amended to read:

Ins 26.04(2)(a) Any applicant applying for a limited line insurance license for credit insurance, legal expense insurance, miscellaneous limited line, title insurance, crop, surety, or travel insurance.

(f) An applicant applying for an original resident license who held a license within the previous 12 months as a resident insurance agent in another state for each of the lines applied for in Wisconsin is exempt from prelicensing education and examination requirements. The applicant must submit an original resident license application on form OCI ~~11-041(rev)~~ 11-041R (rev), the appropriate fee and any documentation required in answer to the questions on the application.

SECTION 19. Ins 26.05(1)(f) is amended to read:

Ins 26.05(1)(f) Evidence of prior ~~accreditation~~ approval or exemption by the Wisconsin educational approval board, if required by s. 38.50, Stats.; and

SECTION 20. Ins 26.05(2) is amended to read:

Ins 26.05(2) APPLICATION APPROVAL AND EXPIRATION OF APPROVAL. Upon receipt of an application for approval of a credit program, the commissioner shall determine if the application meets the requirements and if the program provides for instruction of appendices 1 to 4 in a manner required by this rule. The commissioner shall issue his or her decision on approval of an application no later than 60 days following the receipt of the completed application and all information required. ~~Course approval shall expire on August 30 of the next odd numbered year following the date of initial approval and every August 30 of an odd numbered year thereafter. Each school shall submit an application for reapproval to the commissioner on or before July 15 each odd-numbered year~~.

SECTION 21. Ins 26.05(2g) and (2r) are created to read:

Ins 26.05 (2g) Provider Approval Fees. (a) The initial application fee to be paid by each licensed provider will be set through a competitive bid process not to exceed limits identified in s. 601.31(1)(x)1., Stats. The biennial regulation fee paid by each licensed provider will be set through a competitive bid process not to exceed limits identified in s. 601.31(1)(x)2, Stats. Wisconsin governmental bodies, such as universities and technical colleges, shall be exempt from these fees.

(2r) Course Approval Fees. (a) The fee to be paid for each course submission by each provider shall be set through a competitive bid process not to exceed statutory limits identified in s. 601.31(1)(x)3., Stats.

(b) The fee to be paid for each course renewal by each provider shall not exceed 4 times the credit hour fee per course.

SECTION 22. Ins 26.05(3) is amended to read:

Ins 26.05(3) EVIDENCE OF ATTENDANCE. The commissioner shall accept ~~only~~ an official transcript or student grade report as evidence of satisfactory completion of credit courses.

SECTION 23. Ins 26.06(1)(intro.), (a), (d) and (g) are amended to read:

Ins 26.06(1) APPROVAL OF NONCREDIT EDUCATIONAL PROGRAMS. An entity seeking initial approval or reapproval from the commissioner of an insurance noncredit program shall submit ~~a notarized~~ an application on the forms provided by the commissioner. The commissioner may require the following information and materials:

(a)Evidence of prior ~~accreditation~~ approval or exemption by the Wisconsin educational approval board, if required by s. 38.50, Stats.; and

(d) Detailed outlines of the subject matter to be covered by the program with specific allocations of classroom, correspondence, self-study, or on-line hours to each topic meeting the minimum standards as set forth in appendices 1 through 4. This should include a description of textbooks, workbooks and other instructional materials. The operator of a noncredit program shall ~~present~~ provide section A and section B. Each must be ~~presented~~ provided as a separate and discrete segment. Each section can be broken up into subsections as long as no other insurance-related instruction is ~~given~~ provided by the noncredit program between the subsections;

(g) The time, date, and location of each noncredit classroom program. The commissioner may allow a noncredit program to apply for initial approval without specific information concerning dates, times, locations, and instructors, but the noncredit program shall provide this information in a format prescribed by the commissioner no later than 30 days prior to the start of the course;

SECTION 24. Ins 26.06(2)(b)4., 5., 6., and 7., (2g) and (2r) are created to read:

Ins 26.06(2)(b)4. A Life instructor who holds any of the following professional designations or successor designations: Certified Employee Benefit Specialist (CEBS); Chartered Financial Consultant (ChFC); Certified Insurance Counselor (CIC); Certified Financial Planner (CFP); Chartered Life Underwriter (CLU); Fellow of the Life Management Institute (FLMI); or Life Underwriter Training Council Fellow (LUTCF);

5. An Accident & Health instructor who holds any of the following professional designations or successor designations: Registered Health Underwriter (RHU); Certified Employee Benefit Specialist (CEBS); Registered Employee Benefits Counselor(REBC); or Health Insurance Associate (HIA);

6. A Property, Casualty, or Personal Lines P&C instructor who holds any of the following professional designations or successor designations: Accredited Advisor in Insurance (AAI); Associate in Risk Management (ARM); Certified Insurance Counselor (CIC); or Chartered Property and Casualty Underwriter (CPCU); or

7. A person who, in the judgment of the commissioner, is qualified to teach a session by reason of exemplary experience or education in the lines of insurance being taught.

(2g) Provider Approval Fees. (a) The initial application fee to be paid by each licensed provider will be set through a competitive bid process not to exceed limits identified in s. 601.31(1)(x)1., Stats. The biennial regulation fee paid by each licensed provider will be set through a competitive bid process not to exceed limits identified in s. 601.31(1)(x)2, Stats. Wisconsin governmental bodies, such as universities and technical colleges, shall be exempt from these fees.

(2r) Course Approval Fees. (a) The fee to be paid for each course submission by each provider shall be set through a competitive bid process not to exceed statutory limits identified in s. 601.31(1)(x)3., Stats.

(b) The fee to be paid for each course renewal by each provider shall not exceed 4 times the credit hour fee per course.

SECTION 25. Ins 26.07(1), (1)(a), (e) and (2) are amended to read:

Ins 26.07 (1) **Evidence of attendance for noncredit classroom, correspondence, self-study, or on-line programs.** (a) Noncredit classroom, correspondence, self-study, or on-line programs shall provide an original certificate of prelicensing education to each student upon satisfactory completion of a noncredit program. Additional ~~original~~ individual certificates of prelicensing education shall be provided to a student upon request and at no additional charge ~~for each application for an intermediary license the student submits to the commissioner~~.

(e) Certificates of prelicensing education shall be ~~on green paper only~~ provided to each student in hard copy or electronically.

(2) A noncredit program shall submit to the commissioner a computerized list giving the name, the last 4 digits of the social security number, home address, date of completion, type of class and date of birth in an electronic format specified by the commissioner of all persons satisfactorily completing noncredit classroom, correspondence, self-study, or on-line prelicensing education programs. Submission of the course completion information will certify that the students listed personally attended the minimum required statutory class room instruction or completed all correspondence requirements identified in s. Ins 26.09. The computerized list shall be furnished to the commissioner within 10 days following the date of completion of noncredit prelicensing education programs.

SECTION 26. Ins 26.08 is amended to read:

Ins 26.08 **Attendance requirements for noncredit programs.** Students shall attend all of the required hours and receive all the required contents before a certificate of prelicensing education may be granted for satisfying any of the requirements in s. Ins 26.04. Noncredit classroom programs may make arrangements for make-up classes covering the same material as the class missed to enable students to meet the educational requirements. All prelicensing requirements must be completed prior to taking the licensing examination.

SECTION 27. Ins 26.09 is repealed and recreated to read:

Ins 26.09 **Correspondence Courses.** (1) Correspondence, self-study, and on-line courses may be approved if they meet the criteria under s. Ins 26.06 and the subsequent course requirements in appendices 1 to 4, and include successful completion of a certified proctored examination.

(2) The examination shall consist of a minimum of 25 questions for section A and 50 questions each for Section B of each line of authority identified in Ch. Ins 26, appendices 1 to 4. A passing score of 70% or greater is required on each examination.

(3) An approved proctor is an impartial, disinterested third party or currently licensed agent with no family or financial relationship to the student. The proctor shall verify the agent's identity and complete an affidavit supplied by the approved provider testifying that the agent received no outside assistance. Membership in a professional association or organization does not constitute a financial relationship.

SECTION 28. Chapter Ins 26 APPENDIX 5 is amended to read:

Chapter Ins 26
APPENDIX 5
CERTIFICATE OF PRELICENSING EDUCATION
~~(Note: Must be on green paper)~~

I hereby certify that (name) has completed a prelicensing educational course which complies with the requirements in ch. Ins 26, Wis. Adm. Code, for the insurance line of (life) (accident & health) (property) (casualty) (Personal Lines P&C) . The last day of class or completion of the required examination(s) for section B of ~~this particular course~~ the identified course(s) was (date) . I have verified the identification of this applicant by using:

- ☐ A Wisconsin driver's license
- ☐ A Wisconsin identification card
- ☐ Other (please describe)

Authorized Representative
Date Name of Program

SECTION 29. Ins 28.03(3) is amended to read:

Ins 28.03(3) "Credit hour" means a period of study, included as a part of a course, consisting of no less than 50 minutes of classroom instruction, or 4500 words per credit hour for correspondence, self-study, or on-line courses.

SECTION 30. Ins 28.04(1)(b)1. is renumbered Ins 28.04(1)(b) and amended to read:

Ins 28.04(1)(b) On or before the last day of the agent's ~~birth month in 2007,~~ license expiration date every resident-intermediary agent ~~whose current license was issued in an odd numbered year~~ shall furnish evidence to the commissioner in a manner prescribed by the commissioner that 24 credit hours of continuing education, of which at least 3 credit hours must be in the ethics of insurance, have been completed~~, approved by the commissioner in accordance with this chapter~~.

SECTION 31. Ins 28.04(1)(b)2. and 3. are repealed.

SECTION 32. Ins 28.04(1)(g) is amended to read:

(g) If the required credit hours ~~deficiency is~~ are not ~~remedied~~ banked by the reporting date set forth in par. (b), the license of the intermediary shall be ~~suspended~~ revoked with notice to the agent by first class mail. ~~If the required hours are completed and reported during the suspension period, the license shall be reinstated.~~

SECTION 33. Ins 28.04(1)(h) is repealed.

SECTION 34. Ins 28.04(1)(i) is renumbered as (1)(g).

SECTION 35. Ins 28.04(2)(a) is amended to read:

Ins 28.04(2)(a) Any intermediary exclusively holding a limited line insurance license in the following lines: credit insurance, crop insurance, legal expense insurance, miscellaneous limited line, managing general agent, surety insurance, title insurance, or travel insurance.

SECTION 36. Ins 28.04(2)(b) is repealed.

SECTION 37. Ins 28.04(2)(c) is renumbered as (2)(b) and amended to read:

Ins 28.04(2)(b) A nonresident intermediary ~~who furnishes an original letter of certification not more than 90 days old when received by the commissioner, which provides evidence of compliance with continuing education requirements in his or her state of residence provided that the~~ whose state of residence grants similar exemptions to Wisconsin residents ~~who have satisfied Wisconsin's continuing education requirements under this section~~.

SECTION 38. Ins 28.06(1)(a) is repealed.

SECTION 39. Ins 28.06(2)(b)3. is amended to read:

(2)(b)3. Holders of any of the designations identified in s. Ins ~~28.09~~ 26.06(2)(b)4, 5 and 6;

SECTION 40. Ins 28.06(5)(a) and (f) are amended to read:

Ins 28.06(5)(a) Upon receipt of an application for approval of a course from an approved continuing education provider and the appropriate fee, the commissioner shall determine if the course meets the requirements set forth in sub. (6). The commissioner shall issue a decision approving or denying approval of a course no later than 30 days following the receipt of the completed application. Advertisement by the provider prior to approval must include language that the course as presented is pending approval by the state. Course approval shall expire 2 years from the date the course was approved by the commissioner.

(f) A provider shall give the commissioner ~~written~~ electronic notice in a format specified by the commissioner at least 10 days in advance of offering an approved course on a date or at a place other than, or in addition to, the date and location provided in the initial request for approval.

SECTION 41. Ins 28.06(1)(d) is amended to read:

Ins 28.06(1)(d) The date indicated on the certificate of continuing education shall be the date of the class attended by the student, or on the date which the intermediary successfully completed an examination for courses identified in s. Ins ~~28.09~~ 26.06(2)(b)4, 5, and 6.

SECTION 42. Ins 28.06(7)(b) is amended to read:

Ins 28.06(7)(b) The fee to be paid for each course submission by each provider for recognized programs of study identified in s. Ins ~~28.09~~ 26.06(2)(b)4, 5, and 6 shall be the same as provided in par. (a), not to exceed 8 times the credit hour fee per course.

SECTION 43. Ins 28.07(1)(f) is created to read:

Ins 28.07(1)(f) Intermediaries may not claim credit for prelicensing education currently approved as a continuing education course toward their continuing education requirements for an original license. Individuals may receive credit if they are adding qualifications to an existing license and the provider and course has been approved for continuing education credit.

SECTION 44. Ins 28.09 is repealed.

SECTION 45. These changes may be enforced under ss. 601.41, 601.64, 601.65, 628.10, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

SECTION 46. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this _____ day of June, 2009.

_____

Sean Dilweg
Commissioner of Insurance

Office of the Commissioner of Insurance
Private Sector Fiscal Analysis

for Sections Ins 2.13, 5.17, 6.50, 6.58, 6.59, 6.61, 6.63, 26.03, 26.04, 26.05, 26.06, 26.07, 26.08, 28.03, 28.04, 28.06 & 26.09 relating to licensing, prelicensing and continuing education for insurance agents and affecting small business

This rule change will have no significant effect on the private sector regulated by OCI.

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

☐ ORIGINAL ☒ UPDATED

☐ CORRECTED ☐ SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number **INS 6, et al.**

Subject
licensing, prelicensing and continuing education for insurance agents and affecting small business

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

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)	(0 FTE)	(-0 FTE)
State Operations - Other Costs	6,500	-0
Local Assistance	0	-0
Aids to Individuals or Organizations	0	-0
TOTAL State Costs by Category	$ 6,500	$ -0
B. State Costs by Source of Funds	**Increased Costs**	**Decreased Costs**
GPR	$ 0	$ -0
FED	0	-0
PRO/PRS	6,500	-0
SEG/SEG-S	0	-0
C. State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	**Increased Rev.**	**Decreased Rev.**
GPR Taxes	$ 0	$ -0
GPR Earned	202,500	-0
FED	0	-0
PRO/PRS	1,822,100	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	$ 2,024,600	$ -0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	$ 6,500	$ 0
NET CHANGE IN REVENUES	$ 2,018,100	$ 0

Prepared by: Tim Mero	**Telephone No.** (608) 264-8114	**Agency** Insurance
Authorized Signature:	**Telephone No.** (608) 267-3782	**Date** (mm/dd/ccyy) April 30, 2009

Division of Executive Budget and Finance
DOA-2048 (R10/2000)

Wisconsin Department of Administration

FISCAL ESTIMATE

☐ ORIGINAL ☒ UPDATED

☐ CORRECTED ☐ SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number **INS 6, et al**

Subject

licensing, prelicensing and continuing education for insurance agents and affecting small business

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 ☒ Increase Existing Revenues

☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues

☐ Create New Appropriation

☒ 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 Chapter 20 Appropriations

20.145(1)(g)

Assumptions Used in Arriving at Fiscal Estimate

The Office of the Commissioner of Insurance (OCI) currently has a contract with a vendor to provide resident agent licensing exams and tracking of continuing education credits for insurance agents. The cost of the contract to provide these services to resident agents is currently more than the revenues that OCI brings in from the resident agents. This increase in fees will bring the costs and revenues more into alignment.

OCI projects issuing a total of 19,257 resident and nonresident agent licenses each year. The increased revenue from the increase in agent license fees is projected to be $1,109,300 per year with $110, 900 of the revenue going to GPR-Earned and $998,400 being retained by OCI.

OCI projects a total of 56,007 resident and nonresident agent biennial renewals each year. The increased revenue from the increase in the biennial renewal fee is projected to be $908,800 per year with $90,900 going to GPR-Earned and $817,900 being retained by OCI.

The rule also includes provisions related to approval of prelicensing education providers and approval of prelicensing education courses. OCI projects a total of 100 prelicensing education providers at an estimated fee of $50 each on a biennial basis. This would be an average of $2,500 per year ((100 x $50)/2). OCI projects that there would be a total of 200 courses approved for 32 credit hours each at $10 per credit hour in the first biennium. The renewals after the first biennium shall not exceed 4 times the credit hour fee per course. Therefore, the ongoing revenue amount for the course approvals will be approximately $4,000 per year ((200 x $40)/2). The increased revenue from prelicensing education providers and course approval fees is projected to be $6,500 per year with $700 going to GPR-Earned and $5,800 being retained by OCI. The expected cost to OCI to contract with a vendor to administer the approval process for prelicensing education providers and prelicensing education courses is estimated at $6,500 per year.

Increase in Revenues

Total GPR-Earned	$ 202,500
Total PR	$1,822,100
Total Revenue Increase	$2,024,600

Increase in Expenditures

Total PR	$ 6,500

Long-Range Fiscal Implications		
OCI will no longer be paying its vendor more per resident agent licensing examination than it receives in revenues from these resident agents.		
Prepared by: Tim Mero	**Telephone No.** (608) 264-8114	**Agency** Insurance
Authorized Signature:	**Telephone No.** (608) 267-3782	**Date** (mm/dd/ccyy) April 30, 2009