



# 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 12-11-126; 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  
 Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject) Insurance producers sharing of commissions and paying referral fees to non-licensed persons.

Insurance Commissioner Matter No. R 2012-16

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

Date: June 10, 2014 Time: 9:00AM

**Date of intended adoption:** June 11, 2014  
(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](mailto:rulescoordinator@oic.wa.gov)  
Fax: 360-586-3109 by (date) June 9, 2014

**Assistance for persons with disabilities:**  
Contact: Lori Villaflores by June 9, 2014  
TTY (360) 586-0241 or (360) 725-7087

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rule will provide guidance to licensed insurance producers as to what may or may not constitute improperly sharing commissions with non-licensed persons.

**Reasons supporting proposal:** RCW 48.17.490 provides that licensed insurance producers may pay or assign commissions, fees, or other valuable consideration with non-licensed persons who do not sell, solicit, or negotiate insurance, unless the payment would violate RCW 48.30.140, RCW 48.30.150, RCW 48.30.157, or RCW 48.30.170. Insurance producers have made inquiries of the OIC as to whether or not certain activities comply with these statutes. The proposed rules will provide guidance to licensed producers as to what activities may or may not violate these statutes.

**Statutory authority for adoption:** RCW 48.02.060

**Statute being implemented:** RCW 48.17.490

**Is rule necessary because of a:**

- Federal Law?  Yes  No  
 Federal Court Decision?  Yes  No  
 State Court Decision?  Yes  No  
 If yes, CITATION:  Yes  No

**DATE**  
May 7, 2014

**NAME** (type or print)  
Mike Kreidler

**SIGNATURE**

**TITLE**  
Insurance Commissioner

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED**

**DATE: May 07, 2014**

**TIME: 7:45 AM**

**WSR 14-10-080**

**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 40258, Olympia, WA 98504-0258	(360) 725-7036
Implementation....John Hamje	PO Box 40256, Olympia, WA 98504-0256	(360) 725-7262
Enforcement.....John Hamje	PO Box 40256, Olympia, WA 98504-0256	(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.

This proposed rule does not impose any costs on a business. It allows licensed insurance producers to engage in certain activities (charitable contributions, compensation for the use of lead cards and mailing lists, small rewards for referrals, and conducting promotional games of chance) within certain prescribed limits but does not impose any costs for doing so nor require any specific reporting of these activities.

**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](mailto:rulescoordinator@oic.wa.gov)

No: Please explain:

## SHARING COMMISSIONS

### NEW SECTION

**WAC 284-17-800 Charitable contributions.** An insurance producer may donate all or a portion of a commission, fee, or other compensation received in connection with the sale, solicitation, or negotiation of insurance to a charity only if all of the following conditions are met:

(1) The insured or prospective insured has no influence over which charity receives the donation;

(2) The donation is not made in the insured's or prospective insured's name;

(3) The insured or prospective insured is not entitled to a tax benefit for the donation; and

(4) The insured or prospective insured does not select or influence the selection of the person or persons who benefit from the charity.

### NEW SECTION

**WAC 284-17-810 Lead cards and mailing lists.** (1) For the purposes of this section, lead card means communications distributed to the public which, regardless of form, content, or stated purpose, are used to compile a list containing names or other personal information regarding individuals who have expressed an interest in receiving information about insurance.

(2) A licensed insurance producer may compensate a person for the purchase of lead cards or a mailing list of prospective insureds, provided:

(a) The amount of the compensation is not based upon:

(i) The number of prospective insureds that apply for insurance or obtain insurance; or

(ii) The number of quotes issued to prospective insureds; and

(b) The person is in the business of selling lead cards or mailing lists.

(3) Lead cards may solicit interest in a particular line or type of insurance but must not:

(a) Seek information on behalf of or about a specific insurance company; or

(b) Seek information on behalf of or about a specific insurance producer.

### NEW SECTION

**WAC 284-17-820 Referrals.** (1) A licensed insurance producer may give to an individual, prizes, goods, wares, or merchandise not ex-

ceeding twenty-five dollars in value in the aggregate in any consecutive twelve-month period for the referral of insurance business to the insurance producer; provided the giving of the prizes, goods, wares, or merchandise is not conditioned upon the person who is referred either applying for, or obtaining, or both, insurance through the insurance producer.

(2) The payment for the referral must not be in cash, currency, bills, coins, check, or by money order.

#### NEW SECTION

**WAC 284-17-830 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 twenty-five dollars in value;

(5) No person receives a total of prizes exceeding twenty-five 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.