

February 1, 2022
Report From Agency

Report on Section Ins 6.785, Wis. Adm. Code, relating to commercial lines modernization

Clearinghouse Rule No. 21-089
Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:

The current version of s. Ins 6.785, Wis. Adm. Code, was originally promulgated in 1993 with the intent of exempting certain classes of property and casualty rates from the rate filing requirements set forth in s. 625.13, Wis. Stat. At the time it was determined that it was unnecessary for certain rates to be filed in accordance with ch. 625, Wis. Stats., due to the unique or unusual nature of the risk, which included large commercial risks, risks in volatile areas, and risks with insufficient data to calculate credible rates. The 1993 proposed rulemaking order found that subjecting these kinds of risks to rate filing requirements was not necessary to protect policyholders or the public.

OCI intends to update this provision by creating additional exemptions for certain property and casualty risks from the rate filing requirements of ch. 625, Wis. Stat., while also exempting certain property and casualty policy forms from the form filing requirements of s. 631.20, Wis. Stat. Similar to the rationale behind the original rule, it is no longer necessary to impose rate and form filing requirements to the updated risks and classes in order to meet the purposes of the respective filing provisions referenced above. Alternatively, the exemptions will likely create quicker access to new and innovative products by decreasing an unnecessary regulatory burden.

The proposed rule will make two primary changes to s. Ins 6.785 (4), Wis. Adm. Code, in order to achieve the purpose as outlined above. First, the proposed rule will reduce the premium threshold for the rate filing exemption under s. Ins 6.785 (4) (e), Wis. Adm. Code, from \$100,000 to \$50,000, which addresses coverages for general liability, commercial automobile, crime and glass. In addition, the proposed rule will create a provision exempting most commercial property and casualty risks developing \$50,000 or more in annual premium from rate filing requirements with an exception for certain coverages.

The proposed rule will also create an exemption for certain commercial property and casualty insurance policy forms from the form filing requirements of s. 631.20 (1) (a), Wis. Stat. The

exempt coverages will also be subject to premium thresholds of \$50,000 or \$75,000 based on the specific coverage.

Finally, the proposed rule will also make a few smaller changes in order to effectuate the two primary changes and ensure that the exempt rates and forms will remain subject to an appropriate level of oversight. These changes include adding additional bases for the new exemptions, subjecting exempt forms to subsequent disapproval by the Commissioner and record-keeping standards, and requiring notice to insureds for exempt forms that have not been reviewed by the Commissioner.

(b) Summary of the public comments and the agency's responses to those comments:

Comment: OCI received a memo dated December 28, 2021, jointly submitted by the Independent Insurance Agents of Wisconsin (IIAW) and the Wisconsin Insurance Alliance (WIA). The memo proposed removing “Highly Protected Commercial Property” and “Cybersecurity” from the form filing exemption in the proposed rule, clarifying the rating filing requirement for commercial automobile coverage, further eliminating the rating filing requirement for commercial coverages by eliminating or reducing the premium threshold, and revising the title of section to reflect the new form filing exemption.

Response: First, OCI is removing “Highly Protected Commercial Property” and “Cybersecurity” from the form filing exemption in the proposed rule for the reasons stated in the memo. Second, OCI clarified the exemption for commercial automobile by removing the coverage from s. Ins 6.785 (4) (i), Wis. Adm. Code. The conflict between s. Ins 6.785 (4) (e) and (4) (i) regarding commercial automobile was due to a drafting error, it was always OCI's intent for (4) (e) to remain the controlling provision for commercial automobile. Third, OCI is not decreasing the premium threshold for the rating filing exemption. The OCI does not have enough information to support broadly lowering the premium threshold and no specific coverages warranting a lower premium threshold were identified to OCI. Finally, OCI agrees to revise the title.

Comment: Patrick Shine (Society Insurance) whether the \$50,000 premium could include premium from other states.

Response: OCI agrees with their understanding that unless the premium is stated as specific to Wisconsin coverage, premium from other states can be included in the total.

(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:

Please see Section (b)

(d) Persons who appeared or registered regarding the proposed rule:

Appearances for:

Andy Franken, Wisconsin Insurance Alliance (WIA), supported the proposed rule and noted that they would be submitting a written comment on suggested changes jointly with IIAW.

Appearances against:

None

Appearances:

Matt Banaszynski, Independent Insurance Agents of Wisconsin (IIAW), commented on a couple desired changes that would be outlined in a written comment submitted jointly with WIA.

Registrations for:

None

Registrations against:

None

Registrations neither for nor against:

None

Letters received:

See Section (b)

(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.

None of the revisions OCI made required changes to the plain language analysis under s. 227.14 (2), Wis. Stat., or the fiscal estimate under s. 227.14 (4), Wis. Stat.

(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:

All comments were complied with and corrected except the following:

2.d. The current language in the proposed rule has been exposed to and commented on by the industry through the rule-making process. OCI is concerned that making further drafting changes could cause confusion.

(g) The response to the report prepared by the small business regulatory review board:

The small business regulatory review board did not prepare a report.

(h) Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis is Not Required because the rule will not have a significant economic impact on a substantial number of small businesses.

(i) Fiscal Effect

See fiscal estimate economic impact analysis attached to proposed rule.

Attachment: Legislative Council Staff Recommendations