

Ins 6.66

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REVISOR OF STATUTES  
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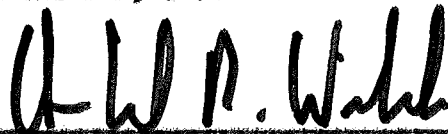
STATE OF WISCONSIN )  
 ) ss.  
OFFICE OF THE COMMISSIONER OF INSURANCE )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Harold R. Wilde, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order adopting a rule regarding proper exchange of business was issued by this office December 21, 1978.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 21st day of December, 1978.



Harold R. Wilde  
Commissioner of Insurance

STATE OF WISCONSIN  
DEPARTMENT OF STATE  
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DOUGLAS LAPOLETTE  
SECRETARY OF STATE

**ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE**

**Adopting a Rule**

Pursuant to authority vested in the Commissioner of Insurance by section 601.41 (3), Wis. Stats., the Commissioner of Insurance hereby adopts a rule as follows:

Section Ins 6.66 of the Wisconsin Administrative Code is adopted to read:

**Ins 6.66 Proper Exchange of Business. (Section 628.61, Wis. Stats.).**

(1) Proper exchange of business means the forwarding of insurance business from one intermediary-agent who cannot, after due consideration, place the business with any of the insurers for which the agent is listed because of capacity problems, the refusal of the company to accept the risk or the onerous conditions it imposes on the insured, to an intermediary-broker or another intermediary-agent licensed for those lines of insurance whose insurers are able to accommodate the risk under conditions more favorable to the insured. The intermediary-agent forwarding the business is entitled to split the commission involved. Proper exchange of business is not the regular course of business and such forwarding of business is thereby distinguished from brokerage by its occasional and exceptional nature.

(2) No intermediary-agent may properly exchange business with another intermediary-agent or an intermediary-broker, unless:

(a) The soliciting intermediary-agent completes and signs an Exchange of Business Form; leaves one copy of the form with the insured prior to binding coverage, or if not feasible, notifies the insured of the contents of the form and subsequently gives the form to the insured; and retains one copy for his or her files;

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(a) The intermediary-agent forwarding the business to a listed intermediary-agent or an intermediary-broker is licensed for the lines of business that are being exchanged;

(c) The intermediary-agent who receives the business and agrees to place it is licensed in the line or lines of insurance involved in the exchange; and

(d) Both the intermediary-agent forwarding the business and the intermediary-agent or intermediary-broker who places the business with the insurer sign the insurance application, or if no application is completed, the names of the intermediaries involved in the transaction appear on the policy issued.

(3) No intermediary-agent shall accept business solicited by another intermediary-agent which he or she knows, or has reason to know, is not exchanged in compliance with the provisions of this rule.

(4) The Exchange of Business Form shall contain statements:

(a) That such exchange is occasional within the meaning of this section;

(b) That the exchanged business originated in the normal course of business which, in the case of personal solicitations, means during solicitation for a particular insurer or group of insurers with whom the intermediary-agent is listed; and

(c) That after investigation it was found or demonstrated that the insurer(s) with whom the agent is listed is not capable of providing the desired coverage for any of the reasons set forth in sub (1).

(d) The following format shall be followed:

**WISCONSIN EXCHANGE OF BUSINESS FORM**

**Client** \_\_\_\_\_

**Risk to be insured** \_\_\_\_\_

**Coverage desired** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, hereby states that:  
(Soliciting agent)

1. After investigation it was found or demonstrated that the coverage desired could not be placed, either in total or a portion thereof, with any of the insurers for which the agent is listed because of:  
(check applicable box)

Capacity problems

Refusal of the insurer(s) to accept the risk

Terms unacceptable to the potential insured (briefly explain)

\_\_\_\_\_  
\_\_\_\_\_

2. This exchange is occasional and originated in the normal course of business;

3. Unless the client fails to object, the coverage requested will be obtained, if possible, from

\_\_\_\_\_  
(agent or broker)

\_\_\_\_\_  
(soliciting agent)

\_\_\_\_\_  
Date

Original - Client

Copy - Soliciting Agent's File

(5) LIMITATIONS. (a) In the absence of evidence to the contrary, an intermediary-agent shall be presumed to have exceeded the occasional exchange of business if he or she places more than 3 insurance risks per calendar year with any single insurer with which he or she is not listed as an intermediary-agent, or exchanges in total more than 25 insurance risks per calendar year.

(b) The burden of showing that speciality lines, non-standard and professional liability business placed through surplus lines intermediaries in accordance with s. 618.41, Stats., or written on an excess rate or other individually rated risk basis beyond the limits prescribed for other exchanges of business in par. (a) is occasional and otherwise in compliance with this rule, shall be upon the intermediary-agent soliciting and forwarding such business.

(6) The forwarding of business from an intermediary-agent to an intermediary-broker shall be deemed an exchange of business within this section. This section shall not limit in any way the amount of business that an intermediary-broker may place or forward to an intermediary-agent.

(7) The exchange of business among intermediary-brokers and participation by intermediaries in risk sharing plans approved according to ch. 619, Stats., shall not be limited in any way by this section.

Dated at Madison, Wisconsin, this 21<sup>st</sup> day of December, 1978

Harold R. Wilde  
Commissioner of Insurance