



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 17, 2021

TIME: 12:37 PM

WSR 21-17-122

Agency: Office of the Insurance Commissioner

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-13-135 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) **Resident Adjuster Continuing Education Requirements**

Insurance Commissioner Matter R 2021-03

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Thursday September 23, 2021	10:00am	Zoom Meeting: Detailed information for attending the Zoom meeting posted on the OIC website here: https://www.insurance.wa.gov/adjuster-continuing-education-requirements-r-2021-03	Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform

Date of intended adoption: September 24, 2021 _ (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: David Forte
Address: PO Box 40260, Olympia, WA 98504-0260
Email: rulescoordinator@oic.wa.gov
Fax: 360-586-3109
Other:
By (date) September 22, 2021

Assistance for persons with disabilities:

Contact Melanie Watness
Phone: 360-725-7013
Fax: 360-586-2023
TTY: 360-586-0241
Email: MelanieW@oic.wa.gov
Other:
By (date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Section 2, chapter 22, Laws of 2021 (SHB 1037) necessitates resident adjusters have continuing education requirements, therefore, the Commissioner is considering rulemaking to further clarify resident Independent Adjusters and Public Adjusters continuing education protocols.

The amended WACs simply include resident adjusters as requiring continuing education requirements.

Reasons supporting proposal: The intent is to match the National Association of Insurance Commissioners standard of 24 continuing education hours, including 3 hours of ethics, every two years. Having Washington state resident independent adjusters and public insurance adjusters have continuing education requirements is in alignment with other states. It is a benefit for our Washington state consumers to have a workforce that is continuing to receive updates on their profession. Finally, it will help our resident adjusters that work in other states find it easier to satisfy their continuing education requirements in those states if they are offered here in their home state.

Statutory authority for adoption: RCW 48.02.060, 48.17.005, and 48.17.150

Statute being implemented: Section 2, chapter 22, Laws of 2021 (SHB 1037)

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

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:	David Forte	PO Box 40260, Olympia, WA 98504-0260	360-725-7042
Implementation:	Todd Dixon	PO Box 40260, Olympia, WA 98504-0260	360-725-7000
Enforcement:	Todd Dixon	PO Box 40260, Olympia, WA 98504-0260	360-725-7000

Is a school district fiscal impact statement required under RCW 28A.305.135?

- Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: David Forte
Address: PO Box 40260, Olympia, WA 98504-0260
Phone: 360-725-7042
Fax: 360) 586-3109
TTY:
Email: davidf@oic.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.030(1)(a).

Explanation of exemptions, if necessary: The proposed rule does not impose more than minor costs. See explanation below.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency’s analysis showing how costs were calculated. RCW 19.85.030(1)(a) states that “...an agency shall prepare a small business economic impact state: (i) If the proposed rule will impose more than minor costs on businesses in an industry...”. An analysis conducted by the OIC determined that this rule would not impose more than minor costs on businesses.

A survey was administered to resident independent and public adjuster business entities. The survey was used to determine how many individuals a business employed and how much the rule would cost. For one of the baseline questions, “How many people does your business employ?”, we received 32 responses. Of those 32 responses, 25 (78%) were classified as small businesses as defined by RCW 19.85.020(3), “...any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees.”. The below table details anticipated annual cost to business entities based on the survey responses:

Table 1: Details on the analysis can be seen in the Cost Benefit Analysis. Figures are from a sample of 32 business entities.

Business Size	Average Number of Employees	Estimated Cost of Rule per Year
Small Businesses	5	\$471.43
Large Businesses	7,613	\$385.50
All Businesses Together	1,434	\$422.73

Small businesses are expected to pay slightly more annually than larger businesses based on our analysis. This is because generally large businesses where more likely to already reimburse resident adjusters for continuing education (CE) credits to comply with other states’ requirements. The estimated cost of the rule per year on small businesses was used as the estimated cost of compliance when determining whether the cost was greater than the minor cost threshold. The below table details the cost and minor cost threshold for property and casualty insurance carriers and claims adjusters:


2017 Industry NAICS Code	Estimated Cost of Compliance	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll	0.3% of Avg Annual Gross Business Income
524126	\$471.43	Direct Property and Casualty Insurance Carriers	\$33,951.09	\$33,951.09	\$2,571.20
524291	\$471.43	Claims Adjusting	\$4,302.81	\$4,302.81	\$2,779.17

Evidently, the estimated cost of compliance is below the minor cost threshold. The figures used for this calculation are drawn from the 2020 Washington State Employment Security Department's Quarterly Census of Employment and Wages.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: August 17, 2021	Signature: 
Name: Mike Kreidler	
Title: Insurance Commissioner	

AMENDATORY SECTION (Amending WSR 15-13-061, filed 6/10/15, effective 7/11/15)

WAC 284-17-200 Insurance continuing education—Purpose. WAC 284-17-200 through 284-17-312 establish the minimum continuing education requirements that must be met prior to the renewal of an insurance producer or adjuster license, and specify the minimum criteria that continuing education courses must meet to be approved by the commissioner.

AMENDATORY SECTION (Amending WSR 15-13-061, filed 6/10/15, effective 7/11/15)

WAC 284-17-220 Insurance continuing education required—Resident licensees. (1) Except as provided in WAC 284-17-222 or waived in accordance with WAC 284-17-254, all individual residents licensed to transact life, disability, personal lines, property, casualty or variable life and variable annuity products lines of authority must meet the continuing education requirements of this chapter.

(2) All individual residents licensed as independent adjuster, public adjuster, or crop adjuster must meet the continuing education requirements of this chapter.

AMENDATORY SECTION (Amending WSR 09-02-073, filed 1/6/09, effective 7/1/09)

WAC 284-17-222 Continuing insurance education exemptions. (~~Resident adjusters and~~) Individuals holding only limited credit insurance, travel insurance, or surety licenses are exempt from the continuing insurance education requirements of this chapter.

AMENDATORY SECTION (Amending WSR 15-13-061, filed 6/10/15, effective 7/11/15)

WAC 284-17-224 Insurance continuing education—Required credit hours—Producers and adjusters. Timely completion of this state's continuing insurance education requirement is a prerequisite for renewal or reinstatement of a license. Before applying for renewal or reinstatement of a license, except as provided in WAC 284-17-222 or waived in accordance with WAC 284-17-254, all resident producers licensed for personal lines, life, disability, property, casualty or variable life and variable annuity product lines of authority and all resident licensed adjusters must complete twenty-four credit hours of approved insurance continuing education. The twenty-four hours of education must include three credit hours of ethics education during every license continuation period.

- (1) Courses must be completed within the twenty-four month period prior to the:
 - (a) Expiration date of the license;
 - (b) Date of late renewal; or
 - (c) Date of the request for reinstatement.
- (2) ((Producers)) Licensees must maintain each continuing education certificate of completion for three years.
- (3) For producers required to complete the annuity suitability training, flood training or long-term care training, producers should maintain certificates for as long as the producer transacts business for these products, but not less than three years.
- (4) Adjusters must take either property and casualty insurance related continuing education courses, or insurance claim adjusting related continuing education courses, or both.

AMENDATORY SECTION (Amending WSR 15-13-061, filed 6/10/15, effective 7/11/15)

WAC 284-17-273 Continuing insurance education attendance register. A continuing education provider must use an attendance register in the format required by the commissioner to document attendance for a classroom or webinar course. The attendance register must include the following:

- (1) Continuing education provider's name and provider number;
- (2) Course title and course number;
- (3) Location of the classroom or instructor's location for a webinar;
- (4) Signature of the instructor or monitor for a classroom course;
- (5) For a classroom course, the attendee's:
 - (a) Name and phone number;
 - (b) Washington ((producer)) license number;
 - (c) Arrival time;
 - (d) Signature; and
 - (e) Departure time with the attendee's initials.

An attendance register form for a classroom course is available on the insurance commissioner's web site.

- (6) For a webinar course, the attendee's:
 - (a) Name and phone number;
 - (b) Washington ((producer)) license number;
 - (c) Log-in time to join the class;
 - (d) Chat history and polling responses; and
 - (e) Log-out time that the attendee exited the class.

AMENDATORY SECTION (Amending WSR 16-12-034, filed 5/24/16, effective 6/24/16)

WAC 284-17-278 Approval of an insurance continuing education course. (1) An application for approval of a continuing insurance education course or a new instruction method of a previously approved course must be submitted electronically or via email to the commis-

sioner's education mailbox no fewer than twenty days prior to the first date the course is offered for credit.

(a) If the continuing education provider does not know the first date the course will be offered at the time the provider submits the application, then if the commissioner approves the course, the provider cannot offer the course until twenty days after the commissioner receives the course application;

(b) The provider can advertise a course after the approval date, but cannot offer the course until the effective date;

(c) The commissioner will not process a new course application submitted by a provider until after the commissioner has sent the provider's continuing education course renewal notice. The provider must immediately submit the continuing education course renewal request for processing. After the commissioner processes the provider's course renewal request, the commissioner will continue reviewing the provider's new course application.

(2) The request must include all of the following, as applicable:

(a) **Classroom courses:**

(i) Completed request for course and credit approval form or the National Association of Insurance Commissioners Uniform Continuing Education Reciprocity Course filing form;

(ii) Detailed course outline, including a list of topics that the continuing education provider will cover and an estimate of the amount of time the provider will spend on each topic. The commissioner will not accept video presentation slides in lieu of the detailed course outline;

(iii) Biography or resume of instructor(s); and

(iv) Sample of the attendance register form that the provider will use.

(b) **Webinar courses:**

(i) Completed request for course and credit approval form or the National Association of Insurance Commissioners Uniform Continuing Education Reciprocity Course filing form;

(ii) Detailed course outline, including a list of topics that the provider will cover and an estimate of the amount of time the provider will spend on each topic. The commissioner will not accept video presentation slides in lieu of the detailed course outline;

(iii) Biography or resume of instructor(s);

(iv) Polling questions or verification codes, including two for each credit hour of the course;

(v) Description of the process for monitoring and verifying attendance; and

(vi) Sample of the document the provider will use to record each attendee's attendance and participation.

(c) **Self-study courses:**

(i) Completed request for course and credit approval form or the National Association of Insurance Commissioners Uniform Continuing Education Reciprocity Course filing form;

(ii) Detailed course outline with word count for each chapter, section or module;

(iii) If ethics content is included, a separate word count for the ethics content;

(iv) Samples of the course reading material to assist the commissioner in determining course difficulty level;

(v) Sample of video content, if included in the course. If the course includes video exceeding fifty minutes and the information is

mandatory for completing the course, one additional credit hour will be added to the course credit total;

(vi) Description of the verification process the provider will use to confirm that the licensee has completed the course study material before accessing the exam;

(vii) Resume of the course content developer showing education and work experience related to the course subject matter; and

(viii) Copy of the examination. All examination questions must be multiple choice.

(A) The provider must include a minimum of ten exam questions for a one credit hour course, with an additional five exam questions for each subsequent credit hour;

(B) To pass the exam, licensees must achieve a score of seventy percent or higher;

(C) If the licensee does not pass the first exam, the licensee must take a second exam that contains no more than fifty percent of the same questions from the first exam. If the licensee does not pass on the second attempt, the provider must alternate the exams until the licensee passes the exam.

(3) To be eligible for approval, a course must have a direct and specific application to insurance. A course about ethics or about laws and regulations specific to insurance is eligible. The subject matter should increase the (~~producer's~~) licensee's technical knowledge of insurance principles, insurance coverage, and insurance laws and regulations. The continuing education provider is responsible for the accuracy of facts and figures used in the course.

(4) The commissioner will not award credit for topics such as personal improvement, general education, sales, marketing, motivation, business management, time management, leadership, supportive office skills, internet use, social media use, automation, and other courses that are not directly and specifically related to insurance.

(5) Insurance prelicensing education courses are not eligible for approval for continuing insurance education credit.

AMENDATORY SECTION (Amending WSR 15-13-061, filed 6/10/15, effective 7/11/15)

WAC 284-17-292 Certificates of completion of insurance continuing education courses—Form. The form of certificate of course completion required by the commissioner is available to continuing education providers by contacting the commissioner's office. The certificate and signature may be in electronic format.

(1) The certificate must indicate that it is a Washington approved insurance continuing education course; and

(2) The certificate must include the following:

(a) Licensee's name and Washington (~~producer~~) license number;

(b) Course title and number;

(c) Date of course completion;

(d) Total number of credit hours and ethics credit hours if included;

(e) Continuing education provider's name and number; and

(f) Signature of the authorized designee of the provider and date.