

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES,  
2 INSURANCE DIVISION

3 DIVISION 71  
4 INSURANCE LICENSING

5 Insurance Producers, Adjusters and Insurance Consultants

6  
7 Fees and Disclosure; Incidental Charges  
8

9 836-071-0263

10 Fees charged by Insurance Consultants or Insurance Producers

11 (1) When an insurance consultant or an affiliate of an insurance consultant receives  
12 from a prospective insured any compensation authorized under the Insurance Code or  
13 rules adopted thereunder, neither the insurance consultant nor the affiliate may accept or  
14 receive any compensation from an insurer or other third party for services provided to the  
15 prospective insured in addition to the compensation paid by the prospective insured unless  
16 the insurance consultant, prior to the transaction:

17 (a) Has obtained the prospective insured's documented acknowledgment that the  
18 compensation will be received by the insurance consultant or affiliate; and

19 (b) Disclosed the amount of compensation from the insurer or other third party for  
20 that placement. If the amount of compensation is not known at the time of disclosure, the  
21 insurance consultant shall disclose the specific method for calculating the compensation  
22 and, if possible, a reasonable estimate of the amount.

23 (2) When an insurance producer or an affiliate of an insurance producer receives  
24 any compensation otherwise authorized under the Insurance Code or OAR 836-071-0269 to  
25 836-071-0277 from a prospective insured, neither the insurance producer nor the affiliate  
26 may accept or receive any compensation from an insurer or other third party for the  
27 placement of insurance in the same or related transaction unless the insurance producer,  
28 prior to the prospective insured's purchase of insurance, has:

29 (a) Obtained the prospective insured's documented acknowledgment that the  
30 compensation will be received by the insurance producer or affiliate; and

31 (b) Disclosed the amount of compensation from the insurer or other third party for  
32 that placement. If the amount of compensation is not known at the time of disclosure, the  
33 insurance producer shall disclose the specific method for calculating the compensation and,  
34 if possible, a reasonable estimate of the amount.

35 (3) A person is not a prospective insured for the purpose of this rule if the person is  
36 merely:

37 (a) A participant or beneficiary of an employee benefit plan; or

38 (b) Covered by a group or blanket insurance policy or group annuity contract sold,  
39 solicited or negotiated by the insurance producer or affiliate.

40 (4) This rule does not apply to:

41 (a) An insurance producer with respect to a transaction to which ORS 735.455,  
42 744.091 or 744.093 applies;

43 (b) An insurance producer when the insurance producer acts only as an  
44 intermediary between an insurer and the prospective insured's insurance producer, such as  
45 a managing general agent, a wholesale insurance producer under ORS 744.093, a surplus

1 **lines licensee when transacting insurance with a producing insurance producer under ORS**  
2 **735.455 or a sales manager;**

3 **(c) An insurance producer with respect to an incidental charge that is received from**  
4 **the prospective insured and is authorized under OAR 836-071-0267; or**

5 **(d) A reinsurance intermediary.**

6 **(5) As used in this rule:**

7 **(a) "Affiliate" means a person that controls, is controlled by or is under common**  
8 **control with the insurance consultant or insurance producer.**

9 **(b) "Compensation from an insurer or other third party" means payments,**  
10 **commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock**  
11 **options, gifts, prizes or any other form of valuable consideration, whether or not payable**  
12 **pursuant to a written agreement.**

13 **(c) "Compensation from a prospective insured" does not include any fee or amount**  
14 **collected by or paid to the insurance producer that does not exceed an amount established**  
15 **by the Director.**

16 Stat. Auth.: ORS 731.244, 744.077 & 744.650

17 Stats. Implemented: ORS 737.205, 742.009, 744.077, 744.650, 746.015

## 18 19 **Insurance Producer Service Fees**

### 20 21 **836-071-0277**

#### 22 **Service Fees Allowed on Commercial Lines; Conditions**

23 (1) Service fees may be charged with respect to the transaction of insurance that covers  
24 other than an individual's person, property, or liability.

25 (2) Except as authorized in ORS 744.091 and 744.093, a service fee may be charged only  
26 in those instances where the insurance producer has provided service additional to what is the  
27 usual and customary practice of insurance producers under similar circumstances. The insurance  
28 producer must give a written explanation of the charge and the reason for it to the person  
29 charged. If OAR 836-071-0260 **or 836-071-0263** applies to the transaction in which a service fee  
30 is charged under this rule, the insurance producer may include the written explanation with the  
31 disclosure required by OAR 836-071-0260 **or 836-071-0263** or provide the written explanation  
32 separately.

33 (3) A service fee may not be charged with respect to arranging the financing of premium  
34 payments. This does not preclude finance charges by insurance producers on their own accounts,  
35 or service charges by premium finance companies, which conform to the provisions of ORS  
36 746.405 to 746.530.

37 Stat. Auth.: ORS 731.244, 744.077 & 744.650

38 Stats. Implemented: ORS 737.205, 742.009, 746.015, 746.405 - 746.525