

State of Vermont
Department of Banking, Insurance, Securities
& Health Care Administration
Insurance Division Regulation 99- 1

Record Retention

SECTION 1. PURPOSE.....	1
SECTION 2. AUTHORITY.....	1
SECTION 3. DEFINITIONS.....	1
SECTION 4. RECORDS TO BE MAINTAINED.....	2
SECTION 5. FORM OF RECORDS.....	5
SECTION 6. PRODUCTION OF RECORDS FOR EXAMINATION.....	5
SECTION 7. RETENTION PERIOD.....	6
SECTION 8. FOREIGN INSURERS.....	7
SECTION 9. EFFECTIVE DATE.....	7
SECTION 10. SEVERABILITY.....	7

Section 1. Purpose

This regulation establishes rules for the preservation and retention of insurer records, including the media that may be used to maintain them, the minimum duration of their retention, and the requirements for their production for examination.

Section 2. Authority

This regulation is promulgated pursuant to the authority vested in the Commissioner of Banking, Insurance, Securities and Health Care Administration by Title 8 V.S.A. sections 75, 3568, 3688, 4812, 5111 and 8014.

Section 3. Definitions

As used in this regulation:

A. “Commissioner” shall mean the Commissioner of Banking, Insurance, Securities and Health Care Administration or his or her authorized designee as provided by applicable law.

B. “Department” shall mean the Department of Banking, Insurance, Securities and Health Care Administration.

C. “Foreign Insurer” shall mean an insurer organized under the laws of a jurisdiction other than Vermont.

D. “Insurer” shall mean any person engaged in the business of insurance in this state. It shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance. The term shall also include entities formed or regulated under Title 8 V.S.A. Chapters 101, 103, 105, 107, 109, 111, 113, 121, 123, 125, 128, 132, 137, 138, 139, 143 and 151. For purposes of this regulation, “insurer” does not include persons required to be licensed under Title 8 V.S.A. Chapters 131 or 142A or entities formed under Title 8 V.S.A. Chapters 141 or 142.

E. “Policy” shall mean any policy, certificate, or contract of insurance, indemnity, medical or hospital service, suretyship or annuity, issued by any insurer, which sets forth the extent of coverage or other rights of the person to whom the policy is issued. The term policy shall also include any evidence of coverage issued by a health maintenance organization or other similar organization to an enrollee.

F. “Producer” shall mean any person required to be licensed under Title 8 V.S.A. Chapter 131 and 142A, as agent, broker, managing general agent or reinsurance intermediary.

G. “Related Entity” shall include any person authorized to act on behalf of an insurer in connection with the business of insurance, but shall not include a producer.

Section 4. Records to be Maintained

A. Each insurer or related entity doing business in this state shall maintain its books, records, documents and other business records so that the insurer’s claims, rating, underwriting, marketing, complaint, and producer licensing records, rates and forms filings and other records subject to examination by the commissioner are readily available to the commissioner. The requirements of this regulation are in addition to any requirements specified by statute or other regulations and do not supersede any more specific requirements as may be contained in those statutes or regulations. Each insurer or related entity shall maintain:

(1) Policy Records. A policy record shall be maintained for each

policy issued to a person who is a resident of or doing business in this state or to insure risks located in this state. Policy records no longer required to be maintained under this regulation, but which are used to rate or underwrite a current policy, must be accessible through current policy records until the policy is no longer required to be maintained. Vermont policy records need not be segregated from the policy records of other states so long as they are readily available to the commissioner as required under this rule. A separate copy need not be maintained in an individual policy record, provided that any data relating to a specific contract or policy is readily retrievable as required by this regulation. Policy records shall include:

- (a) the policy term, basis for rating and, if terminated, the return premium amounts, if any;
 - (b) the application, including any application form or enrollment form for coverage under any insurance contract or policy;
 - (c) declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy;
 - (d) binders if a policy was not issued; and,
 - (e) any other information necessary for the reconstruction of the rating and underwriting of the policy.
- (2) Declined Applications. Applications that were completed and submitted to the insurer, and for which the insurer has made a determination not to issue a policy or not to add requested additional coverage shall be maintained.
- (3) Claims Records. Claims Records shall be maintained so as to show clearly the inception, handling and disposition of each claim.
- (4) Complaint Records. Complaint records shall be maintained for each complaint received. Complaint records shall include:
- (a) written complaints received from the insured, the Department, or any other source and the responses to them;
 - (b) a complaint activity log, including the outcome of each complaint; and,

- (c) the complaint records to be maintained under 8 V.S.A. section 4724 and regulations issued thereunder.
 - (5) Producer licensing records. A producer licensing record shall be maintained for each producer with whom the insurer establishes a relationship. It shall be maintained so as to show clearly the dates of appointment and termination of each producer.
 - (6) Financial Records. Books, records, accounts, papers, documents and any computer or other recordings related to the property, assets, business and affairs of an insurer as necessary to allow the conduct of examinations under the provisions of Vermont law shall be maintained.
 - (7) Rates and Forms Filing Records. Rates and forms filing records shall be preserved and maintained for all rates and forms used, approved, or disapproved for use in this state. Rates and Forms filing records shall include:
 - (a) all information submitted in the filing and in support of the filing;
 - (b) all related correspondence with and by the Department; and,
 - (c) the approval or disapproval of use letter or other evidence regarding the Department's decision.
- B. In addition to the records required by the regulation on trust accounts, each producer shall keep records of the transactions under his or her license. Such records shall include as to each insurance policy or contract, not less than:
- (1) The name, address and telephone number of the insured;
 - (2) The name and address of the insurer;
 - (3) The number and expiration date of the policy or contract;
 - (4) The premium payable as to the policy or contract and the date the premium is received or returned, if applicable;
 - (5) The amount of any commission or other compensation and basis on which it is computed;

(6) The date, time, insurer, insured and coverage of every binder made by the agent; and

(7) The date of any mid-term cancellation.

Section 5. Form of Records

- A. Records required to be preserved and retained by this regulation may be maintained in paper, photograph, microprocess, magnetic, digital, mechanical or electronic media, or in or by any other information storage device or process which forms a durable medium providing reasonable assurances against tampering and degradation of any reproduction of the original record, and which can be accurately transferred to paper in a legible written form within a reasonable time.
- B. Records that bear a signature in their original form must be maintained such that the presence of the signature on the original is noted on any reproductions.
- C. In cases where there is no paper document, an insurer shall be in compliance if it can produce information or data which accurately represents a record of communications between the insured and the insurer or which accurately reflects a transaction or event.
- D. Records maintained in a computer based format shall be archival in nature only, so as to preclude the possibility of alteration of the content of the record by computer once the record has been transferred to that format.
- E. Nothing in this regulation should be interpreted to favor a certain form of record retention.

Section 6. Production of Records

- A. Records required to be retained under this regulation shall be made readily available upon request by the Commissioner.
- B. Insurers domiciled in Vermont must provide requested records within the state upon request of the Commissioner.
- C. An insurer must be able to retrieve, present, or reconstruct any policy, claim, complaint, or application by name of the insured as shown on the policy declarations page and by policy number.
- D. Upon request of the Commissioner, the insurer shall provide a hard copy of the record, or, if the record is maintained in a medium used by the

Commissioner, the Commissioner may authorize the insurer to provide the record in that medium.

Section 7. Retention Period

- A. For records required to be maintained by an insurer or related entity, the following retention periods shall apply.
 - (1) Policy records shall be maintained for the longer of:
 - (a) five years from the expiration date of the policy, or
 - (b) until such time as the insurer is no longer required to maintain a reserve to pay claims under the specific insurance policy.
 - (2) Declined applications shall be maintained for at least 1 year.
 - (3) Claims records shall be maintained for 2 years from the settlement of the last claim filed.
 - (4) Rate and form filing records must be maintained for at least two years after the expiration date of any policy which uses the rate or form, for approved filings, and for six months, for disapproved filings.
 - (5) Financial records shall be maintained:
 - (a) by domestic companies, until they have been subject to an examination and a report of the examination has been made by the Department; or
 - (b) by foreign insurers, as required by the laws of their jurisdiction of domicile.
 - (6) All other records required to be maintained by this regulation shall be maintained for 5 years.
- B. In the case of records required to be maintained by producers under section 4.B of this regulation, records shall be maintained for 3 years after completion of a personal lines transaction and 5 years after completion of a commercial lines transaction. For purposes of this regulation, completion shall occur at the expiration or cancellation of the policy.
- C. Nothing in this regulation is intended to discourage longer retention of

records than required herein. Insurers may find it prudent to use longer retention periods where statutes of limitations do not correspond to the time requirements of this regulation.

Section 8. Foreign Insurers

Foreign insurers may satisfy the requirements of this regulation by:

A. Compliance with the record retention law or regulations of its jurisdiction of domicile; or,

B. If no such law or regulation exists for a class of record described in section 4 of this regulation, compliance with the provisions of this regulation for that class of record or by presenting a statement from the commissioner of its state of domicile that its record retention system is acceptable to its state of domicile; provided, however, that the requirements of this regulation shall be satisfied once a foreign insurer's records have been subject to an examination with a report of examination having been made by the insurer's jurisdiction of domicile.

Section 9. Effective Date

This regulation is effective June 15, 2000 and shall apply to records created on or after that date.

Section 10. Severability

If any provision of this regulation, or the application of it to any person or circumstance is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.