

FINANCIAL RESPONSIBILITY PROGRAMS AND PROCEDURES OVERVIEW

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COMPILED BY INSURANCE INDUSTRY COMMITTEE ON MOTOR VEHICLE ADMINISTRATION (IICMVA)

For detailed state information on future proof of financial responsibility (SR-22/FR-44) filings, please refer to the IICMVA SR-22 Guide located on the Members' Portal of the IICMVA website.

IICMVA was formally organized in January 1968. Prior to this time, industry ad hoc committees were assembled as needed by each jurisdiction to assist with the implementation of compulsory insurance and financial responsibility laws.

Ad hoc committees, which operated at the individual state level, were restrictive and inconsistent in function and composition. IICMVA was formed to provide consistent, industry-wide exchange between the insurance industry and all jurisdictions.

IICMVA's basic organization is built around insurers and insurance trade associations. Property Casualty Insurers Association of America (PCI), the American Insurance Association (AIA), and the National Association of Mutual Insurance companies (NAMIC) comprise the three major trades. Non-affiliated insurers round out the IICMVA roster.

IICMVA is not a lobbying organization. Instead, the Committee serves as a liaison between the insurance industry and state motor vehicle departments in the following subject areas: drivers licensing, vehicle titling/registration, motor vehicle records, compulsory insurance laws, and financial responsibility programs. IICMVA also maintains a close working relationship with the American Association of Motor Vehicle Administrators.

This compilation was developed solely as a resource that might serve as a starting point for research regarding the subjects addressed. It should not be relied upon for any legal or business decisions. This compilation relies upon reported practices of the states and relevant agencies. Actual practices within the states and relevant agencies may vary from what they have reported. While efforts have been made to provide accurate and authoritative information, this compilation does not apply to all lines of business, is only updated periodically, and should not form the sole basis for compliance decisions.

FINANCIAL RESPONSIBILITY

An Overview

Financial Responsibility statutes require owners of motor vehicles to produce proof of financial accountability as a condition to acquiring a license and registration so that judgments rendered against them arising out of the operation of the vehicles may be satisfied. It is generally accepted, as a condition for operating on a state's roadways, a driver has agreed to be financially responsible for any harm or damage caused through the operation of his or her vehicle. A driver may comply with this duty by purchasing "adequate" motor vehicle insurance as defined by a minimum amount identified in a state's statute. A driver who fails to comply with this duty by not having insurance (or an adequate amount of insurance) or who has demonstrated a traffic safety and financial accountability concern to other roadway users through some other action (i.e., accumulation of convictions and/or accident involvement), may be required to satisfy a state's financial responsibility law in order to maintain a driver's license.

Following are four circumstances which may require a driver to show future proof of financial responsibility by filing an SR-22 or FR-44 certificate with the state motor vehicle department in order to maintain a valid driver's license:

1. Convictions

Some states will require a driver convicted of a specific driving offense, such as driving under the influence of alcohol or drugs, reckless driving, or another major driving violation, to comply with that state's financial responsibility requirements. The driver may be required to file a proof of financial responsibility in the form of insurance, securities, cash, or bond for a time period defined by state statute. A driver's failure to submit a valid SR-22 Financial Responsibility filing may result in the suspension of the person's driver license and/or registration plates.

2. Crash or Accident Involvement

A driver who is involved in a crash and who is unable to demonstrate financial accountability (through either insurance or other financial assets), may be required to comply with that state's financial responsibility requirements. The driver may be required to file a proof of financial responsibility in the form of insurance, securities, cash, or bond for a time period defined by state statute. A driver's failure to submit a valid SR-22 Financial Responsibility filing may result in the suspension of the person's driver's license and/or registration plates.

3. Operation of Uninsured Motor Vehicle

In some states when a driver is convicted of driving while uninsured, the driver must comply with the state's financial responsibility requirements. The driver may be required to file a proof of financial responsibility in the form of insurance, securities, cash, or bond, depending on a state's law for a time period defined by state statute. A driver's failure to submit a valid SR-22 Financial Responsibility filing may result in the suspension of the person's driver's license and/or registration plates.

4. Unsatisfied Judgment

When a driver is involved in a motor vehicle crash for which he or she is determined to be at fault and for which the driver is either underinsured or uninsured, a court having jurisdiction over

the matter may render a judgment to the other party (plaintiff) against the driver (defendant) for the cost of damages. The judgment against a driver will state the amount of damages (including in some cases interest) and specify the time period in which the amount must be paid. Should the driver not pay (i.e., satisfy) the judgment within the time specified, the plaintiff can ask the court to request the licensing authority to suspend the defendant's driver's license and/or registration plates.

The defendant will have two options in seeking the restoration of their driver license:

- 1) Pay the judgment in full.
- 2) Enter into a Partial Payment Agreement (PPA) with the plaintiff AND comply with the state's financial responsibility law, which may include:
 - a) Regularly scheduled payments made to the plaintiff, AND
 - b) File proof of financial responsibility (in the form of insurance, securities, cash, or bond, depending on a state's law) with the licensing authority.

Note: Financial Responsibility overview originally compiled and authored by Richard J. Borucki, Michigan Department of State. Amended by IICMVA November 2014.

Certification of liability insurance coverage for the future is a basic element in all financial responsibility laws. In order to reinstate a driving privilege after a driver license suspension, an insurance company is called upon to certify liability coverage for the future, usually three years, for the affected individual. While the basic certification concept is for the most part rather uniform among the states having financial responsibility laws, there are a number of procedural variations.

The National Committee on Uniform Traffic Laws and Ordinances created the Uniform Vehicle Code and Model Traffic Ordinances to address governing vehicles on roadways. Although this committee suspended operations in 2008, many current state financial responsibility laws adopted, in whole or in part, provisions from Chapter 7 Financial Responsibility Laws of the model code.

Future proof of insurance is a critical feature in the enforcement of the sanctions contained in financial responsibility laws. When an insurer files certification of insurance with a state, it is, in effect, guaranteeing future liability coverage for the named individual. State statutes commonly contain a provision providing the act of certification creates a "motor vehicle liability policy" under which:

"The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be cancelled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy."

Whenever an insurer files a financial responsibility certification, it is essentially “on the risk” for the state's minimum financial responsibility limits until it files a cancellation notice with the state. Most state statutes commonly read similar to the following:

“An insurer may not terminate a motor vehicle liability policy unless the insurer files with the department a notice of termination within 10 days after the effective date of termination. A motor vehicle liability policy subsequently procured shall on the effective date of its certification terminate the insurance previously certified.”

More commonly, the state will require advance notice of termination of the financial responsibility filing. Failure by an insurer to file a cancellation notice, as required, can result in an indefinite extension of the coverage so certified.

In order to administer the above quoted provisions of the financial responsibility law, standard procedures and forms were developed many years ago for use by the states and insurers. The Procedures Guide covers all types of future proof filings regardless of the forms terminology that may be in effect in any given state.

While the most common certificate in use is the AAMVA Uniform Financial Responsibility Form SR-22, there are two basic variations on the use of this form (or electronic file.) The most commonly used is the specified vehicle version in which one or more motor vehicles are described on the SR-22. The other approach is the so-called all-inclusive in which the form applies to all owned vehicles. There is also a semi-all-inclusive version which differs from the all-inclusive in that it certifies coverage for all vehicles insured by the filing company as opposed to all vehicles owned by the individual in the case of the all-inclusive filing.

The most commonly used forms are the SR-22 certificate and the SR-26 termination notice. The SR-23 is used when a fleet risk is involved. The SR-24 was originally designed to be a notice of change of motor vehicle. In recent years the use of the SR-24 has almost disappeared. When notification of a change of vehicle is required by the state, a replacement SR-22 is generally utilized. In a few jurisdictions, a change of vehicle requires an SR-26 and SR-22.

Electronic transmission of SR-22 certificates is gradually replacing paper processes. Further information detailing electronic transmission availability (mandatory or optional) is provided in the IICMVA SR-22 Guide, which is located in the Members' Portal of the IICMVA website.

Finally, special note should be made of the situation in which an individual certified for future proof in one state moves to another state. A person needs a future proof financial responsibility certificate because of either an actual or pending driver's license suspension. The suspension action is lifted upon receipt of the certificate by the state agency and is re-imposed if the filing is terminated by the insurer during the filing requirement period. If a person changes state of residence while a certificate is in effect, the insurer may terminate coverage (termination is required if an automobile insurance plan policy (assigned risk) is involved or the company does not do business in the new state) when notified of the change of address. This results in the reimposition of the driver's license suspension. Depending on the states involved, a new certificate may have to be filed in the old state, new state, both states or neither one. When called

upon to make a filing in a state other than the current residence state in which the policy is issued, an insurer may submit an out-of-state filing, provided it is licensed to write automobile insurance there. A policy does not necessarily have to be written in the same state where a filing is required. In any specific instance of a filing problem involving an interstate change of residence, the Financial Responsibility administrators in each state should be contacted to determine the appropriate handling necessary to resolve the problem.

Notices Used

The following notices are used as proof of insurance. Not all states use each of the notices.

SR-21 - Notice of Policy

This form shows that the Company has issued an automobile policy with limits of liability at least equal to the limits required by the financial responsibility laws of the state and is commonly required after an accident or a traffic stop. States handle via either electronic files or paper forms.

SR-22 - Certificate of Insurance

This form provides evidence of insurance when an insured is required to furnish proof of financial responsibility for the future. Because of the added costs and reasons involved in filing an SR-22 form, many states allow an additional charge to the insured. States handle via either electronic files or paper forms.

SR-22A - Certificate of Insurance

This form is used in place of or in addition to the uniform SR-22 when future proof of financial responsibility is needed because of certain offenses in Georgia and Texas.

SR-23 - Notice for Fleets

This form is filed at the inception date of a policy insuring multiple automobiles, usually 5 or more, however this varies by state. It shows that a policy with limits of liability at least equal to the limits required by state law has been issued. If an accident report form indicates that an SR-23 is on file, the insurance information does not have to be completed. Determine if the SR-23 applies in your state for fleet FR filings.

SR-24 - Notice of Change of Vehicle – Rarely used, as a state may accept another method such as an amended SR-22.

This form is filed to indicate a transfer of coverage when the insured replaces a vehicle for which an SR-22 form was previously filed. This form is completed the same way as the SR-22 form.

SR-26 - Notice of Cancellation or Termination

This form provides notice of cancellation or termination of the SR-22 and SR-23 forms previously filed with the state. The effective date of cancellation or termination is shown on the SR-26. This form is filed before or after the cancellation or termination date depending on the requirements of the financial responsibility laws or regulations of the state.

Important

It is critical that this form be filed when the policy is terminated. Insurer may continue to have exposure under the policy for the vehicle listed on the SR-22 or similar notice until the SR-26 form is submitted, even if insurer has sent a termination notice on the policy.

FR-44 - Financial Responsibility for Major Driving Convictions

This form provides evidence of insurance when an insured is required to furnish proof of financial responsibility with higher minimum liability limits. The FR-44 is required when the owner or driver of a car is convicted of certain offenses. The FR-44 filing is currently only used in Florida and Virginia.

FR-46 - Notice of Cancellation or Termination of FR-44 Filing

This form provides notice of cancellation or termination of the FR-46 form previously filed with the state. An FR-46 form must be filed with the state when the FR-44 form is no longer effective.

Important

It is critical that this form be filed when the policy is terminated. Insurer may continue to have exposure under the policy for the vehicle listed on the FR-44 or similar notice until the FR-46 form is submitted, even if insurer has sent a termination notice on the policy. The FR-46 filing is currently only used in Florida and Virginia.