
ENGROSSED SUBSTITUTE HOUSE BILL 1899

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, L. Thomas, Carrell, Wolfe, Grant and Sullivan)

Read first time 02/26/97.

1 AN ACT Relating to life insurance illustrations; adding a new
2 chapter to Title 48 RCW; prescribing penalties; and providing an
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The purpose of this chapter is to provide
6 standards for life insurance policy illustrations that will protect
7 consumers and foster consumer education by providing illustration
8 formats, prescribing standards to be followed when illustrations are
9 used, and specifying the disclosures that are required in connection
10 with illustrations. The goals of these standards are to ensure that
11 illustrations do not mislead purchasers of life insurance and to make
12 illustrations more understandable. Insurers will, as far as possible,
13 eliminate the use of footnotes and caveates and define terms used in
14 the illustration in language that would be understood by a typical
15 person within the segment of the public to which the illustration is
16 directed.

17 NEW SECTION. **Sec. 2.** This chapter applies to all group and
18 individual life insurance policies and certificates except:

- 1 (1) Variable life insurance;
- 2 (2) Individual and group annuity contracts;
- 3 (3) Credit life insurance; or
- 4 (4) Life insurance policies with no illustrated death benefits on
- 5 any individual exceeding ten thousand dollars.

6 NEW SECTION. **Sec. 3.** The definitions in this section apply
7 throughout this chapter unless the context requires otherwise.

8 (1) "Actuarial standards board" means the board established by the
9 American academy of actuaries to develop and adopt standards of
10 actuarial practice.

11 (2) "Contract premium" means the gross premium that is required to
12 be paid under a fixed premium policy, including the premium for a rider
13 for which benefits are shown in the illustration.

14 (3) "Currently payable scale" means a scale of nonguaranteed
15 elements in effect for a policy form as of the preparation date of the
16 illustration or declared to become effective within the next ninety-
17 five days.

18 (4) "Disciplined current scale" means a scale of nonguaranteed
19 elements constituting a limit on illustrations currently being
20 illustrated by an insurer that is reasonably based on actual recent
21 historical experience, as certified annually by an illustration actuary
22 designated by the insurer. Further guidance in determining the
23 disciplined current scale as contained in standards established by the
24 actuarial standards board may be relied upon if the standards:

25 (a) Are consistent with all provisions of this chapter;

26 (b) Limit a disciplined current scale to reflect only actions that
27 have already been taken or events that have already occurred;

28 (c) Do not permit a disciplined current scale to include any
29 projected trends of improvements in experience or any assumed
30 improvements in experience beyond the illustration date; and

31 (d) Do not permit assumed expenses to be less than minimum assumed
32 expenses.

33 (5) "Generic name" means a short title descriptive of the policy
34 being illustrated, such as whole life, term life, or flexible premium
35 adjustable life.

36 (6) "Guaranteed elements" means the premiums, benefits, values,
37 credits, or charges under a policy of life insurance that are
38 guaranteed and determined at issue.

1 (7) "Nonguaranteed elements" means the premiums, benefits, values,
2 credits, or charges under a policy of life insurance that are not
3 guaranteed or not determined at issue.

4 (8) "Illustrated scale" means a scale of nonguaranteed elements
5 currently being illustrated that is not more favorable to the policy
6 owner than the lesser of:

7 (a) The disciplined current scale; or

8 (b) The currently payable scale.

9 (9) "Illustration" means a presentation or depiction that includes
10 nonguaranteed elements of a policy of life insurance over a period of
11 years and that is one of the three types defined below:

12 (a) "Basic illustration" means a ledger or proposal used in the
13 sale of a life insurance policy that shows both guaranteed and
14 nonguaranteed elements.

15 (b) "Supplemental illustration" means an illustration furnished in
16 addition to a basic illustration that meets the applicable requirements
17 of this chapter, and that may be presented in a format differing from
18 the basic illustration, but may only depict a scale of nonguaranteed
19 elements that is permitted in a basic illustration.

20 (c) "In-force illustration" means an illustration furnished at any
21 time after the policy that it depicts has been in force for one year or
22 more.

23 (10) "Illustration actuary" means an actuary meeting the
24 requirements of section 10 of this act who certifies to illustrations
25 based on the standard of practice adopted by the actuarial standards
26 board.

27 (11) "Lapse-supported illustration" means an illustration of a
28 policy form failing the test of self-supporting, as defined in this
29 section, under a modified persistency rate assumption using persistency
30 rates underlying the disciplined current scale for the first five years
31 and one hundred percent policy persistency thereafter.

32 (a) "Minimum assumed expenses" means the minimum expenses that may
33 be used in the calculation of the disciplined current scale for a
34 policy form. The insurer may choose to designate each year the method
35 of determining assumed expenses for all policy forms from the
36 following:

37 (i) Fully allocated expenses;

38 (ii) Marginal expenses; and

1 (iii) A generally recognized expense table based on fully allocated
2 expenses representing a significant portion of insurance companies and
3 approved by the national association of insurance commissioners.

4 (b) Marginal expenses may be used only if greater than a generally
5 recognized expense table. If no generally recognized expense table is
6 approved, fully allocated expenses must be used.

7 (12) "Nonterm group life" means a group policy or individual
8 policies of life insurance issued to members of an employer group or
9 other permitted group where:

10 (a) Every plan of coverage was selected by the employer or other
11 group representative;

12 (b) Some portion of the premium is paid by the group or through
13 payroll deduction; and

14 (c) Group underwriting or simplified underwriting is used.

15 (13) "Policy owner" means the owner named in the policy or the
16 certificate holder in the case of a group policy.

17 (14) "Premium outlay" means the amount of premium assumed to be
18 paid by the policy owner or other premium payer out-of-pocket.

19 (15) "Self-supporting illustration" means an illustration of a
20 policy form for which it can be demonstrated that, when using
21 experience assumptions underlying the disciplined current scale, for
22 all illustrated points in time on or after the fifteenth policy
23 anniversary or the twentieth policy anniversary for second-or-later-to-
24 die policies, or upon policy expiration if sooner, the accumulated
25 value of all policy cash flows equals or exceeds the total policy owner
26 value available. For this purpose, policy owner value will include
27 cash surrender values and any other illustrated benefit amounts
28 available at the policy owner's election.

29 NEW SECTION. **Sec. 4.** (1) Each insurer marketing policies to which
30 this chapter is applicable shall notify the commissioner whether a
31 policy form is to be marketed with or without an illustration. For all
32 policy forms being actively marketed on the effective date of this act,
33 the insurer shall identify in writing those forms and whether or not an
34 illustration will be used with them. For policy forms filed after the
35 effective date of this act, the identification shall be made at the
36 time of filing. Any previous identification may be changed by notice
37 to the commissioner.

1 (2) If the insurer identifies a policy form as one to be marketed
2 without an illustration, any use of an illustration for any policy
3 using that form prior to the first policy anniversary is prohibited.

4 (3) If a policy form is identified by the insurer as one to be
5 marketed with an illustration, a basic illustration prepared and
6 delivered in accordance with this chapter is required, except that a
7 basic illustration need not be provided to individual members of a
8 group or to individuals insured under multiple lives coverage issued to
9 a single applicant unless the coverage is marketed to these
10 individuals. The illustration furnished an applicant for a group life
11 insurance policy or policies issued to a single applicant on multiple
12 lives may be either an individual or composite illustration
13 representative of the coverage on the lives of members of the group or
14 the multiple lives covered.

15 (4) Potential enrollees of nonterm group life subject to this
16 chapter shall be furnished a quotation with the enrollment materials.
17 The quotation shall show potential policy values for sample ages and
18 policy years on a guaranteed and nonguaranteed basis appropriate to the
19 group and the coverage. This quotation is not considered an
20 illustration for purposes of this chapter, but all information provided
21 shall be consistent with the illustrated scale. A basic illustration
22 shall be provided at delivery of the certificate to enrollees for
23 nonterm group life who enroll for more than the minimum premium
24 necessary to provide pure death benefit protection. In addition, the
25 insurer shall make a basic illustration available to any nonterm group
26 life enrollee who requests it.

27 NEW SECTION. **Sec. 5.** (1) An illustration used in the sale of a
28 life insurance policy shall satisfy the applicable requirements of this
29 chapter, be clearly labeled "life insurance illustration," and contain
30 the following basic information:

31 (a) Name of insurer;

32 (b) Name and business address of producer or insurer's authorized
33 representative, if any;

34 (c) Name, age, and sex of proposed insured, except where a
35 composite illustration is permitted under this chapter;

36 (d) Underwriting or rating classification upon which the
37 illustration is based;

1 (e) Generic name of policy, the company product name, if different,
2 and form number;

3 (f) Initial death benefit; and

4 (g) Dividend option election or application of nonguaranteed
5 elements, if applicable.

6 (2) When using an illustration in the sale of a life insurance
7 policy, an insurer or its producers or other authorized representatives
8 shall not:

9 (a) Represent the policy as anything other than life insurance
10 policy;

11 (b) Use or describe nonguaranteed elements in a manner that is
12 misleading or has the capacity or tendency to mislead;

13 (c) State or imply that the payment or amount of nonguaranteed
14 elements is guaranteed;

15 (d) Use an illustration that does not comply with the requirements
16 of this chapter;

17 (e) Use an illustration that at any policy duration depicts policy
18 performance more favorable to the policy owner than that produced by
19 the illustrated scale of the insurer whose policy is being illustrated;

20 (f) Provide an applicant with an incomplete illustration;

21 (g) Represent in any way that premium payments will not be required
22 for each year of the policy in order to maintain the illustrated death
23 benefits, unless that is the fact;

24 (h) Use the term "vanish" or "vanishing premium," or a similar term
25 that implies the policy becomes paid up, to describe a plan for using
26 nonguaranteed elements to pay a portion of future premiums;

27 (i) Except for policies that can never develop nonforfeiture
28 values, use an illustration that is "lapse-supported"; or

29 (j) Use an illustration that is not "self-supporting."

30 (3) If an interest rate used to determine the illustrated
31 nonguaranteed elements is shown, it shall not be greater than the
32 earned interest rate underlying the disciplined current scale.

33 NEW SECTION. **Sec. 6.** (1) A basic illustration shall conform with
34 the following requirements:

35 (a) The illustration shall be labeled with the date on which it was
36 prepared.

37 (b) Each page, including any explanatory notes or pages, shall be
38 numbered and show its relationship to the total number of pages in the

1 illustration (for example, the fourth page of a seven-page illustration
2 shall be labeled "page 4 of 7 pages").

3 (c) The assumed dates of payment receipt and benefit payout within
4 a policy year shall be clearly identified.

5 (d) If the age of the proposed insured is shown as a component of
6 the tabular detail, it shall be issue age plus the numbers of years the
7 policy is assumed to have been in force.

8 (e) The assumed payments on which the illustrated benefits and
9 values are based shall be identified as premium outlay or contract
10 premium, as applicable. For policies that do not require a specific
11 contract premium, the illustrated payments shall be identified as
12 premium outlay.

13 (f) Guaranteed death benefits and values available upon surrender,
14 if any, for the illustrated premium outlay or contract premium shall be
15 shown and clearly labeled guaranteed.

16 (g) If the illustration shows any nonguaranteed elements, they
17 cannot be based on a scale more favorable to the policy owner than the
18 insurer's illustrated scale at any duration. These elements shall be
19 clearly labeled nonguaranteed.

20 (h) The guaranteed elements, if any, shall be shown before
21 corresponding nonguaranteed elements and shall be specifically referred
22 to on any page of an illustration that shows or describes only the
23 nonguaranteed elements (for example, "see page one for guaranteed
24 elements").

25 (i) The account or accumulation value of a policy, if shown, shall
26 be identified by the name this value is given in the policy being
27 illustrated and shown in close proximity to the corresponding value
28 available upon surrender.

29 (j) The value available upon surrender shall be identified by the
30 name this value is given in the policy being illustrated and shall be
31 the amount available to the policy owner in a lump sum after deduction
32 of surrender charges, policy loans, and policy loan interest, as
33 applicable.

34 (k) Illustrations may show policy benefits and values in graphic or
35 chart form in addition to the tabular form.

36 (l) Any illustration of nonguaranteed elements shall be accompanied
37 by a statement indicating that:

38 (i) The benefits and values are not guaranteed;

1 (ii) The assumptions on which they are based are subject to change
2 by the insurer; and

3 (iii) Actual results may be more or less favorable.

4 (m) If the illustration shows that the premium payer may have the
5 option to allow policy charges to be paid using nonguaranteed values,
6 the illustration must clearly disclose that a charge continues to be
7 required and that, depending on actual results, the premium payer may
8 need to continue or resume premium outlays. Similar disclosure shall
9 be made for premium outlay of lesser amounts or shorter durations than
10 the contract premium. If a contract premium is due, the premium outlay
11 display shall not be left blank or show zero unless accompanied by an
12 asterisk or similar mark to draw attention to the fact that the policy
13 is not paid up.

14 (n) If the applicant plans to use dividends or policy values,
15 guaranteed or nonguaranteed, to pay all or a portion of the contract
16 premium or policy charges, or for any other purpose, the illustration
17 may reflect those plans and the impact on future policy benefits and
18 values.

19 (2) A basic illustration shall include the following:

20 (a) A brief description of the policy being illustrated, including
21 a statement that it is a life insurance policy;

22 (b) A brief description of the premium outlay or contract premium,
23 as applicable, for the policy. For a policy that does not require
24 payment of a specific contract premium, the illustration shall show the
25 premium outlay that must be paid to guarantee coverage for the term of
26 the contract, subject to maximum premiums allowable to qualify as a
27 life insurance policy under the applicable provisions of the internal
28 revenue code;

29 (c) A brief description of any policy features, riders, or options,
30 guaranteed or nonguaranteed, shown in the basic illustration and the
31 impact they may have on the benefits and values of the policy;

32 (d) Identification and a brief definition of column headings and
33 key terms used in the illustration; and

34 (e) A statement containing in substance the following: "This
35 illustration assumes that the currently illustrated, nonguaranteed
36 elements will continue unchanged for all years shown. This is not
37 likely to occur, and actual results may be more or less favorable than
38 those shown."

1 (3)(a) Following the narrative summary, a basic illustration shall
2 include a numeric summary of the death benefits and values and the
3 premium outlay and contract premium, as applicable. For a policy that
4 provides for a contract premium, the guaranteed death benefits and
5 values shall be based on the contract premium. This summary shall be
6 shown for at least policy years five, ten, and twenty and at age
7 seventy, if applicable, on the three bases shown below. For multiple
8 life policies the summary shall show policy years five, ten, twenty,
9 and thirty.

10 (i) Policy guarantees;

11 (ii) Insurer's illustrated scale;

12 (iii) Insurer's illustrated scale used but with the nonguaranteed
13 elements reduced as follows:

14 (A) Dividends at fifty percent of the dividends contained in the
15 illustrated scale used;

16 (B) Nonguaranteed credited interest at rates that are the average
17 of the guaranteed rates and the rates contained in the illustrated
18 scale used; and

19 (C) All nonguaranteed charges, including but not limited to, term
20 insurance charges and mortality and expense charges, at rates that are
21 the average of the guaranteed rates and the rates contained in the
22 illustrated scale used.

23 (b) In addition, if coverage would cease prior to policy maturity
24 or age one hundred, the year in which coverage ceases shall be
25 identified for each of the three bases.

26 (4) Statements substantially similar to the following shall be
27 included on the same page as the numeric summary and signed by the
28 applicant, or the policy owner in the case of an illustration provided
29 at time of delivery, as required in this chapter.

30 (a) A statement to be signed and dated by the applicant or policy
31 owner reading as follows: "I have received a copy of this illustration
32 and understand that any nonguaranteed elements illustrated are subject
33 to change and could be either higher or lower. The agent has told me
34 they are not guaranteed."

35 (b) A statement to be signed and dated by the insurance producer or
36 other authorized representative of the insurer reading as follows: "I
37 certify that this illustration has been presented to the applicant and
38 that I have explained that any nonguaranteed elements illustrated are

1 subject to change. I have made no statements that are inconsistent
2 with the illustration."

3 (5)(a) A basic illustration shall include the following for at
4 least each policy year from one to ten and for every fifth policy year
5 thereafter ending at age one hundred, policy maturity, or final
6 expiration; and except for term insurance beyond the twentieth year,
7 for any year in which the premium outlay and contract premium, if
8 applicable, is to change:

9 (i) The premium outlay and mode the applicant plans to pay and the
10 contract premium, as applicable;

11 (ii) The corresponding guaranteed death benefit, as provided in the
12 policy; and

13 (iii) The corresponding guaranteed value available upon surrender,
14 as provided in the policy.

15 (b) For a policy that provides for a contract premium, the
16 guaranteed death benefit and value available upon surrender shall
17 correspond to the contract premium.

18 (c) Nonguaranteed elements may be shown if described in the
19 contract. In the case of an illustration for a policy on which the
20 insurer intends to credit terminal dividends, they may be shown if the
21 insurer's current practice is to pay terminal dividends. If any
22 nonguaranteed elements are shown, they must be shown at the same
23 durations as the corresponding guaranteed elements, if any. If no
24 guaranteed benefit or value is available at any duration for which a
25 nonguaranteed benefit or value is shown, a zero shall be displayed in
26 the guaranteed column.

27 NEW SECTION. **Sec. 7.** (1) A supplemental illustration may be
28 provided so long as:

29 (a) It is appended to, accompanied by, or preceded by a basic
30 illustration that complies with this chapter;

31 (b) The nonguaranteed elements shown are not more favorable to the
32 policy owner than the corresponding elements based on the scale used in
33 the basic illustration;

34 (c) It contains the same statement required of a basic illustration
35 that nonguaranteed elements are not guaranteed; and

36 (d) For a policy that has a contract premium, the contract premium
37 underlying the supplemental illustration is equal to the contract
38 premium shown in the basic illustration. For policies that do not

1 require a contract premium, the premium outlay underlying the
2 supplemental illustration shall be equal to the premium outlay shown in
3 the basic illustration.

4 (2) The supplemental illustration shall include a notice referring
5 to the basic illustration for guaranteed elements and other important
6 information.

7 NEW SECTION. **Sec. 8.** (1)(a) If a basic illustration is used by an
8 insurance producer or other authorized representative of the insurer in
9 the sale of a life insurance policy and the policy is applied for as
10 illustrated, a copy of that illustration, signed in accordance with
11 this chapter, shall be submitted to the insurer at the time of policy
12 application. A copy shall also be provided to the applicant.

13 (b) If the policy is issued other than as applied for, a revised
14 basic illustration conforming to the policy as issued shall be sent
15 with the policy. The revised illustration shall conform to the
16 requirements of this chapter, be labeled "revised illustration," and be
17 signed and dated by the applicant or policy owner and producer or other
18 authorized representative of the insurer no later than the time the
19 policy is delivered. A copy shall be provided to the insurer and the
20 policy owner.

21 (2)(a) If no illustration is used by an insurance producer or other
22 authorized representative in the sale of a life insurance policy, or if
23 the policy is applied for other than as illustrated, the producer or
24 representative shall certify to that effect in writing on a form
25 provided by the insurer. On the same form the applicant shall
26 acknowledge that no illustration conforming to the policy applied for
27 was provided and shall further acknowledge an understanding that an
28 illustration conforming to the policy as issued will be provided no
29 later than at the time of policy delivery. This form shall be
30 submitted to the insurer at the time of policy application.

31 (b) If the policy is issued, a basic illustration conforming to the
32 policy as issued shall be sent with the policy and signed no later than
33 the time the policy is delivered. A copy shall be provided to the
34 insurer and the policy owner.

35 (3) If the basic illustration or revised illustration is sent to
36 the applicant or policy owner by mail from the insurer, it shall
37 include instructions for the applicant or policy owner to sign the
38 duplicate copy of the numeric summary page of the illustration for the

1 policy issued and return the signed copy to the insurer. The insurer's
2 obligation under this subsection is satisfied if it can demonstrate
3 that it has made a diligent effort to secure a signed copy of the
4 numeric summary page. The requirement to make a diligent effort shall
5 be deemed satisfied if the insurer includes in the mailing a self-
6 addressed, postage prepaid envelope with instructions for the return of
7 the signed numeric summary page.

8 (4) A copy of the basic illustration and a revised basic
9 illustration, if any, signed as applicable, along with any
10 certification that either no illustration was used or that the policy
11 was applied for other than as illustrated, shall be retained by the
12 insurer until three years after the policy is no longer in force. A
13 copy need not be retained if no policy is issued.

14 NEW SECTION. **Sec. 9.** (1) In the case of a policy designated as
15 one for which illustrations will be used, the insurer shall provide
16 each policy owner with an annual report on the status of the policy
17 that shall contain at least the following information:

18 (a) For universal life policies, the report shall include the
19 following:

20 (i) The beginning and end date of the current report period;

21 (ii) The policy value at the end of the previous report period and
22 at the end of the current report period;

23 (iii) The total amounts that have been credited or debited to the
24 policy value during the current report period, identifying each type,
25 such as interest, mortality, expense, and riders;

26 (iv) The current death benefit at the end of the current report
27 period on each life covered by the policy;

28 (v) The net cash surrender value of the policy as of the end of the
29 current report period;

30 (vi) The amount of outstanding loans, if any, as of the end of the
31 current report period; and

32 (vii) For fixed premium policies: If, assuming guaranteed
33 interest, mortality, and expense loads and continued scheduled premium
34 payments, the policy's net cash surrender value is such that it would
35 not maintain insurance in force until the end of the next reporting
36 period, a notice to this effect shall be included in the report; or

37 (viii) For flexible premium policies: If, assuming guaranteed
38 interest, mortality, and expense loads, the policy's net cash surrender

1 value will not maintain insurance in force until the end of the next
2 reporting period unless further premium payments are made, a notice to
3 this effect shall be included in the report.

4 (b) For all other policies, where applicable:

5 (i) Current death benefit;

6 (ii) Annual contract premium;

7 (iii) Current cash surrender value;

8 (iv) Current dividend;

9 (v) Application of current dividend; and

10 (vi) Amount of outstanding loan.

11 (c) Insurers writing life insurance policies that do not build
12 nonforfeiture values shall only be required to provide an annual report
13 with respect to these policies for those years when a change has been
14 made to nonguaranteed policy elements by the insurer.

15 (2) If the annual report does not include an in-force illustration,
16 it shall contain the following notice displayed prominently:
17 "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more
18 detailed information about your policy to understand how it may perform
19 in the future. You should not consider replacement of your policy or
20 make changes in your coverage without requesting a current
21 illustration. You may annually request, without charge, such an
22 illustration by calling (insurer's phone number), writing to (insurer's
23 name) at (insurer's address) or contacting your agent. If you do not
24 receive a current illustration of your policy within 30 days from your
25 request, you should contact your state insurance department." The
26 insurer may vary the sequential order of the methods for obtaining an
27 in-force illustration.

28 (3) Upon the request of the policy owner, the insurer shall furnish
29 an in-force illustration of current and future benefits and values
30 based on the insurer's present illustrated scale. This illustration
31 shall comply with the requirements of sections 5 (1) and (2) and 6 (1)
32 and (5) of this act. No signature or other acknowledgment of receipt
33 of this illustration shall be required.

34 (4) If an adverse change in nonguaranteed elements that could
35 affect the policy has been made by the insurer since the last annual
36 report, the annual report shall contain a notice of that fact and the
37 nature of the change prominently displayed.

1 NEW SECTION. **Sec. 10.** (1) The board of directors of each insurer
2 shall appoint one or more illustration actuaries.

3 (2) The illustration actuary shall certify that the disciplined
4 current scale used in illustrations is in conformity with the actuarial
5 standard of practice for compliance with the national association of
6 insurance commissioners model regulation on life insurance
7 illustrations adopted by the actuarial standards board, and that the
8 illustrated scales used in insurer-authorized illustrations meet the
9 requirements of this chapter.

10 (3) The illustration actuary shall:

11 (a) Be a member in good standing of the American academy of
12 actuaries;

13 (b) Be familiar with the standard of practice regarding life
14 insurance policy illustrations;

15 (c) Not have been found by the commissioner, following appropriate
16 notice and hearing to have:

17 (i) Violated any provision of, or any obligation imposed by, the
18 insurance law or other law in the course of his or her dealings as an
19 illustration actuary;

20 (ii) Been found guilty of fraudulent or dishonest practices;

21 (iii) Demonstrated his or her incompetence, lack of cooperation, or
22 untrustworthiness to act as an illustration actuary; or

23 (iv) Resigned or been removed as an illustration actuary within the
24 past five years as a result of acts or omissions indicated in any
25 adverse report on examination or as a result of a failure to adhere to
26 generally acceptable actuarial standards;

27 (d) Not fail to notify the commissioner of any action taken by a
28 commissioner of another state similar to that under (c) of this
29 subsection;

30 (e) Disclose in the annual certification whether, since the last
31 certification, a currently payable scale applicable for business issued
32 within the previous five years and within the scope of the
33 certification has been reduced for reasons other than changes in the
34 experience factors underlying the disciplined current scale. If
35 nonguaranteed elements illustrated for new policies are not consistent
36 with those illustrated for similar in-force policies, this must be
37 disclosed in the annual certification. If nonguaranteed elements
38 illustrated for both new and in-force policies are not consistent with
39 the nonguaranteed elements actually being paid, charged, or credited to

1 the same or similar forms, this must be disclosed in the annual
2 certification; and

3 (f) Disclose in the annual certification the method used to
4 allocate overhead expenses for all illustrations:

5 (i) Fully allocated expenses;

6 (ii) Marginal expenses; or

7 (iii) A generally recognized expense table based on fully allocated
8 expenses representing a significant portion of insurance companies and
9 approved by the national association of insurance commissioners.

10 (4)(a) The illustration actuary shall file a certification with the
11 board of directors and with the commissioner:

12 (i) Annually for all policy forms for which illustrations are used;
13 and

14 (ii) Before a new policy form is illustrated.

15 (b) If an error in a previous certification is discovered, the
16 illustration actuary shall notify the board of directors of the insurer
17 and the commissioner promptly.

18 (5) If an illustration actuary is unable to certify the scale for
19 any policy form illustration the insurer intends to use, the actuary
20 shall notify the board of directors of the insurer and the commissioner
21 promptly of his or her inability to certify.

22 (6) A responsible officer of the insurer, other than the
23 illustration actuary, shall certify annually:

24 (a) That the illustration formats meet the requirements of this
25 chapter and that the scales used in insurer-authorized illustrations
26 are those scales certified by the illustration actuary; and

27 (b) That the company has provided its agents with information about
28 the expense allocation method used by the company in its illustrations
29 and disclosed as required in subsection (3)(f) of this section.

30 (7) The annual certifications shall be provided to the commissioner
31 each year by a date determined by the insurer.

32 (8) If an insurer changes the illustration actuary responsible for
33 all or a portion of the company's policy forms, the insurer shall
34 notify the commissioner of that fact promptly and disclose the reason
35 for the change.

36 NEW SECTION. **Sec. 11.** In addition to any other penalties provided
37 by law, an insurer or producer that violates a requirement of this
38 chapter is guilty of a violation of RCW 48.30.010(1).

1 NEW SECTION. **Sec. 12.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 13.** This act takes effect January 1, 1998, and
6 applies to policies sold on or after January 1, 1998.

7 NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act
8 constitute a new chapter in Title 48 RCW.

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