
HOUSE BILL 1899

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By Representatives Zellinsky, L. Thomas, Carrell, Wolfe, Grant and Sullivan

Read first time 02/12/97. Referred to Committee on Financial Institutions & Insurance.

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.

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

- 15 (1) Variable life insurance;
16 (2) Individual and group annuity contracts;
17 (3) Credit life insurance; or

1 (4) Life insurance policies with no illustrated death benefits on
2 any individual exceeding ten thousand dollars.

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

5 (1) "Actuarial standards board" means the board established by the
6 American academy of actuaries to develop and adopt standards of
7 actuarial practice.

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

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

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

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

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

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

28 (d) Do not permit assumed expenses to be less than minimum assumed
29 expenses.

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

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

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

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

4 (a) The disciplined current scale; or

5 (b) The currently payable scale.

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

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

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

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

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

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

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

34 (i) Fully allocated expenses;

35 (ii) Marginal expenses; and

36 (iii) A generally recognized expense table based on fully allocated
37 expenses representing a significant portion of insurance companies and
38 the national association of insurance commissioners.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 28 (a) Name of insurer;
- 29 (b) Name and business address of producer or insurer's authorized
30 representative, if any;
- 31 (c) Name, age, and sex of proposed insured, except where a
32 composite illustration is permitted under this chapter;
- 33 (d) Underwriting or rating classification upon which the
34 illustration is based;
- 35 (e) Generic name of policy, the company product name, if different,
36 and form number;
- 37 (f) Initial death benefit; and

1 (g) Dividend option election or application of nonguaranteed
2 elements, if applicable.

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

6 (a) Represent the policy as anything other than life insurance
7 policy;

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

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

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

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

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

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

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

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

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

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

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

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

34 (b) Each page, including any explanatory notes or pages, shall be
35 numbered and show its relationship to the total number of pages in the
36 illustration (for example, the fourth page of a seven-page illustration
37 shall be labeled "page 4 of 7 pages").

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (3)(a) Following the narrative summary, a basic illustration shall
37 include a numeric summary of the death benefits and values and the
38 premium outlay and contract premium, as applicable. For a policy that
39 provides for a contract premium, the guaranteed death benefits and

1 values shall be based on the contract premium. This summary shall be
2 shown for at least policy years five, ten, and twenty and at age
3 seventy, if applicable, on the three bases shown below. For multiple
4 life policies the summary shall show policy years five, ten, twenty,
5 and thirty.

6 (i) Policy guarantees;

7 (ii) Insurer's illustrated scale;

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

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

12 (B) Nonguaranteed credited interest at rates that are the average
13 of the guaranteed rates and the rates contained in the illustrated
14 scale used; and

15 (C) All nonguaranteed charges, including but not limited to, term
16 insurance charges and mortality and expense charges, at rates that are
17 the average of the guaranteed rates and the rates contained in the
18 illustrated scale used.

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

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

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

31 (b) A statement to be signed and dated by the insurance producer or
32 other authorized representative of the insurer reading as follows: "I
33 certify that this illustration has been presented to the applicant and
34 that I have explained that any nonguaranteed elements illustrated are
35 subject to change. I have made no statements that are inconsistent
36 with the illustration."

37 (5)(a) A basic illustration shall include the following for at
38 least each policy year from one to ten and for every fifth policy year
39 thereafter ending at age one hundred, policy maturity, or final

1 expiration; and except for term insurance beyond the twentieth year,
2 for any year in which the premium outlay and contract premium, if
3 applicable, is to change:

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

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

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

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

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

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

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

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

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

31 (d) For a policy that has a contract premium, the contract premium
32 underlying the supplemental illustration is equal to the contract
33 premium shown in the basic illustration. For policies that do not
34 require a contract premium, the premium outlay underlying the
35 supplemental illustration shall be equal to the premium outlay shown in
36 the basic illustration.

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

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

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

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

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

32 (3) If the basic illustration or revised illustration is sent to
33 the applicant or policy owner by mail from the insurer, it shall
34 include instructions for the applicant or policy owner to sign the
35 duplicate copy of the numeric summary page of the illustration for the
36 policy issued and return the signed copy to the insurer. The insurer's
37 obligation under this subsection is satisfied if it can demonstrate
38 that it has made a diligent effort to secure a signed copy of the

1 numeric summary page. The requirement to make a diligent effort shall
2 be deemed satisfied if the insurer includes in the mailing a self-
3 addressed, postage prepaid envelope with instructions for the return of
4 the signed numeric summary page.

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

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

15 (a) For universal life policies, the report shall include the
16 following:

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

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

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

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

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

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

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

34 (viii) For flexible premium policies: If, assuming guaranteed
35 interest, mortality, and expense loads, the policy's net cash surrender
36 value will not maintain insurance in force until the end of the next
37 reporting period unless further premium payments are made, a notice to
38 this effect shall be included in the report.

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

2 (i) Current death benefit;

3 (ii) Annual contract premium;

4 (iii) Current cash surrender value;

5 (iv) Current dividend;

6 (v) Application of current dividend; and

7 (vi) Amount of outstanding loan.

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

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

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

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

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

37 (2) The illustration actuary shall certify that the disciplined
38 current scale used in illustrations is in conformity with the actuarial

1 standard of practice for compliance with the national association of
2 insurance commissioners model regulation on life insurance
3 illustrations adopted by the actuarial standards board, and that the
4 illustrated scales used in insurer-authorized illustrations meet the
5 requirements of this chapter.

6 (3) The illustration actuary shall:

7 (a) Be a member in good standing of the American academy of
8 actuaries;

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

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

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

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

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

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

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

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

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

1 (i) Fully allocated expenses;
2 (ii) Marginal expenses; or
3 (iii) A generally recognized expense table based on fully allocated
4 expenses representing a significant portion of insurance companies and
5 approved by the national association of insurance commissioners.

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

8 (i) Annually for all policy forms for which illustrations are used;
9 and

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 12.** If any provision of this act or its
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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

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

--- END ---