
HOUSE BILL 2740

State of Washington

58th Legislature

2004 Regular Session

By Representatives Schual-Berke, Clibborn and Morrell; by request of Insurance Commissioner

Read first time 01/20/2004. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to a joint underwriting association for persons and
2 entities that provide services to children and vulnerable adults;
3 amending RCW 48.88.010, 48.88.020, 48.88.030, 48.88.040, 48.88.050, and
4 48.88.070; and adding new sections to chapter 48.88 RCW.

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

6 **Sec. 1.** RCW 48.88.010 and 1986 c 141 s 1 are each amended to read
7 as follows:

8 ((Day care service providers)) Persons and entities that provide
9 services to children and vulnerable adults have experienced major
10 problems in both the availability and affordability of liability
11 insurance. Premiums for such insurance policies have recently grown
12 ((as much as five hundred percent)) and the availability of such
13 insurance in Washington markets has greatly diminished.

14 The availability of quality ((day care)) services for children and
15 vulnerable adults is essential to achieving such goals as increased
16 work force productivity, family self-sufficiency, and protection for
17 adults and children at risk ((due to poverty and abuse)). The
18 unavailability of adequate liability insurance threatens to decrease

1 the availability of (~~day care~~) essential services for children and
2 vulnerable adults.

3 This chapter is intended to remedy the problem of unavailable
4 liability insurance (~~for day care services~~) by requiring all insurers
5 authorized to write (~~commercial or professional liability~~) general
6 casualty insurance to be members of a joint underwriting association
7 created to provide liability insurance for (~~day care services~~)
8 persons and entities who provide services to children and vulnerable
9 adults.

10 **Sec. 2.** RCW 48.88.020 and 1986 c 141 s 2 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Association" means the joint underwriting association
15 established (~~pursuant to the provisions of~~) under this chapter.

16 (2) (~~"Day care~~) "Board" means the governing board of the
17 association.

18 (3) "Liability insurance" means insurance coverage against the
19 legal liability of the insured and against loss, damage, or expense
20 incident to a claim arising out of the death or injury of any person as
21 the result of negligence or malpractice in rendering professional
22 service by any licensee.

23 (~~(3)~~) (4) "Licensee" means any (~~person~~) nonprofit entity or
24 facility (~~licensed to provide day care~~) providing services (~~pursuant~~
25 ~~to chapter 74.15 RCW~~) to children or vulnerable adults that:

26 (a) Is licensed or regulated under Title 70 or 74 RCW; or

27 (b) Contracts with the department of social and health services to
28 provide the services.

29 (5) "Vulnerable adult" has the same meaning as in RCW 74.34.020(13)
30 and 74.34.021.

31 **Sec. 3.** RCW 48.88.030 and 1986 c 141 s 3 are each amended to read
32 as follows:

33 (1) The commissioner (~~shall approve by July 1, 1986,~~) must
34 appoint a board by July 1, 2004. The governing board is subject to
35 supervision by the commissioner. Members of the governing board may be

1 reimbursed by the association for actual and necessary expenses
2 incurred to attend meetings.

3 (2) The board must develop a reasonable plan ((for—the
4 establishment—of)) of operation to establish a nonprofit, joint
5 underwriting association for ((day—care)) liability insurance, subject
6 to the conditions and limitations contained in this chapter.

7 (3) The association must offer coverage by January 1, 2005.

8 **Sec. 4.** RCW 48.88.040 and 1986 c 141 s 4 are each amended to read
9 as follows:

10 The association shall be comprised of all insurers possessing a
11 certificate of authority to write and engage in writing ((~~property~~
12 ~~and~~) general casualty insurance within this state on a direct basis,
13 including the liability portion of multiperil policies, but not of
14 ocean marine insurance. Every such insurer shall be a member of the
15 association and shall remain a member as a condition of its authority
16 to continue to transact business in this state.

17 **Sec. 5.** RCW 48.88.050 and 1986 c 141 s 5 are each amended to read
18 as follows:

19 Any licensee may apply to the association to purchase ((~~day—care~~)
20 liability insurance, and the association shall offer a policy with
21 reasonable liability limits ((~~of at least one hundred thousand dollars~~
22 ~~per occurrence~~)) as determined by the commissioner based on standard
23 insurance industry practices. The commissioner shall require the use
24 of a rating plan for ((~~day—care~~) liability insurance that permits
25 rates to be modified for individual licensees according to the type,
26 size and past loss experience of the licensee including any other
27 difference among licensees that can be demonstrated to have a probable
28 effect upon losses.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.88 RCW
30 to read as follows:

31 The commissioner may select one or more insurers to manage the
32 operations of the association established under this chapter. Every
33 managing insurer must be admitted to transact the business of insurance
34 in the state of Washington.

1 **Sec. 7.** RCW 48.88.070 and 1986 c 141 s 7 are each amended to read
2 as follows:

3 The commissioner may adopt all rules necessary to ensure the
4 efficient, equitable operation of the association, including but not
5 limited to, rules requiring or limiting certain policy provisions or
6 requiring development and implementation of risk management programs.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.88 RCW
8 to read as follows:

9 The association is not a member of the guaranty fund created under
10 chapter 48.32 RCW. The guaranty fund, this state, and any political
11 subdivisions are not responsible for the losses sustained by the
12 association.

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