

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1197

59th Legislature
2005 Regular Session

Passed by the House March 3, 2005
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 13, 2005
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1197** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1197

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Roach and Kirby; by request of Insurance Commissioner)

READ FIRST TIME 02/07/05.

1 AN ACT Relating to insurance; amending RCW 48.02.180, 48.05.340,
2 48.11.100, 48.11.140, 48.14.010, 48.14.0201, 48.17.150, 48.18.100,
3 48.18.103, 48.18.430, 48.21.047, 48.23.010, 48.24.030, 48.29.010,
4 48.29.020, 48.29.120, 48.29.130, 48.29.170, 48.30.300, 48.30A.045,
5 48.30A.060, 48.30A.065, 48.31.100, 48.38.030, 48.44.240, 48.66.020,
6 48.66.045, 48.66.055, 48.66.130, 48.92.120, 48.98.015, 48.110.030, and
7 48.110.040; adding a new section to chapter 48.66 RCW; and repealing
8 RCW 48.05.360, 48.29.030, 48.29.060, 48.29.070, 48.29.090, 48.29.100,
9 48.29.110, and 48.34.910.

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

11 **Sec. 1.** RCW 48.02.180 and 1981 c 339 s 1 are each amended to read
12 as follows:

13 (1) ~~((In addition to such publications as are otherwise authorized~~
14 ~~under this code,))~~ The commissioner may ~~((from time to time))~~
15 periodically prepare and publish:

16 (a) ~~((Booklets containing the insurance code, or supplements~~
17 ~~thereto, and such related statutes as the commissioner deems suitable~~
18 ~~and useful for inclusion in an appendix of such booklet or~~

1 ~~supplement.))~~ Title 48 RCW, Title 284 WAC, insurance bulletins and
2 technical assistance advisories, and other laws, rules, or regulations
3 relevant to the regulation of insurance;

4 (b) Manuals and other material ~~((relative))~~ relating to
5 examinations for ~~((licensing as provided in chapter 48.17 RCW))~~
6 licensure; and

7 (c) Any other publications authorized under Title 48 RCW.

8 (2) The commissioner may ~~((furnish))~~ provide copies of the
9 ~~((insurance code, supplements thereto, and related statutes))~~
10 publications referred to in subsection (1)(a) of this section free of
11 charge to:

12 (a) Public offices and officers in this state ~~((concerned~~
13 ~~therewith, to))~~;

14 (b) Public officials of other states and jurisdictions ~~((having~~
15 ~~supervision of))~~ that regulate insurance ~~((, to))~~;

16 (c) The library of congress ~~((,))~~ and ~~((to))~~

17 (d) Officers of the armed forces of the United States of America
18 located at military installations in this state who are concerned with
19 insurance transactions at or involving ~~((such))~~ the military
20 installations.

21 (3) Except as provided in subsection (2) of this section, the
22 commissioner shall sell ~~((copies of the insurance code, supplements~~
23 ~~thereto, examination manuals, and materials as))~~ the publications
24 referred to in subsection (1) of this section ~~((, at))~~. The
25 commissioner may charge a reasonable price ~~((, fixed by the~~
26 ~~commissioner, in amount))~~ that is not less than the cost of
27 publication, handling, and distribution ~~((thereof))~~. The commissioner
28 shall promptly deposit all funds received ~~((by him pursuant to))~~ under
29 this subsection with the state treasurer to the credit of the ~~((general~~
30 ~~fund))~~ insurance commissioner's regulatory account. For appropriation
31 purposes, ~~((such))~~ the funds received and deposited by the commissioner
32 ~~((shall be treated as))~~ are a recovery of a previous expenditure.

33 **Sec. 2.** RCW 48.05.340 and 1995 c 83 s 14 are each amended to read
34 as follows:

35 (1) Subject to RCW 48.05.350 ~~((and 48.05.360))~~ to qualify for
36 authority to transact any one kind of insurance as defined in chapter
37 48.11 RCW or combination of kinds of insurance as ~~((shown below))~~ set

1 forth in this subsection, a foreign or alien insurer, whether stock or
 2 mutual, or a domestic insurer (~~hereafter~~) formed (~~shall~~) after the
 3 effective date of this section must possess unimpaired paid-in capital
 4 stock, if a stock insurer, or unimpaired surplus if a mutual insurer,
 5 and additional funds in surplus, as follows, and (~~shall~~) must
 6 thereafter maintain unimpaired a combined total of: (a) The paid-in
 7 capital stock if a stock insurer or surplus if a mutual insurer, plus
 8 (b) (~~such~~) additional funds in surplus equal to the total of the
 9 following initial requirements:

10	Kind or kinds	Paid-in	Additional
11	of insurance	capital	surplus
12		stock or	surplus
13		basic surplus	
14	Life	\$2,000,000	\$2,000,000
15	Disability	2,000,000	2,000,000
16	Life and disability ...	2,400,000	2,400,000
17	Property	2,000,000	2,000,000
18	Marine &		
19	transportation	2,000,000	2,000,000
20	General casualty	2,400,000	2,400,000
21	Vehicle	2,000,000	2,000,000
22	Surety	2,000,000	2,000,000
23	Any two of the		
24	following kinds		
25	of insurance:		
26	Property, marine		
27	& transportation,		
28	general casualty,		
29	vehicle, surety,		
30	disability	3,000,000	3,000,000
31	Multiple lines (all		
32	insurances except		
33	life and title		
34	insurance)	3,000,000	3,000,000

1 Title ((in accordance
2 with the
3 provisions of
4 chapter 48.29
5 RCW))) 2,000,000 2,000,000

6 (2) Capital and surplus requirements are based upon all the kinds
7 of insurance transacted by the insurer wherever it ((may)) operates or
8 proposes to operate, whether or not only a portion of ((such)) the
9 kinds are to be transacted in this state.

10 (3) Until December 31, 1996, a foreign or alien insurer holding a
11 certificate of authority to transact insurance in this state
12 immediately prior to June 9, 1994, may continue to be authorized to
13 transact the same kinds of insurance as long as it is otherwise
14 qualified for ((such)) that authority. A domestic insurer, except a
15 title insurer, holding a certificate of authority to transact insurance
16 in this state immediately prior to June 9, 1994, may continue to be
17 authorized to transact the same kinds of insurance as long as it is
18 otherwise qualified for such an authority and thereafter maintains
19 unimpaired the amount of paid-in capital stock, if a stock insurer, or
20 basic surplus, if a mutual or reciprocal insurer, and special or
21 additional surplus as required of it under laws in force immediately
22 prior to June 9, 1994.

23 **Sec. 3.** RCW 48.11.100 and 1947 c 79 s .11.10 are each amended to
24 read as follows:

25 "Title insurance" is insurance of owners of property or others
26 having an interest ((therein)) in real property, against loss by
27 encumbrance, or defective titles, or adverse claim to title, and
28 associated services ((connected therewith)).

29 **Sec. 4.** RCW 48.11.140 and 1993 c 462 s 53 are each amended to read
30 as follows:

31 (1) ((No)) An insurer ((shall)) may not retain any risk on any one
32 subject of insurance, whether located or to be performed in this state
33 or elsewhere, in an amount exceeding ten percent of its surplus to
34 policyholders.

35 (2) For the purposes of this section, a "subject of insurance" as

1 to insurance against fire includes all properties insured by the same
2 insurer (~~which~~) that are reasonably subject to loss or damage from
3 the same fire.

4 (3) Reinsurance in an alien reinsurer not qualified under RCW
5 (~~48.05.300~~) 48.12.166 may not be deducted in determining risk
6 retained for the purposes of this section.

7 (4) In the case of surety insurance, the net retention shall be
8 computed after deduction of reinsurances, the amount assumed by any
9 co-surety, the value of any security deposited, pledged, or held
10 subject to the consent of the surety and for the protection of the
11 surety.

12 (5) This section does not apply to life insurance, disability
13 insurance, title insurance, or insurance of marine risks or marine
14 protection and indemnity risks.

15 **Sec. 5.** RCW 48.14.010 and 1994 c 131 s 2 are each amended to read
16 as follows:

17 (1) The commissioner shall collect in advance the following fees:

- 18 (a) **For filing charter documents:**
 - 19 (i) Original charter documents, bylaws
 - 20 or record of organization of
 - 21 insurers, or certified copies thereof,
 - 22 required to be filed \$250.00
 - 23 (ii) Amended charter documents, or
 - 24 certified copy thereof, other than
 - 25 amendments of bylaws \$ 10.00
 - 26 (iii) No additional charge or fee shall be
 - 27 required for filing any of such
 - 28 documents in the office of the
 - 29 secretary of state.
- 30 (b) **Certificate of authority:**
 - 31 (i) Issuance \$ 25.00
 - 32 (ii) Renewal \$ 25.00
- 33 (c) **Annual statement of insurer, filing \$ 20.00**
- 34 (d) **Organization or financing of domestic insurers and**
- 35 **affiliated corporations:**

1	(i)	Application for solicitation permit,	
2		filing	\$100.00
3	(ii)	Issuance of solicitation permit . . .	\$ 25.00
4	(e)	Agents' licenses:	
5	(i)	Agent's qualification licenses every	
6		two years	\$ 50.00
7	(ii)	Filing of appointment of each such	
8		agent, every two years	\$ 20.00
9	(iii)	Limited license issued pursuant	
10		to RCW 48.17.190, every two	
11		years	\$ 20.00
12	(f)	Reinsurance intermediary licenses:	
13	(i)	Reinsurance intermediary-broker,	
14		each year	\$ 50.00
15	(ii)	Reinsurance intermediary-	
16		manager, each year	\$100.00
17	(g)	Brokers' licenses:	
18	(i)	Broker's license, every two	
19		years	\$100.00
20	(ii)	Surplus line broker, every two	
21		years	\$200.00
22	(h)	Solicitors' license, every two years	\$ 20.00
23	(i)	Adjusters' licenses:	
24	(i)	Independent adjuster, every two	
25		years	\$ 50.00
26	(ii)	Public adjuster, every two	
27		years	\$ 50.00
28	(j)	Resident general agent's license, every	
29		two years	\$ 50.00
30	(k)	Managing general agent appointment,	
31		every two years	\$200.00
32	(l)	Examination for license, each examination:	

1 All examinations, except examinations
2 administered by an independent
3 testing service, the fees for which are
4 to be approved by the commissioner
5 and collected directly by and retained
6 by such independent testing service ... \$ 20.00

7 **(m) Miscellaneous services:**

- 8 (i) Filing other documents \$ 5.00
9 (ii) Commissioner's certificate under
10 seal \$ 5.00
11 (iii) Copy of documents filed in the
12 commissioner's office, reasonable
13 charge therefor as determined by
14 the commissioner.

15 (2) All fees so collected shall be remitted by the commissioner to
16 the state treasurer not later than the first business day following,
17 and shall be placed to the credit of the general fund(~~(+ PROVIDED,~~
18 ~~That)~~).

19 (a) Fees for examinations administered by an independent testing
20 service ((which)) that are approved by the commissioner ((pursuant to))
21 under subsection (1)(1) of this section shall be collected directly by
22 ((such)) the independent testing service and retained by it.

23 (b) Fees for copies of documents filed in the commissioner's office
24 shall be remitted by the commissioner to the state treasurer not later
25 than the first business day following, and shall be placed to the
26 credit of the insurance commissioner's regulatory account.

27 **Sec. 6.** RCW 48.14.0201 and 2004 c 260 s 24 are each amended to
28 read as follows:

29 (1) As used in this section, "taxpayer" means a health maintenance
30 organization as defined in RCW 48.46.020, a health care service
31 contractor as defined in RCW 48.44.010, or a self-funded multiple
32 employer welfare arrangement as defined in RCW 48.125.010.

33 (2) Each taxpayer shall pay a tax on or before the first day of
34 March of each year to the state treasurer through the insurance
35 commissioner's office. The tax shall be equal to the total amount of
36 all premiums and prepayments for health care services received by the

1 taxpayer during the preceding calendar year multiplied by the rate of
2 two percent.

3 (3) Taxpayers shall prepay their tax obligations under this
4 section. The minimum amount of the prepayments shall be percentages of
5 the taxpayer's tax obligation for the preceding calendar year
6 recomputed using the rate in effect for the current year. For the
7 prepayment of taxes due during the first calendar year, the minimum
8 amount of the prepayments shall be percentages of the taxpayer's tax
9 obligation that would have been due had the tax been in effect during
10 the previous calendar year. The tax prepayments shall be paid to the
11 state treasurer through the commissioner's office by the due dates and
12 in the following amounts:

- 13 (a) On or before June 15, forty-five percent;
- 14 (b) On or before September 15, twenty-five percent;
- 15 (c) On or before December 15, twenty-five percent.

16 (4) For good cause demonstrated in writing, the commissioner may
17 approve an amount smaller than the preceding calendar year's tax
18 obligation as recomputed for calculating the health maintenance
19 organization's, health care service contractor's, self-funded multiple
20 employer welfare arrangement's, or certified health plan's prepayment
21 obligations for the current tax year.

22 (5) Moneys collected under this section shall be deposited in the
23 general fund through March 31, 1996, and in the health services account
24 under RCW 43.72.900 after March 31, 1996.

25 (6) The taxes imposed in this section do not apply to:

26 (a) Amounts received by any taxpayer from the United States or any
27 instrumentality thereof as prepayments for health care services
28 provided under Title XVIII (medicare) of the federal social security
29 act.

30 (b) Amounts received by any health care service contractor, as
31 defined in RCW 48.44.010, as prepayments for health care services
32 included within the definition of practice of dentistry under RCW
33 18.32.020.

34 (c) Participant contributions to self-funded multiple employer
35 welfare arrangements that are not taxable in this state.

36 (7) Beginning January 1, 2000, the state does hereby preempt the
37 field of imposing excise or privilege taxes upon taxpayers and no
38 county, city, town, or other municipal subdivision shall have the right

1 to impose any such taxes upon such taxpayers. This subsection shall be
2 limited to premiums and payments for health benefit plans offered by
3 health care service contractors under chapter 48.44 RCW, health
4 maintenance organizations under chapter 48.46 RCW, and self-funded
5 multiple employer welfare arrangements as defined in RCW 48.125.010.
6 The preemption authorized by this subsection shall not impair the
7 ability of a county, city, town, or other municipal subdivision to
8 impose excise or privilege taxes upon the health care services directly
9 delivered by the employees of a health maintenance organization under
10 chapter 48.46 RCW.

11 (8) The taxes imposed by this section apply to a self-funded
12 multiple employer welfare arrangement only in the event that they are
13 not preempted by the employee retirement income security act of 1974,
14 as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
15 commissioner shall initially request an advisory opinion from the
16 United States department of labor or obtain a declaratory ruling from
17 a federal court on the legality of imposing state premium taxes on
18 these arrangements. If there has not been a final determination by the
19 United States department of labor or a federal court that the taxes are
20 not preempted by federal law, the taxes provided for in this section
21 become effective on March 1, 2005, or thirty days following the
22 issuance of a certificate of authority, whichever is later. During the
23 time period between March 1, 2005, or thirty days following the
24 issuance of a certificate of authority, whichever is later, and the
25 final determination by the United States department of labor or a
26 federal court, any taxes shall be deposited in an interest bearing
27 escrow account maintained by the [self-funded] multiple employer
28 welfare arrangement. Upon a final determination that the taxes are not
29 preempted by the employee retirement income security act of 1974, as
30 amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing
31 escrow account shall be transferred to the state treasurer.

32 (9) The effect of transferring contracts for health care services
33 from one taxpayer to another taxpayer is to transfer the tax prepayment
34 obligation with respect to the contracts.

35 (10) On or before June 1st of each year, the commissioner shall
36 notify each taxpayer required to make prepayments in that year of the
37 amount of each prepayment and shall provide remittance forms to be used

1 by the taxpayer. However, a taxpayer's responsibility to make
2 prepayments is not affected by failure of the commissioner to send, or
3 the taxpayer to receive, the notice or forms.

4 **Sec. 7.** RCW 48.17.150 and 1994 c 131 s 4 are each amended to read
5 as follows:

6 (1) To qualify for an agent's or broker's license, an applicant
7 must otherwise comply with this code (~~(therefor)~~) and must:

8 (a) Be at least eighteen years of age (~~(or over)~~), if an
9 individual;

10 (b) Be a bona fide resident of and actually reside in this state,
11 or if a corporation, be other than an insurer and maintain a lawfully
12 established place of business in this state, except as provided in RCW
13 48.17.330;

14 (c) Be empowered to be an agent or broker(~~(, as the case may be,)~~)
15 under its members' agreement, if a firm, or by its articles of
16 incorporation, if a corporation;

17 (d) Complete (~~(such)~~) the minimum educational requirements for the
18 issuance of an agent's license for the kinds of insurance specified in
19 RCW 48.17.210 as may be required by regulation issued by the
20 commissioner;

21 (e) Successfully pass any examination as required under RCW
22 48.17.110;

23 (f) Be a trustworthy person;

24 (g)(i) If for an agent's license, be appointed as its agent by one
25 or more authorized insurers, subject to issuance of the license;
26 (~~(and)~~)

27 (ii) The commissioner may by regulation establish requirements,
28 including notification formats, in addition to or in lieu of the
29 requirements of (g)(i) of this subsection to allow an agent to act as
30 a representative of and place insurance with an insurer without first
31 notifying the commissioner of the appointment for a period of time up
32 to but not exceeding thirty days from the date the first insurance
33 application is executed by the agent; and

34 (h) If for broker's license, have had at least two years experience
35 either as an agent, solicitor, adjuster, general agent, broker, or as
36 an employee of insurers or representatives of insurers, and special

1 education or training of sufficient duration and extent reasonably to
2 satisfy the commissioner that ((he)) the applicant possesses the
3 competence necessary to fulfill the responsibilities of broker.

4 (2) The commissioner shall by regulation establish minimum
5 continuing education requirements for the renewal or reissuance of a
6 license to an agent or a broker(~~(: PROVIDED, That))~~).

7 (a) The commissioner shall require that continuing education
8 courses will be made available on a statewide basis in order to ensure
9 that persons residing in all geographical areas of this state will have
10 a reasonable opportunity to attend such courses.

11 (b) The continuing education requirements ((shall)) must be
12 appropriate to the license for the kinds of insurance specified in RCW
13 48.17.210(~~(: PROVIDED FURTHER, That))~~.

14 (c) The continuing education requirements may be waived by the
15 commissioner for good cause shown.

16 (3) If the commissioner finds that the applicant is ((se))
17 qualified and that the license fee has been paid, the license shall be
18 issued. Otherwise, the commissioner shall refuse to issue the license.

19 **Sec. 8.** RCW 48.18.100 and 1997 c 428 s 3 are each amended to read
20 as follows:

21 (1) No insurance policy form (~~(other than surety bond forms, forms~~
22 ~~exempt under RCW 48.18.103,)) or application form where written~~
23 ~~application is required and is to be attached to the policy, or printed~~
24 ~~life or disability rider or endorsement form ((shall)) may be issued,~~
25 ~~delivered, or used unless it has been filed with and approved by the~~
26 ~~commissioner. This section ((shall)) does not apply to:~~

27 (a) Surety bond forms;

28 (b) Forms filed under RCW 48.18.103;

29 (c) Forms exempted from filing requirements by the commissioner
30 under RCW 48.18.103;

31 (d) Manuscript policies, riders, or endorsements of unique
32 character designed for and used with relation to insurance upon a
33 particular subject; or

34 (e) Contracts of insurance procured under the provisions of chapter
35 48.15 RCW.

36 (2) Every such filing containing a certification, in a form
37 approved by the commissioner, by either the chief executive officer of

1 the insurer or by an actuary who is a member of the American academy of
2 actuaries, attesting that the filing complies with Title 48 RCW and
3 Title 284 of the Washington Administrative Code, may be used by
4 ~~((such))~~ the insurer immediately after filing with the commissioner.
5 The commissioner may order an insurer to cease using a certified form
6 upon the grounds set forth in RCW 48.18.110. This subsection ~~((shall))~~
7 does not apply to certain types of policy forms designated by the
8 commissioner by rule.

9 (3) Except as provided in RCW 48.18.103, every filing that does not
10 contain a certification pursuant to subsection (2) of this section
11 ~~((shall))~~ must be made not less than thirty days in advance of ~~((any~~
12 ~~such))~~ issuance, delivery, or use. At the expiration of ~~((such))~~ the
13 thirty days, the filed form ~~((so-filed))~~ shall be deemed approved
14 unless prior thereto it has been affirmatively approved or disapproved
15 by order of the commissioner. The commissioner may extend by not more
16 than an additional fifteen days the period within which he or she may
17 ~~((so))~~ affirmatively approve or disapprove any ~~((such))~~ form, by giving
18 notice of ~~((such))~~ the extension before expiration of the initial
19 thirty-day period. At the expiration of ~~((any-such))~~ the period ~~((as~~
20 ~~so))~~ that has been extended, and in the absence of ~~((such))~~ prior
21 affirmative approval or disapproval, ~~((any-such))~~ the form shall be
22 deemed approved. The commissioner may withdraw any ~~((such))~~ approval
23 at any time for cause. By approval of any ~~((such))~~ form for immediate
24 use, the commissioner may waive any unexpired portion of ~~((such))~~ the
25 initial thirty-day waiting period.

26 (4) The commissioner's order disapproving any ~~((such))~~ form or
27 withdrawing a previous approval ~~((shall))~~ must state the grounds
28 ~~((therefor))~~ for disapproval.

29 (5) No ~~((such))~~ form ~~((shall))~~ may knowingly be ~~((so))~~ issued or
30 delivered as to which the commissioner's approval does not then exist.

31 (6) The commissioner may, by ~~((order))~~ rule, exempt from the
32 requirements of this section ~~((for so long as he or she deems proper,))~~
33 any class or type of insurance ~~((document or form or type thereof as~~
34 ~~specified in such order, to which in his or her opinion this section~~
35 ~~may not practicably be applied, or the))~~ policy forms if filing and
36 approval ~~((of which are, in his or her opinion,))~~ is not desirable or
37 necessary for the protection of the public.

1 (7) Every member or subscriber to a rating organization (~~shall~~)
2 must adhere to the form filings made on its behalf by the organization.
3 Deviations from (~~such~~) the organization are permitted only when filed
4 with the commissioner in accordance with this chapter.

5 **Sec. 9.** RCW 48.18.103 and 2003 c 248 s 4 are each amended to read
6 as follows:

7 (1) It is the intent of the legislature to assist the purchasers of
8 commercial property casualty insurance by allowing policies to be
9 issued more expeditiously and provide a more competitive market for
10 forms.

11 (2) Commercial property casualty policies may be issued prior to
12 filing the forms.

13 (3) All commercial property casualty forms (~~shall~~) must be filed
14 with the commissioner within thirty days after an insurer issues any
15 policy using them. This subsection does not apply to:

16 (a) Types or classes of forms that the commissioner exempts from
17 filing by rule; and

18 (b) Manuscript policies, riders, or endorsements of unique
19 character designed for and used with relation to insurance upon a
20 particular subject.

21 (~~(3)~~) (4) If, within thirty days after a commercial property
22 casualty form has been filed, the commissioner finds that the form does
23 not meet the requirements of this chapter, the commissioner shall
24 disapprove the form and give notice to the insurer or rating
25 organization that made the filing, specifying how the form fails to
26 meet the requirements and stating when, within a reasonable period
27 thereafter, the form shall be deemed no longer effective. The
28 commissioner may extend the time for review (~~another~~) an additional
29 fifteen days by giving notice to the insurer prior to the expiration of
30 the original thirty-day period.

31 (~~(4)~~) (5) Upon a final determination of a disapproval of a policy
32 form under subsection (~~(3)~~) (4) of this section, the insurer
33 (~~shall~~) must amend any previously issued disapproved form by
34 endorsement to comply with the commissioner's disapproval.

35 (~~(5)~~) (6) For purposes of this section, "commercial property
36 casualty" means insurance pertaining to a business, profession,

1 occupation, nonprofit organization, or public entity for the lines of
2 property and casualty insurance defined in RCW 48.11.040, 48.11.050,
3 48.11.060, or 48.11.070.

4 ~~((+6+))~~ (7) Except as provided in subsection ~~((+4+))~~ (5) of this
5 section, the disapproval shall not affect any contract made or issued
6 prior to the expiration of the period set forth in the notice of
7 disapproval.

8 ~~((+7+))~~ (8) Every member or subscriber to a rating organization
9 must adhere to the form filings made on its behalf by the organization.
10 An insurer may deviate from forms filed on its behalf by an
11 organization only if the insurer files the forms with the commissioner
12 in accordance with this chapter.

13 (9) In the event a hearing is held on the actions of the
14 commissioner under subsection ~~((+3+))~~ (4) of this section, the burden
15 of proof shall be on the commissioner.

16 **Sec. 10.** RCW 48.18.430 and 1949 c 190 s 25 are each amended to
17 read as follows:

18 (1) The benefits, rights, privileges, and options ~~((which))~~ under
19 any annuity contract ~~((heretofore or hereafter issued are due or~~
20 ~~prospectively))~~ that are due the annuitant who paid the consideration
21 for the annuity contract ~~((, shall not be))~~ are not subject to execution
22 ~~((nor shall))~~ and the annuitant may not be compelled to exercise ~~((any~~
23 ~~such))~~ those rights, powers, or options, ~~((nor shall))~~ and creditors
24 ~~((be))~~ are not allowed to interfere with or terminate the contract,
25 except:

26 (a) As to amounts paid for or as premium on ~~((any such))~~ an annuity
27 with intent to defraud creditors, with interest thereon, and of which
28 the creditor has given the insurer written notice at its home office
29 prior to ~~((the))~~ making ~~((of))~~ the payments to the annuitant out of
30 which the creditor seeks to recover. ~~((Any such))~~ The notice ~~((shall))~~
31 must specify the amount claimed or ~~((such))~~ the facts ~~((as))~~ that will
32 enable the insurer to ~~((ascertain such))~~ determine the amount, and
33 ~~((shall))~~ must set forth ~~((such))~~ the facts ~~((as))~~ that will enable the
34 insurer to ~~((ascertain))~~ determine the insurance or annuity contract,
35 the person insured or annuitant and the payments sought to be avoided
36 on the ~~((ground))~~ basis of fraud.

1 (b) The total exemption of benefits presently due and payable to
2 ~~((any))~~ an annuitant periodically or at stated times under all annuity
3 contracts ~~((under which he is an annuitant, shall))~~ may not at any time
4 exceed two thousand five hundred ~~((and fifty))~~ dollars per month for
5 the length of time represented by ~~((such))~~ the installments, and ~~((that~~
6 ~~such))~~ a periodic payment in excess of two thousand five hundred ~~((and~~
7 ~~fifty))~~ dollars per month ~~((shall be))~~ is subject to garnishee
8 execution to the same extent as are wages and salaries.

9 (c) If the total benefits presently due and payable to ~~((any))~~ an
10 annuitant under all annuity contracts ~~((under which he is an annuitant,~~
11 ~~shall))~~ at any time exceeds payment at the rate of two thousand five
12 hundred ~~((and fifty))~~ dollars per month, then the court may order
13 ~~((such))~~ the annuitant to pay to a judgment creditor or apply on the
14 judgment, in installments, ~~((such))~~ the portion of ~~((such))~~ the excess
15 benefits ~~((as to))~~ that the court ~~((may appear))~~ determines to be just
16 and proper, after due regard for the reasonable requirements of the
17 judgment debtor and ~~((his family, if dependent upon him))~~ the judgment
18 debtor's dependent family, as well as any payments required to be made
19 by the annuitant to other creditors under prior court orders.

20 (2) The benefits, rights, privileges, or options accruing under
21 ~~((such))~~ an annuity contract to a beneficiary or assignee ~~((shall not~~
22 ~~be))~~ are not transferable ~~((nor))~~ or subject to commutation, and if the
23 benefits are payable periodically or at stated times, the same
24 exemptions and exceptions contained ~~((herein))~~ in this section for the
25 annuitant~~((, shall apply with respect to such))~~ apply to the
26 beneficiary or assignee.

27 (3) An annuity contract within the meaning of this section ~~((shall~~
28 ~~be))~~ is any obligation to pay certain sums at stated times, during life
29 or lives, or for a specified term or terms, issued for a valuable
30 consideration, regardless of whether or not ~~((such))~~ the sums are
31 payable to one or more persons, jointly or otherwise, but does not
32 include payments under life insurance contracts at stated times during
33 life or lives, or for a specified term or terms.

34 **Sec. 11.** RCW 48.21.047 and 1995 c 265 s 22 are each amended to
35 read as follows:

36 (1) ~~((No insurer shall))~~ An insurer may not offer any health

1 benefit plan to any small employer without complying with ((the
2 ~~provisions of~~)) RCW 48.21.045((+5)) (3).

3 (2) Employers purchasing health plans provided through associations
4 or through member-governed groups formed specifically for the purpose
5 of purchasing health care ((shall not be considered)) are not small
6 employers and ((such plans shall not be subject to the provisions of
7 RCW 48.21.045(5))) the plans are not subject to RCW 48.21.045(3).

8 (3) For purposes of this section, "health benefit plan," "health
9 plan," and "small employer" mean the same as defined in RCW 48.43.005.

10 **Sec. 12.** RCW 48.23.010 and 1979 c 130 s 2 are each amended to read
11 as follows:

12 ((The provisions of this chapter apply)) This chapter applies to
13 contracts of life insurance and annuities other than group life
14 insurance, group annuities, and, except for RCW 48.23.260, 48.23.270,
15 and 48.23.340, ((and 48.23.350,)) other than industrial life
16 insurance((: PROVIDED, That the provisions of)). However, Title 48
17 RCW ((shall)) does not apply to charitable gift annuities issued by a
18 board of a state university, regional university, or a state college,
19 nor to the issuance thereof.

20 **Sec. 13.** RCW 48.24.030 and 1993 c 132 s 1 are each amended to read
21 as follows:

22 (1) Insurance under any group life insurance policy issued
23 ((pursuant to)) under RCW 48.24.020, ((or)) 48.24.050, ((or))
24 48.24.060, ((or)) 48.24.070, or 48.24.090 may, if seventy-five percent
25 of the then insured employees or labor union members or public employee
26 association members or members of the Washington state patrol elect, be
27 extended to insure the spouse and dependent children, or any class or
28 classes thereof, of each ((such)) insured employee or member who so
29 elects, in amounts in accordance with a plan ((which)) that precludes
30 individual selection by the employees or members or by the employer or
31 labor union or trustee((, and which insurance on the life of any one
32 family member including a spouse shall not be in excess of fifty
33 percent of the insurance on the life of the insured employee or
34 member)).

35 Premiums for the insurance on ((such)) the family members shall be

1 paid by the policyholder, either from the employer's funds or funds
2 contributed by him, trustee's funds, or labor union funds, and/or from
3 funds contributed by the insured employees or members, or from both.

4 (2) ~~((Such))~~ A spouse insured ~~((pursuant to))~~ under this section
5 ~~((shall have))~~ has the same conversion right as to the insurance on his
6 or her life as is vested in the employee or member under this chapter.

7 **Sec. 14.** RCW 48.29.010 and 1997 c 14 s 1 are each amended to read
8 as follows:

9 (1) This chapter relates only to title insurers for real property.

10 (2) ~~((None of the provisions of))~~ This code ~~((shall be deemed to))~~
11 does not apply to persons engaged in the business of preparing and
12 issuing abstracts of title to property and certifying to ~~((the))~~ their
13 correctness ~~((thereof))~~ so long as ~~((such))~~ the persons do not
14 guarantee or insure ~~((such))~~ the titles.

15 (3) For purposes of this chapter, unless the context clearly
16 requires otherwise:

17 (a) "Title policy" means any written instrument, contract, or
18 guarantee by means of which title insurance liability is assumed.

19 (b) "Abstract of title" means a written representation, provided
20 ~~((pursuant to))~~ under contract, whether written or oral, intended to be
21 relied upon by the person who has contracted for the receipt of
22 ~~((such))~~ this representation, listing all recorded conveyances,
23 instruments, or documents ~~((which))~~ that, under the laws of the state
24 of Washington, impart constructive notice with respect to the chain of
25 title to the real property described. An abstract of title is not a
26 title policy as defined in this subsection.

27 (c) "Preliminary report," "commitment," or "binder" means reports
28 furnished in connection with an application for title insurance and are
29 offers to issue a title policy subject to the stated exceptions ~~((set~~
30 ~~forth))~~ in the reports, the conditions and stipulations of the report
31 and the issued policy, and ~~((such))~~ other matters as may be
32 incorporated by reference. The reports are not abstracts of title, nor
33 are any of the rights, duties, or responsibilities applicable to the
34 preparation and issuance of an abstract of title applicable to the
35 issuance of any report. ~~((Any such))~~ The report ~~((shall not be~~
36 ~~construed as, nor constitute,))~~ is not a representation as to the

1 condition of the title to real property, but (~~shall constitute~~) is a
2 statement of terms and conditions upon which the issuer is willing to
3 issue its title policy, if (~~such~~) the offer is accepted.

4 **Sec. 15.** RCW 48.29.020 and 1990 c 76 s 1 are each amended to read
5 as follows:

6 A title insurer (~~shall not be~~) is not entitled to have a
7 certificate of authority unless (~~it otherwise qualifies therefor, nor~~
8 ~~unless~~):

9 (1) It is a stock corporation(~~(-)~~);

10 (2) It owns or leases and maintains a complete set of tract indexes
11 of the county in this state in which its principal office (~~within this~~
12 ~~state~~) is located(~~(-)~~); and

13 (3) (~~It deposits and keeps on deposit with the commissioner a~~
14 ~~guaranty fund in amount as set forth in RCW 48.29.030 and comprised of~~
15 ~~cash or public obligations as specified in RCW 48.13.040.~~) It has and
16 maintains the capital and surplus requirements set forth in RCW
17 48.05.340.

18 **Sec. 16.** RCW 48.29.120 and 1947 c 79 s .29.12 are each amended to
19 read as follows:

20 (~~(1) Each title insurer shall annually apportion to a special~~
21 ~~reserve fund an amount determined by applying the rate of twenty five~~
22 ~~cents for each one thousand dollars of net increase of insurance it has~~
23 ~~in force as at the end of such year. Such apportionment shall be~~
24 ~~continued or resumed as needed to maintain the special reserve fund at~~
25 ~~an amount equal to not less than the guaranty fund deposit required of~~
26 ~~the insurer.~~

27 (2) ~~The special reserve fund shall be held by the insurer as an~~
28 ~~additional guaranty fund, and shall be used only for the payment of~~
29 ~~losses after the insurer's liquid resources available for the payment~~
30 ~~of losses, other than such special reserve fund or the guaranty fund~~
31 ~~deposit, have been exhausted.~~

32 (3) ~~For the purposes of computing the special reserve fund as~~
33 ~~provided in subsection (1) of this section, net increase of insurance~~
34 ~~in force resulting from reinsurance of the risks of another title~~
35 ~~insurer shall not be included to the extent that a like special reserve~~
36 ~~fund on such insurance is maintained by the ceding insurer.)) In~~

1 determining the financial condition of a title insurer doing business
2 under this title, the general provisions of chapter 48.12 RCW requiring
3 the establishment of reserves sufficient to cover all known and unknown
4 liabilities including allocated and unallocated loss adjustment expense
5 apply, except that a title insurer shall establish and maintain:

6 (1) A known claim reserve in an amount estimated to be sufficient
7 to cover all unpaid losses, claims, and allocated loss adjustment
8 expenses arising under title insurance policies, guaranteed
9 certificates of title, guaranteed searches, and guaranteed abstracts of
10 title, and all unpaid losses, claims, and allocated loss adjustment
11 expenses for which the title insurer may be liable, and for which the
12 insurer has received notice by or on behalf of the insured, holder of
13 a guarantee or escrow, or security depositor;

14 (2)(a) A statutory or unearned premium reserve consisting of:

15 (i) The amount of the special reserve fund that was required prior
16 to the effective date of this section, which balance must be released
17 in accordance with (b) of this subsection; and

18 (ii) Additions to the reserve after the effective date of this
19 section must be made out of total charges for title insurance policies
20 and guarantees written, as set forth in the title insurer's most recent
21 annual statement on file with the commissioner, equal to the sum of the
22 following:

23 (A) For each title insurance policy on a single risk written or
24 assumed after the effective date of this section, fifteen cents per one
25 thousand dollars of net retained liability for policies under five
26 hundred thousand dollars; and

27 (B) For each title insurance policy on a single risk written or
28 assumed after the effective date of this section, ten cents per one
29 thousand dollars of net retained liability for policies of five hundred
30 thousand or greater.

31 (b) The aggregate of the amounts set aside in this reserve in any
32 calendar year pursuant to (a) of this subsection must be released from
33 the reserve and restored to net profits over a period of twenty years
34 under the following formula:

35 (i) Thirty-five percent of the aggregate sum on July 1st of the
36 year next succeeding the year of addition;

37 (ii) Fifteen percent of the aggregate sum on July 1st of each of
38 the succeeding two years;

1 (iii) Ten percent of the aggregate sum on July 1st of the next
2 succeeding year;

3 (iv) Three percent of the aggregate sum on July 1st of each of the
4 next three succeeding years;

5 (v) Two percent of the aggregate sum on July 1st of each of the
6 next three succeeding years; and

7 (vi) One percent of the aggregate sum on July 1st of each of the
8 next succeeding ten years.

9 (c) The insurer shall calculate an adjusted statutory unearned
10 premium reserve as of the effective date of this section. The adjusted
11 reserve is calculated as if (a)(ii) and (b) of this subsection had been
12 in effect for all years beginning twenty years prior to the effective
13 date of this section. For purposes of this calculation, the balance of
14 the reserve as of that date is deemed to be zero. If the adjusted
15 reserve so calculated exceeds the aggregate amount set aside for
16 statutory or unearned premiums in the insurer's annual statement on
17 file with the commissioner on the effective date of this section, the
18 insurer shall, out of total charges for policies of title insurance,
19 increase its statutory or unearned premium reserve by an amount equal
20 to one-sixth of that excess in each of the succeeding six years,
21 commencing with the calendar year that includes the effective date of
22 this section, until the entire excess has been added.

23 (d) The aggregate of the amounts set aside in this reserve in any
24 calendar year as adjustments to the insurer's statutory or unearned
25 premium reserve under (c) of this subsection shall be released from the
26 reserve and restored to net profits, or equity if the additions
27 required by (c) of this subsection reduced equity directly, over a
28 period not exceeding ten years under to the following table:

<u>Year of Addition</u>	<u>Release</u>
<u>Year 1¹</u>	<u>Equally over 10 years</u>
<u>Year 2</u>	<u>Equally over 9 years</u>
<u>Year 3</u>	<u>Equally over 8 years</u>
<u>Year 4</u>	<u>Equally over 7 years</u>
<u>Year 5</u>	<u>Equally over 6 years</u>
<u>Year 6</u>	<u>Equally over 5 years</u>

1 ¹(The calendar year following the effective date of this section).

2 (3) A supplemental reserve shall be established consisting of any
3 other reserves necessary, when taken in combination with the reserves
4 required by subsections (1) and (2) of this section, to cover the
5 company's liabilities with respect to all losses, claims, and loss
6 adjustment expenses.

7 (4) The supplemental reserve required under subsection (3) of this
8 section shall be phased in as follows: Twenty-five percent of the
9 otherwise applicable supplemental reserve is required until December
10 31, 2006; fifty percent of the otherwise applicable supplemental
11 reserve is required until December 31, 2007; and seventy-five percent
12 of the otherwise applicable supplemental reserve is required until
13 December 31, 2008.

14 **Sec. 17.** RCW 48.29.130 and 1967 c 150 s 30 are each amended to
15 read as follows:

16 ~~((The funds of a domestic title insurer, other than those~~
17 ~~representing its guaranty fund deposit, shall be invested)) A domestic
18 title insurer shall invest its funds as follows:~~

19 (1) Funds in an amount not less than its reserve required (~~special~~
20 ~~reserve shall)) by RCW 48.29.120 must be kept invested in investments
21 eligible for domestic life insurers.~~

22 (2) Other funds may be invested in:

23 (a) The insurer's plant and equipment, up to a maximum of fifty
24 percent of capital plus surplus.

25 (b) Stocks and bonds of abstract companies when approved by the
26 commissioner.

27 (c) Investments eligible for the investment of funds of any
28 domestic insurer.

29 **Sec. 18.** RCW 48.29.170 and 1981 c 223 s 2 are each amended to read
30 as follows:

31 Title insurance agents (~~shall be~~) are exempt from the provisions
32 of RCW (~~48.17.090(2) and~~) 48.17.180(1) (~~which otherwise~~) that
33 require that each individual empowered to exercise the authority of a
34 licensed firm or corporation must be separately licensed.

1 **Sec. 19.** RCW 48.30.300 and 1993 c 492 s 287 are each amended to
2 read as follows:

3 Notwithstanding any provision contained in Title 48 RCW to the
4 contrary:

5 ~~((1) No))~~ A person or entity engaged in the business of insurance
6 in this state ~~((shall))~~ may not refuse to issue any contract of
7 insurance or cancel or decline to renew such contract because of the
8 sex or marital status, or the presence of any sensory, mental, or
9 physical handicap of the insured or prospective insured. The amount of
10 benefits payable, or any term, rate, condition, or type of coverage
11 ~~((shall))~~ may not be restricted, modified, excluded, increased, or
12 reduced on the basis of the sex or marital status, or be restricted,
13 modified, excluded, or reduced on the basis of the presence of any
14 sensory, mental, or physical handicap of the insured or prospective
15 insured. ~~((Subject to the provisions of subsection (2) of this section
16 these provisions shall))~~ This subsection does not prohibit fair
17 discrimination on the basis of sex, or marital status, or the presence
18 of any sensory, mental, or physical handicap when bona fide statistical
19 differences in risk or exposure have been substantiated.

20 ~~((2) With respect to disability policies issued or renewed on and
21 after July 1, 1994, that provide coverage against loss arising from
22 medical, surgical, hospital, or emergency care services:~~

23 ~~(a) Policies shall guarantee continuity of coverage. Such
24 provision, which shall be included in every policy, shall provide that:~~

25 ~~(i) The policy may be canceled or nonrenewed without the prior
26 written approval of the commissioner only for nonpayment of premium or
27 as permitted under RCW 48.18.090; and~~

28 ~~(ii) The policy may be canceled or nonrenewed because of a change
29 in the physical or mental condition or health of a covered person only
30 with the prior written approval of the commissioner. Such approval
31 shall be granted only when the insurer has discharged its obligation to
32 continue coverage for such person by obtaining coverage with another
33 insurer, health care service contractor, or health maintenance
34 organization, which coverage is comparable in terms of premiums and
35 benefits as defined by rule of the commissioner.~~

36 ~~(b) It is an unfair practice for a disability insurer to modify the
37 coverage provided or rates applying to an in force disability insurance~~

1 ~~policy and to fail to make such modification in all such issued and~~
2 ~~outstanding policies.~~

3 ~~(c) Subject to rules adopted by the commissioner, it is an unfair~~
4 ~~practice for a disability insurer to:~~

5 ~~(i) Cease the sale of a policy form unless it has received prior~~
6 ~~written authorization from the commissioner and has offered all~~
7 ~~policyholders covered under such discontinued policy the opportunity to~~
8 ~~purchase comparable coverage without health screening; or~~

9 ~~(ii) Engage in a practice that subjects policyholders to rate~~
10 ~~increases on discontinued policy forms unless such policyholders are~~
11 ~~offered the opportunity to purchase comparable coverage without health~~
12 ~~screening.~~

13 ~~The insurer may limit an offer of comparable coverage without~~
14 ~~health screening to a period not less than thirty days from the date~~
15 ~~the offer is first made.))~~

16 **Sec. 20.** RCW 48.30A.045 and 1997 c 92 s 1 are each amended to read
17 as follows:

18 (1) Each insurer licensed to write direct insurance in this state,
19 except those exempted in subsection (2) of this section, shall
20 institute and maintain an insurance antifraud plan. ~~((An insurer~~
21 ~~licensed on July 1, 1995, shall file its antifraud plan with the~~
22 ~~insurance commissioner no later than December 31, 1995.))~~ An insurer
23 licensed after July 1, 1995, shall file its antifraud plan within six
24 months of licensure. An insurer shall file any change to the antifraud
25 plan with the insurance commissioner within thirty days after the plan
26 has been modified.

27 (2) This section does not apply to:

28 (a) Health carriers, as defined in RCW 48.43.005((7));

29 (b) Life insurers((7-07));

30 (c) Title insurers; ((07))

31 (d) Property or casualty insurers with annual gross written medical
32 malpractice insurance premiums in this state that exceed fifty percent
33 of their total annual gross written premiums in this state; ((07-all))

34 (e) Credit-related insurance written in connection with a credit
35 transaction in which the creditor is named as a beneficiary or loss
36 payee under the policy, except vendor single-interest or collateral
37 protection coverage as defined in RCW 48.22.110(4); or

1 (f) Insurers with gross written premiums of less than one thousand
2 dollars in Washington during the reporting year.

3 **Sec. 21.** RCW 48.30A.060 and 1995 c 285 s 12 are each amended to
4 read as follows:

5 By March 31st of each year, each insurer shall ~~((annually))~~ provide
6 to the insurance commissioner a summary report on actions taken under
7 its antifraud plan to prevent and combat insurance fraud. The report
8 must also include, but not be limited to, measures taken to protect and
9 ensure the integrity of electronic data processing-generated data and
10 manually compiled data, statistical data on the amount of resources
11 committed to combatting fraud, and the amount of fraud identified and
12 recovered during the reporting period. The antifraud plans and summary
13 of the insurer's antifraud activities are not public records and are
14 exempt from chapter 42.17 RCW, are proprietary, are not subject to
15 public examination, and are not discoverable or admissible in civil
16 litigation.

17 **Sec. 22.** RCW 48.30A.065 and 1995 c 285 s 13 are each amended to
18 read as follows:

19 An insurer that fails to file a timely antifraud plan or ~~((who does~~
20 ~~not))~~ summary report or that fails to make a good faith attempt to file
21 an antifraud plan that complies with RCW 48.30A.050 or a summary report
22 that complies with RCW 48.30A.060, is subject to the penalty provisions
23 of RCW 48.01.080, but no penalty may be imposed for the first filing
24 made by an insurer under this chapter. An insurer that fails to follow
25 the antifraud plan is subject to a civil penalty not to exceed ten
26 thousand dollars for each violation, at the discretion of the
27 commissioner after consideration of all relevant factors, including the
28 willfulness of the violation.

29 **Sec. 23.** RCW 48.31.100 and 1947 c 79 s .31.10 are each amended to
30 read as follows:

31 (1) An order to conserve the assets of a foreign or alien insurer
32 ~~((shall))~~ must direct the commissioner ~~((forthwith))~~ immediately to
33 take possession of the property of the insurer within this state and to
34 conserve it, subject to the further direction of the court.

1 (2) Whenever a domiciliary receiver is appointed for (~~any such~~)
2 a foreign or alien insurer in its domiciliary state (~~which~~) that is
3 also a reciprocal state, as defined in RCW (~~48.31.110~~) 48.99.010, the
4 court shall on application of the commissioner appoint the commissioner
5 as the ancillary receiver in this state, subject to the provisions of
6 the uniform insurers liquidation act.

7 **Sec. 24.** RCW 48.38.030 and 1979 c 130 s 8 are each amended to read
8 as follows:

9 Each charitable annuity contract or policy form (~~shall~~) must
10 include the following information:

- 11 (1) The value of the property to be transferred;
- 12 (2) The amount of the annuity to be paid to the transferor or the
13 transferor's nominee;
- 14 (3) The manner in which and the intervals at which payment is to be
15 made;
- 16 (4) The age of the person during whose life payment is to be made;
- 17 and
- 18 (5) The reasonable value as of the date of the agreement of the
19 benefits (~~thereby~~) created. This value (~~shall~~) may not exceed by
20 more than fifteen percent the net single premium for the benefits,
21 determined (~~in accordance with~~) according to the standard of
22 valuation set forth in RCW 48.38.020(~~(1)~~) (3).

23 **Sec. 25.** RCW 48.44.240 and 1990 1st ex.s. c 3 s 12 are each
24 amended to read as follows:

25 Each group contract for health care services (~~which~~) that is
26 delivered or issued for delivery or renewed, on or after January 1,
27 1988, (~~shall~~) must contain provisions providing benefits for the
28 treatment of chemical dependency rendered to covered persons by a
29 provider (~~which~~) that is an "approved treatment (~~facility or~~)
30 program" under RCW 70.96A.020(3).

31 NEW SECTION. **Sec. 26.** A new section is added to chapter 48.66 RCW
32 to read as follows:

- 33 (1) An issuer may not deny or condition the issuance or
34 effectiveness of any medicare supplement policy or certificate
35 available for sale in this state, or discriminate in the pricing of a

1 policy or certificate, because of the health status, claims experience,
2 receipt of health care, or medical condition of an applicant in the
3 case of an application for a policy or certificate that is submitted
4 prior to or during the six-month period beginning with the first day of
5 the first month in which an individual is both sixty-five years of age
6 or older and is enrolled for benefits under medicare part B. Each
7 medicare supplement policy and certificate currently available from an
8 insurer must be made available to all applicants who qualify under this
9 subsection without regard to age.

10 (2) If an applicant qualifies under this section and submits an
11 application during the time period referenced in subsection (1) of this
12 section and, as of the date of application, has had a continuous period
13 of creditable coverage of at least three months, the issuer may not
14 exclude benefits based on a preexisting condition.

15 (3) If an applicant qualified under this section submits an
16 application during the time period referenced in subsection (1) of this
17 section and, as of the date of application, has had a continuous period
18 of creditable coverage that is less than three months, the issuer must
19 reduce the period of any preexisting condition exclusion by the
20 aggregate of the period of creditable coverage applicable to the
21 applicant as of the enrollment date.

22 **Sec. 27.** RCW 48.66.020 and 1996 c 269 s 1 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Medicare supplemental insurance" or "medicare supplement
27 insurance policy" refers to a group or individual policy of disability
28 insurance or a subscriber contract of a health care service contractor,
29 a health maintenance organization, or a fraternal benefit society,
30 which relates its benefits to medicare, or which is advertised,
31 marketed, or designed primarily as a supplement to reimbursements under
32 medicare for the hospital, medical, or surgical expenses of persons
33 eligible for medicare. ((Such)) The term does not include:

34 (a) A policy or contract of one or more employers or labor
35 organizations, or of the trustees of a fund established by one or more
36 employers or labor organizations, or combination thereof, for employees

1 or former employees, or combination thereof, or for members or former
2 members, or combination thereof, of the labor organizations; ((~~or~~))

3 (b) A policy issued pursuant to a contract under Section 1876 of
4 the federal social security act (42 U.S.C. Sec. 1395 et seq.), or an
5 issued policy under a demonstration specified in 42 U.S.C. Sec.
6 1395(g)(1); ((~~or~~))

7 ~~(c) ((Insurance policies or health care benefit plans, including~~
8 ~~group conversion policies, provided to medicare eligible persons, that~~
9 ~~are not marketed or held to be medicare supplement policies or benefit~~
10 ~~plans)) Medicare advantage plans established under medicare part C;~~

11 (d) Outpatient prescription drug plans established under medicare
12 part D; or

13 (e) Any health care prepayment plan that provides benefits pursuant
14 to an agreement under section 1833(a)(1)(A) of the federal social
15 security act.

16 (2) "Medicare" means the "Health Insurance for the Aged Act," Title
17 XVIII of the Social Security Amendments of 1965, as then constituted or
18 later amended.

19 (3) "Medicare advantage plan" means a plan of coverage for health
20 benefits under medicare part C as defined in 42 U.S.C. Sec. 1395w-
21 28(b), and includes:

22 (a) Coordinated care plans that provide health care services,
23 including but not limited to health maintenance organization plans,
24 with or without a point-of-service option, plans offered by provider-
25 sponsored organizations, and preferred provider organization plans;

26 (b) Medical savings account plans coupled with a contribution into
27 a medicare advantage plan medical savings account; and

28 (c) Medicare advantage private fee-for-service plans.

29 (4) "Medicare eligible expenses" means health care expenses of the
30 kinds covered by medicare, to the extent recognized as reasonable and
31 medically necessary by medicare.

32 ((~~4~~)) (5) "Applicant" means:

33 (a) In the case of an individual medicare supplement insurance
34 policy or subscriber contract, the person who seeks to contract for
35 insurance benefits; and

36 (b) In the case of a group medicare supplement insurance policy or
37 subscriber contract, the proposed certificate holder.

1 ~~((+5))~~ (6) "Certificate" means any certificate delivered or issued
2 for delivery in this state under a group medicare supplement insurance
3 policy.

4 ~~((+6))~~ (7) "Loss ratio" means the incurred claims as a percentage
5 of the earned premium computed under rules adopted by the insurance
6 commissioner.

7 ~~((+7))~~ (8) "Preexisting condition" means a covered person's
8 medical condition that caused that person to have received medical
9 advice or treatment during a specified time period immediately prior to
10 the effective date of coverage.

11 ~~((+8))~~ (9) "Disclosure form" means the form designated by the
12 insurance commissioner (~~which~~) that discloses medicare benefits, the
13 supplemental benefits offered by the insurer, and the remaining amount
14 for which the insured will be responsible.

15 ~~((+9))~~ (10) "Issuer" includes insurance companies, health care
16 service contractors, health maintenance organizations, fraternal
17 benefit societies, and any other entity delivering or issuing for
18 delivery medicare supplement policies or certificates to a resident of
19 this state.

20 (11) "Bankruptcy" means when a medicare advantage organization that
21 is not an issuer has filed, or has had filed against it, a petition for
22 declaration of bankruptcy and has ceased doing business in the state.

23 (12) "Continuous period of creditable coverage" means the period
24 during which an individual was covered by creditable coverage, if
25 during the period of the coverage the individual had no breaks in
26 coverage greater than sixty-three days.

27 (13)(a) "Creditable coverage" means, with respect to an individual,
28 coverage of the individual provided under any of the following:

29 (i) A group health plan;

30 (ii) Health insurance coverage;

31 (iii) Part A or part B of Title XVIII of the social security act
32 (medicare);

33 (iv) Title XIX of the social security act (medicaid), other than
34 coverage consisting solely of benefits under section 1928 of that act;

35 (v) Chapter 55 of Title 10 U.S.C. (CHAMPUS);

36 (vi) A medical care program of the Indian health service or of a
37 tribal organization;

38 (vii) A state health benefits risk pool;

1 (viii) A health plan offered under chapter 89 of Title 5 U.S.C.
2 (federal employees health benefits program);

3 (ix) A public health plan as defined in federal regulation; or

4 (x) A health benefit plan under section 5(e) of the peace corps act
5 (22 U.S.C. Sec. 2504(e)).

6 (b) "Creditable coverage" does not include one or more, or any
7 combination, of the following:

8 (i) Coverage only for accident or disability income insurance, or
9 any combination thereof;

10 (ii) Coverage issued as a supplement to liability insurance;

11 (iii) Liability insurance, including general liability insurance
12 and automobile liability insurance;

13 (iv) Worker's compensation or similar insurance;

14 (v) Automobile medical payment insurance;

15 (vi) Credit only insurance;

16 (vii) Coverage for on-site medical clinics; or

17 (viii) Other similar insurance coverage, specified in federal
18 regulations, under which benefits for medical care are secondary or
19 incidental to other insurance benefits.

20 (c) "Creditable coverage" does not include the following benefits
21 if they are provided under a separate policy, certificate, or contract
22 of insurance or are otherwise not an integral part of the plan:

23 (i) Limited scope dental or vision benefits;

24 (ii) Benefits for long-term care, nursing home care, home health
25 care, community-based care, or any combination thereof; or

26 (iii) Other similar, limited benefits as are specified in federal
27 regulations.

28 (d) "Creditable coverage" does not include the following benefits
29 if offered as independent, noncoordinated benefits:

30 (i) Coverage only for a specified disease or illness; or

31 (ii) Hospital indemnity or other fixed indemnity insurance.

32 (e) "Creditable coverage" does not include the following if it is
33 offered as a separate policy, certificate, or contract of insurance:

34 (i) Medicare supplemental health insurance as defined under section
35 1882(g)(1) of the social security act;

36 (ii) Coverage supplemental to the coverage provided under chapter
37 55 of Title 10 U.S.C.; or

1 (iii) Similar supplemental coverage provided to coverage under a
2 group health plan.

3 (14) "Employee welfare benefit plan" means a plan, fund, or program
4 of employee benefits as defined in 29 U.S.C. Sec. 1002 (employee
5 retirement income security act).

6 (15) "Insolvency" means when an issuer, licensed to transact the
7 business of insurance in this state, has had a final order of
8 liquidation entered against it with a finding of insolvency by a court
9 of competent jurisdiction in the issuer's state of domicile.

10 **Sec. 28.** RCW 48.66.045 and 2004 c 83 s 1 are each amended to read
11 as follows:

12 Every issuer of a medicare supplement insurance policy or
13 certificate providing coverage to a resident of this state issued on or
14 after January 1, 1996, shall:

15 (1) Unless otherwise provided for in RCW 48.66.055, issue coverage
16 under its standardized benefit plans B, C, D, E, F, (~~and~~) G, K, or L
17 without evidence of insurability to any resident of this state who is
18 eligible for both medicare hospital and physician services by reason of
19 age or by reason of disability or end-stage renal disease, if the
20 medicare supplement policy replaces another medicare supplement
21 standardized benefit plan policy or certificate B, C, D, E, F, (~~or~~)
22 G, K, or L or other more comprehensive coverage than the replacing
23 policy;

24 (2) Unless otherwise provided for in RCW 48.66.055, issue coverage
25 under its standardized plans A, H, I, and J without evidence of
26 insurability to any resident of this state who is eligible for both
27 medicare hospital and physician services by reason of age or by reason
28 of disability or end-stage renal disease, if the medicare supplement
29 policy replaces another medicare supplement policy or certificate which
30 is the same standardized plan as the replaced policy. After December
31 31, 2005, plans H, I, and J may be replaced only by the same plan if
32 that plan has been modified to remove outpatient prescription drug
33 coverage; and

34 (3) Set rates only on a community-rated basis. Premiums shall be
35 equal for all policyholders and certificate holders under a
36 standardized medicare supplement benefit plan form, except that an
37 issuer may vary premiums based on spousal discounts, frequency of

1 payment, and method of payment including automatic deposit of premiums
2 and may develop no more than two rating pools that distinguish between
3 an insured's eligibility for medicare by reason of:

- 4 (a) Age; or
- 5 (b) Disability or end-stage renal disease.

6 **Sec. 29.** RCW 48.66.055 and 2002 c 300 s 4 are each amended to read
7 as follows:

8 (1) Under this section, persons eligible for a medicare supplement
9 policy or certificate are those individuals described in subsection (3)
10 of this section who, subject to subsection (3)(b)(ii) of this section,
11 apply to enroll under the policy not later than sixty-three days after
12 the date of the termination of enrollment described in subsection (3)
13 of this section, and who submit evidence of the date of termination or
14 disenrollment, or medicare part D enrollment, with the application for
15 a medicare supplement policy.

16 (2) With respect to eligible persons, an issuer may not deny or
17 condition the issuance or effectiveness of a medicare supplement policy
18 described in subsection (4) of this section that is offered and is
19 available for issuance to new enrollees by the issuer, shall not
20 discriminate in the pricing of such a medicare supplement policy
21 because of health status, claims experience, receipt of health care, or
22 medical condition, and shall not impose an exclusion of benefits based
23 on a preexisting condition under such a medicare supplement policy.

24 (3) "Eligible persons" means an individual that meets the
25 requirements of (a), (b), (c), (d), (e), or (f) of this subsection, as
26 follows:

27 (a) The individual is enrolled under an employee welfare benefit
28 plan that provides health benefits that supplement the benefits under
29 medicare; and the plan terminates, or the plan ceases to provide all
30 such supplemental health benefits to the individual;

31 (b)(i) The individual is enrolled with a (~~medicare+choice~~)
32 medicare advantage organization under a (~~medicare+choice~~) medicare
33 advantage plan under part C of medicare, and any of the following
34 circumstances apply, or the individual is sixty-five years of age or
35 older and is enrolled with a program of all inclusive care for the
36 elderly (PACE) provider under section 1894 of the social security act,
37 and there are circumstances similar to those described in this

1 subsection (3)(b) that would permit discontinuance of the individual's
2 enrollment with the provider if the individual were enrolled in a
3 (~~medicare+choice~~) medicare advantage plan:

4 (A) The certification of the organization or plan (~~under this~~
5 ~~subsection (3)(b)~~) has been terminated(~~, or the organization or plan~~
6 ~~has notified the individual of an impending termination of such a~~
7 ~~certification)~~);

8 (B) The organization has terminated or otherwise discontinued
9 providing the plan in the area in which the individual resides(~~, or~~
10 ~~has notified the individual of an impending termination or~~
11 ~~discontinuance of such a plan)~~);

12 (C) The individual is no longer eligible to elect the plan because
13 of a change in the individual's place of residence or other change in
14 circumstances specified by the secretary of the United States
15 department of health and human services, but not including termination
16 of the individual's enrollment on the basis described in section
17 1851(g)(3)(B) of the federal social security act (where the individual
18 has not paid premiums on a timely basis or has engaged in disruptive
19 behavior as specified in standards under section 1856 of the federal
20 social security act), or the plan is terminated for all individuals
21 within a residence area;

22 (D) The individual demonstrates, in accordance with guidelines
23 established by the secretary of the United States department of health
24 and human services, that:

25 (I) The organization offering the plan substantially violated a
26 material provision of the organization's contract under this part in
27 relation to the individual, including the failure to provide an
28 enrollee on a timely basis medically necessary care for which benefits
29 are available under the plan or the failure to provide such covered
30 care in accordance with applicable quality standards; or

31 (II) The organization, an agent, or other entity acting on the
32 organization's behalf materially misrepresented the plan's provisions
33 in marketing the plan to the individual; or

34 (E) The individual meets other exceptional conditions as the
35 secretary of the United States department of health and human services
36 may provide.

37 (ii)(A) An individual described in (b)(i) of this subsection may
38 elect to apply (a) of this subsection by substituting, for the date of

1 termination of enrollment, the date on which the individual was
2 notified by the (~~medicare+choice~~) medicare advantage organization of
3 the impending termination or discontinuance of the (~~medicare+choice~~)
4 medicare advantage plan it offers in the area in which the individual
5 resides, but only if the individual disenrolls from the plan as a
6 result of such notification.

7 (B) In the case of an individual making the election under
8 (b)(ii)(A) of this subsection, the issuer involved shall accept the
9 application of the individual submitted before the date of termination
10 of enrollment, but the coverage under subsection (1) of this section
11 (~~shall~~) is only (~~become~~) effective upon termination of coverage
12 under the (~~medicare+choice~~) medicare advantage plan involved;

13 (c)(i) The individual is enrolled with:

14 (A) An eligible organization under a contract under section 1876
15 (medicare risk or cost);

16 (B) A similar organization operating under demonstration project
17 authority, effective for periods before April 1, 1999;

18 (C) An organization under an agreement under section 1833(a)(1)(A)
19 (health care prepayment plan); or

20 (D) An organization under a medicare select policy; and

21 (ii) The enrollment ceases under the same circumstances that would
22 permit discontinuance of an individual's election of coverage under
23 (b)(i) of this subsection;

24 (d) The individual is enrolled under a medicare supplement policy
25 and the enrollment ceases because:

26 (i)(A) Of the insolvency of the issuer or bankruptcy of the
27 nonissuer organization; or

28 (B) Of other involuntary termination of coverage or enrollment
29 under the policy;

30 (ii) The issuer of the policy substantially violated a material
31 provision of the policy; or

32 (iii) The issuer, an agent, or other entity acting on the issuer's
33 behalf materially misrepresented the policy's provisions in marketing
34 the policy to the individual;

35 (e)(i) The individual was enrolled under a medicare supplement
36 policy and terminates enrollment and subsequently enrolls, for the
37 first time, with any (~~medicare+choice~~) medicare advantage
38 organization under a (~~medicare+choice~~) medicare advantage plan under

1 part C of medicare, any eligible organization under a contract under
2 section 1876 (medicare risk or cost), any similar organization
3 operating under demonstration project authority, any PACE program under
4 section 1894 of the social security act, (~~(an organization under an~~
5 ~~agreement under section 1833(a)(1)(A) (health care prepayment plan),~~)
6 or a medicare select policy; and

7 (ii) The subsequent enrollment under (e)(i) of this subsection is
8 terminated by the enrollee during any period within the first twelve
9 months of such subsequent enrollment (during which the enrollee is
10 permitted to terminate such subsequent enrollment under section 1851(e)
11 of the federal social security act); (~~(or)~~)

12 (f) The individual, upon first becoming eligible for benefits under
13 part A of medicare at age sixty-five, enrolls in a (~~(medicare+choice)~~)
14 medicare advantage plan under part C of medicare, or in a PACE program
15 under section 1894, and disenrolls from the plan or program by not
16 later than twelve months after the effective date of enrollment; or

17 (g) The individual enrolls in a medicare part D plan during the
18 initial enrollment period and, at the time of enrollment in part D, was
19 enrolled under a medicare supplement policy that covers outpatient
20 prescription drugs, and the individual terminates enrollment in the
21 medicare supplement policy and submits evidence of enrollment in
22 medicare part D along with the application for a policy described in
23 subsection (4)(d) of this section.

24 (4) An eligible person under subsection (3) of this section is
25 entitled to a medicare supplement policy as follows:

26 (a) A person eligible under subsection (3)(a), (b), (c), and (d) of
27 this section is entitled to a medicare supplement policy that has a
28 benefit package classified as plan A through (~~(G)~~) F, including F with
29 a high deductible, K, or L, offered by any issuer;

30 (b)(i) Subject to (b)(ii) of this subsection, a person eligible
31 under subsection (3)(e) of this section is entitled to the same
32 medicare supplement policy in which the individual was most recently
33 previously enrolled, if available from the same issuer, or, if not so
34 available, a policy described in (a) of this subsection; (~~and~~)

35 (ii) After December 31, 2005, if the individual was most recently
36 enrolled in a medicare supplement policy with an outpatient
37 prescription drug benefit, a medicare supplement policy described in
38 this subsection (4)(b)(ii) is:

1 (A) The policy available from the same issuer but modified to
2 remove outpatient prescription drug coverage; or

3 (B) At the election of the policyholder, an A, B, C, F, including
4 F with a high deductible, K, or L policy, that is offered by any
5 issuer;

6 (c) A person eligible under subsection (3)(f) of this section is
7 entitled to any medicare supplement policy offered by any issuer; and

8 (d) A person eligible under subsection (3)(g) of this section is
9 entitled to a medicare supplement policy that has a benefit package
10 classified as plan A, B, C, F, including F with a high deductible, K,
11 or L and that is offered and is available for issuance to new enrollees
12 by the same issuer that issued the individual's medicare supplement
13 policy with outpatient prescription drug coverage.

14 (5)(a) At the time of an event described in subsection (3) of this
15 section, and because of which an individual loses coverage or benefits
16 due to the termination of a contract, agreement, policy, or plan, the
17 organization that terminates the contract or agreement, the issuer
18 terminating the policy, or the administrator of the plan being
19 terminated, respectively, must notify the individual of his or her
20 rights under this section, and of the obligations of issuers of
21 medicare supplement policies under subsection (1) of this section. The
22 notice must be communicated contemporaneously with the notification of
23 termination.

24 (b) At the time of an event described in subsection (3) of this
25 section, and because of which an individual ceases enrollment under a
26 contract, agreement, policy, or plan, the organization that offers the
27 contract or agreement, regardless of the basis for the cessation of
28 enrollment, the issuer offering the policy, or the administrator of the
29 plan, respectively, must notify the individual of his or her rights
30 under this section, and of the obligations of issuers of medicare
31 supplement policies under subsection (1) of this section. The notice
32 must be communicated within ten working days of the issuer receiving
33 notification of disenrollment.

34 (6) Guaranteed issue time periods are as follows:

35 (a) In the case of an individual described in subsection (3)(a) of
36 this section, the guaranteed issue period begins on the later of: (i)
37 The date the individual receives a notice of termination or cessation
38 of all supplemental health benefits or, if a notice is not received,

1 notice that a claim has been denied because of a termination or
2 cessation, or (ii) the date that the applicable coverage terminates or
3 ceases, and ends sixty-three days thereafter;

4 (b) In the case of an individual described in subsection (3)(b),
5 (c), (e), or (f) of this section whose enrollment is terminated
6 involuntarily, the guaranteed issue period begins on the date that the
7 individual receives a notice of termination and ends sixty-three days
8 after the date the applicable coverage is terminated;

9 (c) In the case of an individual described in subsection (3)(d)(i)
10 of this section, the guaranteed issue period begins on the earlier of:
11 (i) The date that the individual receives a notice of termination, a
12 notice of the issuer's bankruptcy or insolvency, or other such similar
13 notice if any, and (ii) the date that the applicable coverage is
14 terminated, and ends on the date that is sixty-three days after the
15 date the coverage is terminated;

16 (d) In the case of an individual described in subsection (3)(b),
17 (d)(ii) and (iii), (e), or (f) of this section, who disenrolls
18 voluntarily, the guaranteed issue period begins on the date that is
19 sixty days before the effective date of the disenrollment and ends on
20 the date that is sixty-three days after the effective date;

21 (e) In the case of an individual described in subsection (3)(g) of
22 this section, the guaranteed issue period begins on the date the
23 individual receives notice pursuant to section 1882(v)(2)(B) of the
24 federal social security act from the medicare supplement issuer during
25 the sixty-day period immediately preceding the initial part D
26 enrollment period and ends on the date that is sixty-three days after
27 the effective date of the individual's coverage under medicare part D;
28 and

29 (f) In the case of an individual described in subsection (3) of
30 this section but not described in the preceding provisions of this
31 subsection, the guaranteed issue period begins on the effective date of
32 disenrollment and ends on the date that is sixty-three days after the
33 effective date.

34 (7) In the case of an individual described in subsection (3)(e) of
35 this section whose enrollment with an organization or provider
36 described in subsection (3)(e)(i) of this section is involuntarily
37 terminated within the first twelve months of enrollment, and who,

1 without an intervening enrollment, enrolls with another organization or
2 provider, the subsequent enrollment is an initial enrollment as
3 described in subsection (3)(e) of this section.

4 (8) In the case of an individual described in subsection (3)(f) of
5 this section whose enrollment with a plan or in a program described in
6 subsection (3)(f) of this section is involuntarily terminated within
7 the first twelve months of enrollment, and who, without an intervening
8 enrollment, enrolls in another plan or program, the subsequent
9 enrollment is an initial enrollment as described in subsection (3)(f)
10 of this section.

11 (9) For purposes of subsection (3)(e) and (f) of this section, an
12 enrollment of an individual with an organization or provider described
13 in subsection (3)(e)(i) of this section, or with a plan or in a program
14 described in subsection (3)(f) of this section is not an initial
15 enrollment under this subsection after the two-year period beginning on
16 the date on which the individual first enrolled with such an
17 organization, provider, plan, or program.

18 **Sec. 30.** RCW 48.66.130 and 2002 c 300 s 3 are each amended to read
19 as follows:

20 (1) On or after January 1, 1996, and notwithstanding any other
21 provision of Title 48 RCW, a medicare supplement policy or certificate
22 shall not exclude or limit benefits for losses incurred more than three
23 months from the effective date of coverage because it involved a
24 preexisting condition.

25 (2) On or after January 1, 1996, a medicare supplement policy or
26 certificate shall not define a preexisting condition more restrictively
27 than as a condition for which medical advice was given or treatment was
28 recommended by or received from a physician, or other health care
29 provider acting within the scope of his or her license, within three
30 months before the effective date of coverage.

31 (3) If a medicare supplement insurance policy or certificate
32 contains any limitations with respect to preexisting conditions, such
33 limitations must appear as a separate paragraph of the policy or
34 certificate and be labeled as "Preexisting Condition Limitations."

35 (4) No exclusion or limitation of preexisting conditions may be
36 applied to policies or certificates replaced in accordance with the

1 provisions of RCW 48.66.045 if the policy or certificate replaced had
2 been in effect for at least three months.

3 (5) If a medicare supplement policy or certificate replaces another
4 medicare supplement policy or certificate, the replacing issuer shall
5 waive any time periods applicable to preexisting conditions, waiting
6 periods, elimination periods, and probationary periods in the new
7 medicare supplement policy or certificate for similar benefits to the
8 extent that time was spent under the original policy.

9 (6) If a medicare supplement policy or certificate replaces another
10 medicare supplement policy or certificate that has been in effect for
11 at least three months, the replacing policy must not provide any time
12 period applicable to preexisting conditions, waiting periods,
13 elimination periods, and probationary periods for benefits similar to
14 those contained in the original policy or certificate.

15 **Sec. 31.** RCW 48.92.120 and 1993 c 462 s 101 are each amended to
16 read as follows:

17 (1) ~~((No))~~ A person may not act or aid in any manner in soliciting,
18 negotiating, or procuring liability insurance in this state from a risk
19 retention group unless the person is licensed as an insurance agent or
20 broker for casualty insurance in accordance with chapter 48.17 RCW and
21 pays the fees designated for the license under RCW 48.14.010.

22 (2)(a) ~~((No))~~ A person may not act or aid in any manner in
23 soliciting, negotiating, or procuring liability insurance in this state
24 for a purchasing group from an authorized insurer or a risk retention
25 group chartered in a state unless the person is licensed as an
26 insurance agent or broker for casualty insurance in accordance with
27 chapter 48.17 RCW and pays the fees designated for the license under
28 RCW 48.14.010.

29 (b) ~~((No))~~ A person may not act or aid in any manner in soliciting,
30 negotiating, or procuring liability insurance coverage in this state
31 for a member of a purchasing group under a purchasing group's policy
32 unless the person is licensed as an insurance agent or broker for
33 casualty insurance in accordance with chapter 48.17 RCW and pays the
34 fees designated for the license under RCW 48.14.010.

35 (c) ~~((No))~~ A person may not act or aid in any manner in soliciting,
36 negotiating, or procuring liability insurance from an insurer not
37 authorized to do business in this state on behalf of a purchasing group

1 located in this state unless the person is licensed as a surplus lines
2 broker in accordance with chapter 48.15 RCW and pays the fees
3 designated for the license under RCW 48.14.010.

4 (3) For purposes of acting as an agent or broker for a risk
5 retention group or purchasing group under subsections (1) and (2) of
6 this section, the requirement of residence in this state does not
7 apply.

8 (4) Every person licensed under chapters 48.15 and 48.17 RCW, on
9 business placed with risk retention groups or written through a
10 purchasing group, (~~shall~~) must inform each prospective insured of the
11 provisions of the notice required under RCW 48.92.040(7) in the case of
12 a risk retention group and RCW 48.92.090(~~(+3)~~) (2) in the case of a
13 purchasing group.

14 **Sec. 32.** RCW 48.98.015 and 1993 c 462 s 37 are each amended to
15 read as follows:

16 (~~No~~) A managing general agent may not place business with an
17 insurer unless there is in force a written contract between the
18 managing general agent and the insurer that sets forth the
19 responsibilities of each party and, where both parties share
20 responsibility for a particular function, that specifies the division
21 of the responsibilities, and that contains the following minimum
22 provisions:

23 (1) The insurer may terminate the contract for cause upon written
24 notice to the managing general agent. The insurer may suspend the
25 underwriting authority of the managing general agent during the
26 pendency of a dispute regarding the cause for termination.

27 (2) The managing general agent shall render accounts to the insurer
28 detailing all transactions and remit all funds due under the contract
29 to the insurer on not less than a monthly basis.

30 (3) The managing general agent shall hold funds collected for the
31 account of an insurer in a fiduciary capacity in (~~(a)~~) an FDIC insured
32 financial institution (~~(located in this state that is a member of the~~
33 ~~federal reserve system)~~). This account must be used for all payments
34 on behalf of the insurer. The managing general agent may retain no
35 more than three months' estimated claims payments and allocated loss
36 adjustment expenses.

1 (4) The managing general agent shall maintain separate records of
2 business written for each insurer. The insurer has access to and the
3 right to copy all accounts and records related to its business in a
4 form usable by the insurer, and the commissioner has access to all
5 books, bank accounts, and records of the managing general agent in a
6 form usable to the commissioner. Those records (~~shall~~) must be
7 retained according to the requirements of this title and rules adopted
8 under it.

9 (5) The managing general agent may not assign the contract in whole
10 or part.

11 (6)(a) Appropriate underwriting guidelines must include at least
12 the following: The maximum annual premium volume; the basis of the
13 rates to be charged; the types of risks that may be written; maximum
14 limits of liability; applicable exclusions; territorial limitations;
15 policy cancellation provisions; and the maximum policy period.

16 (b) The insurer has the right to cancel or not renew any policy of
17 insurance, subject to the applicable laws and rules, including those in
18 chapter 48.18 RCW.

19 (7) If the contract permits the managing general agent to settle
20 claims on behalf of the insurer:

21 (a) All claims must be reported to the insurer in a timely
22 manner(~~(-)~~);

23 (b) A copy of the claim file must be sent to the insurer at its
24 request or as soon as it becomes known that the claim:

25 (i) Has the potential to exceed an amount determined by the
26 commissioner, or exceeds the limit set by the insurer, whichever is
27 less;

28 (ii) Involves a coverage dispute;

29 (iii) May exceed the managing general agent's claims settlement
30 authority;

31 (iv) Is open for more than six months; or

32 (v) Is closed by payment in excess of an amount set by the
33 commissioner or an amount set by the insurer, whichever is less(~~(-)~~);

34 (c) All claim files are the joint property of the insurer and the
35 managing general agent. However, upon an order of liquidation of the
36 insurer, those files become the sole property of the insurer or its
37 liquidator or successor. The managing general agent has reasonable
38 access to and the right to copy the files on a timely basis(~~(-)~~); and

1 (d) Settlement authority granted to the managing general agent may
2 be terminated for cause upon the insurer's written notice to the
3 managing general agent or upon the termination of the contract. The
4 insurer may suspend the managing general agent's settlement authority
5 during the pendency of a dispute regarding the cause for termination.

6 (8) (~~Where~~) When electronic claims files are in existence, the
7 contract must address the timely transmission of the data.

8 (9) If the contract provides for a sharing of interim profits by
9 the managing general agent, and the managing general agent has the
10 authority to determine the amount of the interim profits by
11 establishing loss reserves or controlling claim payments or in any
12 other manner, interim profits (~~shall~~) may not be paid to the managing
13 general agent until one year after they are earned for property
14 insurance business and five years after they are earned on casualty
15 business and not until the profits have been verified under RCW
16 48.98.020.

17 (10) The managing general agent may not:

18 (a) Bind reinsurance or retrocessions on behalf of the insurer,
19 except that the managing general agent may bind automatic reinsurance
20 contracts under obligatory automatic agreements if the contract with
21 the insurer contains reinsurance underwriting guidelines including, for
22 both reinsurance assumed and ceded, a list of reinsurers with which the
23 automatic agreements are in effect, the coverages and amounts or
24 percentages that may be reinsured, and commission schedules;

25 (b) Commit the insurer to participate in insurance or reinsurance
26 syndicates;

27 (c) Use an agent that is not appointed to represent the insurer in
28 accordance with the requirements of chapter 48.17 RCW;

29 (d) Without prior approval of the insurer, pay or commit the
30 insurer to pay a claim over a specified amount, net of reinsurance,
31 that (~~shall~~) may not exceed one percent of the insurer's policyholder
32 surplus as of December 31st of the last-completed calendar year;

33 (e) Collect a payment from a reinsurer or commit the insurer to a
34 claim settlement with a reinsurer, without prior approval of the
35 insurer. If prior approval is given, a report (~~shall~~) must be
36 promptly forwarded to the insurer;

37 (f) Permit an agent appointed by it to serve on the insurer's board
38 of directors;

- 1 (g) Jointly employ an individual who is employed by the insurer; or
2 (h) Appoint a submanaging general agent.

3 **Sec. 33.** RCW 48.110.030 and 1999 c 112 s 4 are each amended to
4 read as follows:

5 (1) A person (~~shall~~) may not act as, or offer to act as, or hold
6 himself or herself out to be a service contract provider in this state,
7 nor may a service contract be sold to a consumer in this state, unless
8 the service contract provider has a valid registration as a service
9 contract provider issued by the commissioner.

10 (2) Applicants to be a service contract provider (~~shall~~) must
11 make an application to the commissioner upon a form to be furnished by
12 the commissioner. The application (~~shall~~) must include or be
13 accompanied by the following information and documents:

14 (a) All basic organizational documents of the service contract
15 provider, including any articles of incorporation, articles of
16 association, partnership agreement, trade name certificate, trust
17 agreement, shareholder agreement, bylaws, and other applicable
18 documents, and all amendments to those documents;

19 (b) The identities of the service contract provider's executive
20 officer or officers directly responsible for the service contract
21 provider's service contract business, and, if more than fifty percent
22 of the service contract provider's gross revenue is derived from the
23 sale of service contracts, the identities of the service contract
24 provider's directors and stockholders having beneficial ownership of
25 ten percent or more of any class of securities;

26 (c) Audited annual financial statements or other financial reports
27 acceptable to the commissioner for the two most recent years which
28 prove that the applicant is solvent and any information the
29 commissioner may require in order to review the current financial
30 condition of the applicant. If the service contract provider is
31 relying on RCW 48.110.050(2) (a) or (c) to assure the faithful
32 performance of its obligations to service contract holders, then the
33 audited financial statements of the service contract provider's parent
34 company may be substituted for the audited financial statements of the
35 service contract provider;

36 (d) An application fee of two hundred fifty dollars, which shall be

1 deposited into the (~~insurance commissioner's regulatory account under~~
2 ~~RCW 48.02.190~~) general fund; and

3 (e) Any other pertinent information required by the commissioner.

4 (3) The applicant shall appoint the commissioner as its attorney to
5 receive service of legal process in any action, suit, or proceeding in
6 any court. This appointment is irrevocable and shall bind the service
7 contract provider or any successor in interest, shall remain in effect
8 as long as there is in force in this state any contract or any
9 obligation arising therefrom related to residents of this state, and
10 shall be processed in accordance with RCW 48.05.210.

11 (4) The commissioner may refuse to issue a registration if the
12 commissioner determines that the service contract provider, or any
13 individual responsible for the conduct of the affairs of the service
14 contract provider under subsection (2)(b) of this section, is not
15 competent, trustworthy, financially responsible, or has had a license
16 as a service contract provider or similar license denied or revoked for
17 cause by any state.

18 (5) A registration issued under this section is valid, unless
19 surrendered, suspended, or revoked by the commissioner, or not renewed
20 for so long as the service contract provider continues in business in
21 this state and remains in compliance with this chapter. A registration
22 is subject to renewal annually on the first day of July upon
23 application of the service contract provider and payment of a fee of
24 two hundred dollars, which shall be deposited into the (~~insurance~~
25 ~~commissioner's regulatory account under RCW 48.02.190~~) general fund.
26 If not so renewed, the registration expires on the June 30th next
27 preceding.

28 (6) A service contract provider shall keep current the information
29 required to be disclosed in its registration under this section by
30 reporting all material changes or additions within thirty days after
31 the end of the month in which the change or addition occurs.

32 **Sec. 34.** RCW 48.110.040 and 1999 c 112 s 5 are each amended to
33 read as follows:

34 (1) Every registered service contract provider that is assuring its
35 faithful performance of its obligations to its service contract holders
36 by complying with RCW 48.110.050(2)(b) (~~shall~~) must file an annual
37 report for the preceding calendar year with the commissioner on or

1 before March 1st of each year, or within any extension of time the
2 commissioner for good cause may grant. The report (~~shall~~) must be in
3 the form and contain those matters as the commissioner prescribes and
4 shall be verified by at least two officers of the service contract
5 provider.

6 (2) At the time of filing the report, the service contract provider
7 (~~shall~~) must pay a filing fee of twenty dollars which shall be
8 deposited into the (~~insurance commissioner's regulatory account under~~
9 ~~RCW 48.02.190~~) general fund.

10 (3) As part of any investigation by the commissioner, the
11 commissioner may require a service contract provider to file monthly
12 financial reports whenever, in the commissioner's discretion, there is
13 a need to more closely monitor the financial activities of the service
14 contract provider. Monthly financial statements (~~shall~~) must be
15 filed in the commissioner's office no later than the twenty-fifth day
16 of the month following the month for which the financial report is
17 being filed. These monthly financial reports (~~shall be~~) are the
18 internal financial statements of the service contract provider. The
19 monthly financial reports that are filed with the commissioner
20 constitute information that might be damaging to the service contract
21 provider if made available to its competitors, and therefore shall be
22 kept confidential by the commissioner. This information (~~shall~~) may
23 not be made public or be subject to subpoena, other than by the
24 commissioner and then only for the purpose of enforcement actions taken
25 by the commissioner.

26 NEW SECTION. Sec. 35. The following acts or parts of acts are
27 each repealed:

28 (1) RCW 48.05.360 (Special surplus requirements for certain
29 combinations) and 1963 c 195 s 9;

30 (2) RCW 48.29.030 (Amount of deposit) and 1957 c 193 s 16 & 1947 c
31 79 s .29.03;

32 (3) RCW 48.29.060 (Impairment of deposit) and 1947 c 79 s .29.06;

33 (4) RCW 48.29.070 (Levy of execution against deposit) and 1955 c 86
34 s 14 & 1947 c 79 s .29.07;

35 (5) RCW 48.29.090 (Purpose of deposit) and 1955 c 86 s 16 & 1947 c
36 79 s .29.09;

37 (6) RCW 48.29.100 (Termination of deposit) and 1947 c 79 s .29.10;

1 (7) RCW 48.29.110 (Release of securities) and 1955 c 86 s 17 & 1947
2 c 79 s .29.11; and
3 (8) RCW 48.34.910 (Small loan act [Consumer finance act] not
4 affected) and 1961 c 219 s 14.

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