
HOUSE BILL 2302

State of Washington

60th Legislature

2007 Regular Session

By Representative Santos

Read first time 02/19/2007. Referred to Committee on Insurance,
Financial Services & Consumer Protection.

1 AN ACT Relating to interpretive or policy statements by the
2 insurance commissioner; amending RCW 34.05.230 and 34.05.630; and
3 adding a new section to chapter 48.02 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.02 RCW
6 to read as follows:

7 (1) No interpretive or policy statement issued by the insurance
8 commissioner after the effective date of this section is effective
9 unless it complies with the requirements of this section.

10 (2) The insurance commissioner must file the text of any proposed
11 interpretive or policy statement for publication in the Washington
12 State Register.

13 (3) Any person may file a written objection to a proposed
14 interpretive or policy statement within forty-five days after the
15 notice of proposed interpretive or policy statement is published
16 stating that the insurance commissioner has exceeded his or her
17 authority or that a rule must be adopted instead of an interpretive or
18 policy statement. The objection must be filed with the rules
19 coordinator of the office of the insurance commissioner within

1 forty-five days after the notice of the proposed interpretive or policy
2 statement has been published in the Washington State Register. A
3 person who has filed a written objection to the proposed interpretive
4 or policy statement may withdraw the objection.

5 (4) If a person has objected to a proposed interpretive or policy
6 statement stating that the insurance commissioner has exceeded his or
7 her authority or that a rule must be adopted instead of an interpretive
8 or policy statement and not withdrawn the objection, the insurance
9 commissioner may:

10 (a) Withdraw the proposed interpretive or policy statement and file
11 a notice of the withdrawal in the Washington State Register. If the
12 insurance commissioner withdraws the proposed interpretive or policy
13 statement, the insurance commissioner may choose to file a revised
14 notice subject to the same requirements of this section;

15 (b) Adopt the proposed interpretive or policy statement by rule,
16 subject to the appropriate requirements of the administrative procedure
17 act, chapter 34.05 RCW; or

18 (c) Notify the joint administrative rules review committee of the
19 objection to the proposed interpretive or policy statement. The
20 notification must be treated as a request for the joint administrative
21 rules review committee to review the proposed interpretive or policy
22 statement.

23 (5) If no written objections to the proposed interpretive or policy
24 statement are filed with the insurance commissioner within forty-five
25 days after the notice of proposed interpretive or policy statement is
26 published, or if all objections that have been filed are withdrawn by
27 the persons filing the objections, the insurance commissioner may file
28 notice issuing the interpretive or policy statement with the Washington
29 State Register.

30 **Sec. 2.** RCW 34.05.230 and 2004 c 31 s 3 are each amended to read
31 as follows:

32 (1) An agency is encouraged to advise the public of its current
33 opinions, approaches, and likely courses of action by means of
34 interpretive or policy statements. Current interpretive and policy
35 statements are advisory only. To better inform and involve the public,
36 an agency is encouraged to convert long-standing interpretive and
37 policy statements into rules.

1 (2) A person may petition an agency requesting the conversion of
2 interpretive and policy statements into rules. Upon submission, the
3 agency shall notify the joint administrative rules review committee of
4 the petition. Within sixty days after submission of a petition, the
5 agency shall either deny the petition in writing, stating its reasons
6 for the denial, or initiate rule-making proceedings in accordance with
7 this chapter.

8 (3) Each agency shall maintain a roster of interested persons,
9 consisting of persons who have requested in writing to be notified of
10 all interpretive and policy statements issued by that agency. Each
11 agency shall update the roster periodically and eliminate persons who
12 do not indicate a desire to continue on the roster. Whenever an agency
13 issues an interpretive or policy statement, it shall send a copy of the
14 statement to each person listed on the roster. The agency may charge
15 a nominal fee to the interested person for this service.

16 (4) Whenever an agency issues an interpretive or policy statement,
17 it shall submit to the code reviser for publication in the Washington
18 State Register a statement describing the subject matter of the
19 interpretive or policy statement, and listing the person at the agency
20 from whom a copy of the interpretive or policy statement may be
21 obtained.

22 (5) The insurance commissioner must also comply with the
23 requirements of section 1 of this act before issuing an interpretive or
24 policy statement.

25 **Sec. 3.** RCW 34.05.630 and 1998 c 21 s 1 are each amended to read
26 as follows:

27 (1) All rules required to be filed pursuant to RCW 34.05.380, and
28 emergency rules adopted pursuant to RCW 34.05.350, are subject to
29 selective review by the committee.

30 (2)(a) All agency policy and interpretive statements, guidelines,
31 and documents that are of general applicability, or their equivalents,
32 are subject to selective review by the committee to determine whether
33 or not a statement, guideline, or document that is of general
34 applicability, or its equivalent, is being used as a rule that has not
35 been adopted in accordance with all applicable provisions of law.

36 (b) All policy and interpretive statements, guidelines, and

1 documents from the insurance commissioner that are of general
2 applicability, or their equivalents, are subject to the requirements of
3 section 1 of this act.

4 (3) If the rules review committee finds by a majority vote of its
5 members: (a) That an existing rule is not within the intent of the
6 legislature as expressed by the statute which the rule implements, (b)
7 that the rule has not been adopted in accordance with all applicable
8 provisions of law, (~~(c)~~) (c) that an agency is using a policy or
9 interpretive statement in place of a rule, or (d) the insurance
10 commissioner has exceeded his or her authority, the agency affected
11 shall be notified of such finding and the reasons therefor. Within
12 thirty days of the receipt of the rules review committee's notice, the
13 agency shall file notice of a hearing on the rules review committee's
14 finding with the code reviser and mail notice to all persons who have
15 made timely request of the agency for advance notice of its rule-making
16 proceedings as provided in RCW 34.05.320. The agency's notice shall
17 include the rules review committee's findings and reasons therefor, and
18 shall be published in the Washington state register in accordance with
19 the provisions of chapter 34.08 RCW.

20 (4) The agency shall consider fully all written and oral
21 submissions regarding (a) whether the rule in question is within the
22 intent of the legislature as expressed by the statute which the rule
23 implements, (b) whether the rule was adopted in accordance with all
24 applicable provisions of law, and (c) whether the agency is using a
25 policy or interpretive statement, guideline, or document that is of
26 general applicability, or its equivalent, in place of a rule.

--- END ---