
SENATE BILL 5715

State of Washington

60th Legislature

2007 Regular Session

By Senators Benton, Berkey, Hobbs, Prentice, Hatfield, Franklin and Shin; by request of Insurance Commissioner

Read first time 01/29/2007. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to persons selling, soliciting, or negotiating
2 insurance; amending RCW 48.17.010, 48.17.060, 48.17.063, 48.17.065,
3 48.17.067, 48.17.090, 48.17.110, 48.17.125, 48.17.150, 48.17.160,
4 48.17.170, 48.17.180, 48.17.250, 48.17.270, 48.17.380, 48.17.390,
5 48.17.410, 48.17.420, 48.17.450, 48.17.460, 48.17.470, 48.17.475,
6 48.17.480, 48.17.490, 48.17.510, 48.17.530, 48.17.565, 48.17.591,
7 48.17.600, and 48.14.010; reenacting and amending RCW 42.56.400; adding
8 new sections to chapter 48.17 RCW; repealing RCW 48.17.020, 48.17.030,
9 48.17.040, 48.17.050, 48.17.055, 48.17.070, 48.17.100, 48.17.120,
10 48.17.130, 48.17.190, 48.17.200, 48.17.210, 48.17.230, 48.17.240,
11 48.17.260, 48.17.280, 48.17.290, 48.17.300, 48.17.310, 48.17.320,
12 48.17.330, 48.17.340, 48.17.500, 48.17.520, and 48.05.310; prescribing
13 penalties; and providing an effective date.

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

15 **Sec. 1.** RCW 48.17.010 and 1985 c 264 s 7 are each amended to read
16 as follows:

17 (~~"Agent" means any person appointed by an insurer to solicit~~
18 ~~applications for insurance on its behalf. If authorized so to do, an~~

1 ~~agent may effectuate insurance contracts. An agent may collect~~
2 ~~premiums on insurances so applied for or effectuated.))~~

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adjuster" means any person who, for compensation as an
6 independent contractor or as an employee of an independent contractor,
7 or for fee or commission, investigates or reports to the adjuster's
8 principal relative to claims arising under insurance contracts, on
9 behalf solely of either the insurer or the insured. An attorney-at-law
10 who adjusts insurance losses from time to time incidental to the
11 practice of his or her profession, or an adjuster of marine losses, or
12 a salaried employee of an insurer or of a managing general agent, is
13 not deemed to be an "adjuster" for the purpose of this chapter.

14 (a) "Independent adjuster" means an adjuster representing the
15 interests of the insurer.

16 (b) "Public adjuster" means an adjuster employed by and
17 representing solely the financial interests of the insured named in the
18 policy.

19 (2) "Business entity" means a corporation, association,
20 partnership, limited liability company, limited liability partnership,
21 or other legal entity.

22 (3) "Home state" means the District of Columbia and any state or
23 territory of the United States or province of Canada in which an
24 insurance producer maintains the insurance producer's principal place
25 of residence or principal place of business, and is licensed to act as
26 an insurance producer.

27 (4) "Insurance education provider" means any insurer, health care
28 service contractor, health maintenance organization, professional
29 association, educational institution created by Washington statutes, or
30 vocational school licensed under Title 28C RCW, or independent
31 contractor to which the commissioner has granted authority to conduct
32 and certify completion of a course satisfying the insurance education
33 requirements of RCW 48.17.150.

34 (5) "Insurance producer" means a person required to be licensed
35 under the laws of this state to sell, solicit, or negotiate insurance.
36 "Insurance producer" does not include title insurance agent as defined
37 in subsection (15) of this section.

1 (6) "Insurer" has the same meaning as in RCW 48.01.050, and
2 includes a health care service contractor as defined in RCW 48.44.010
3 and a health maintenance organization as defined in RCW 48.46.020.

4 (7) "License" means a document issued by the commissioner
5 authorizing a person to act as an insurance producer or title insurance
6 agent for the lines of authority specified in the document. The license
7 itself does not create any authority, actual, apparent, or inherent, in
8 the holder to represent or commit to an insurer.

9 (8) "Limited line credit insurance" includes credit life, credit
10 disability, credit property, credit unemployment, involuntary
11 unemployment, mortgage life, mortgage guaranty, mortgage disability,
12 automobile dealer gap insurance, and any other form of insurance
13 offered in connection with an extension of credit that is limited to
14 partially or wholly extinguishing the credit obligation that the
15 commissioner determines should be designated a form of limited line
16 credit insurance.

17 (9) "NAIC" means national association of insurance commissioners.

18 (10) "Negotiate" means the act of conferring directly with, or
19 offering advice directly to, a purchaser or prospective purchaser of a
20 particular contract of insurance concerning any of the substantive
21 benefits, terms, or conditions of the contract, provided that the
22 person engaged in that act either sells insurance or obtains insurance
23 from insurers for purchasers.

24 (11) "Person" means an individual or a business entity.

25 (12) "Sell" means to exchange a contract of insurance by any means,
26 for money or its equivalent, on behalf of an insurer.

27 (13) "Solicit" means attempting to sell insurance or asking or
28 urging a person to apply for a particular kind of insurance from a
29 particular insurer.

30 (14) "Terminate" means the cancellation of the relationship between
31 an insurance producer and the insurer or the termination of an
32 insurance producer's authority to transact insurance.

33 (15) "Title insurance agent" means a business entity licensed under
34 the laws of this state and appointed by an authorized title insurance
35 company to sell, solicit, or negotiate insurance on behalf of the title
36 insurance company.

37 (16) "Uniform business entity application" means the current

1 version of the NAIC uniform application for business entity insurance
2 license or registration for resident and nonresident business entities.

3 (17) "Uniform application" means the current version of the NAIC
4 uniform application for individual insurance producers for resident and
5 nonresident insurance producer licensing.

6 **Sec. 2.** RCW 48.17.060 and 2003 c 250 s 4 are each amended to read
7 as follows:

8 ~~((1) A person may not act as or hold himself or herself out to be~~
9 ~~an agent, broker, solicitor, or adjuster in this state unless licensed~~
10 ~~by the commissioner.~~

11 ~~(2) An agent, solicitor, or broker may not solicit or take~~
12 ~~applications for, procure, or place for others any kind of insurance~~
13 ~~for which he or she is not then licensed.~~

14 ~~(3) This section does not apply with respect to any person securing~~
15 ~~and forwarding information required for the purposes of group credit~~
16 ~~life and credit disability insurance or credit casualty insurance~~
17 ~~against loss or damage resulting from failure of debtors to pay their~~
18 ~~obligations in connection with an extension of credit and such other~~
19 ~~credit life and disability insurance or credit casualty insurance~~
20 ~~against loss or damage resulting from failure of debtors to pay their~~
21 ~~obligations as the commissioner shall determine, and where no~~
22 ~~commission or other compensation is payable on account of the securing~~
23 ~~and forwarding of such information. However, the reimbursement of a~~
24 ~~creditor's actual expenses for securing and forwarding information~~
25 ~~required for the purposes of such group insurance will not be~~
26 ~~considered a commission or other compensation if such reimbursement~~
27 ~~does not exceed three dollars per certificate issued, or in the case of~~
28 ~~a monthly premium plan extending beyond twelve months, not to exceed~~
29 ~~three dollars per loan transaction revision per year.))~~

30 A person shall not sell, solicit, or negotiate insurance in this
31 state for any line or lines of insurance unless the person is licensed
32 for that line of authority in accordance with this chapter.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.17 RCW
34 to read as follows:

35 (1) Nothing in this act shall be construed to require an insurer to

1 obtain an insurance producer license. In this section, the term
2 "insurer" does not include an insurer's officers, directors, employees,
3 subsidiaries, or affiliates.

4 (2) A license as an insurance producer is not required of the
5 following:

6 (a) An officer, director, or employee of an insurer or of an
7 insurance producer, provided that the officer, director, or employee
8 does not receive any commission on policies written or sold to insure
9 risks residing, located, or to be performed in this state, and:

10 (i) The officer, director, or employee's activities are executive,
11 administrative, managerial, clerical, or a combination of these, and
12 are only indirectly related to the sale, solicitation, or negotiation
13 of insurance; or

14 (ii) The officer, director, or employee's function relates to
15 underwriting, loss control, inspection, or the processing, adjusting,
16 investigating, or settling of a claim on a contract of insurance; or

17 (iii) The officer, director, or employee is acting in the capacity
18 of a special agent or agency supervisor assisting insurance producers
19 where the person's activities are limited to providing technical advice
20 and assistance to licensed insurance producers, and do not include the
21 sale, solicitation, or negotiation of insurance;

22 (b) A person who secures and furnishes information for the purpose
23 of group life insurance, group property and casualty insurance, group
24 annuities, group or blanket accident and disability insurance; or for
25 the purpose of enrolling individuals under plans; or issuing
26 certificates under plans or otherwise assisting in administering plans;
27 or performs administrative services related to mass marketed property
28 and casualty insurance; where no commission is paid to the person for
29 the service;

30 (c) An employer or association or its officers, directors,
31 employees, or the trustees of an employee trust plan, to the extent
32 that the employers, officers, employees, director, or trustees are
33 engaged in the administration or operation of a program of employee
34 benefits for the employer's or association's own employees or the
35 employees of its subsidiaries or affiliates, which program involves the
36 use of insurance issued by an insurer, as long as the employers,
37 associations, officers, directors, employees, or trustees are not in

1 any manner compensated, directly or indirectly, by the company issuing
2 the contracts;

3 (d) Employees of insurers or organizations employed by insurers who
4 are engaging in the inspection, rating, or classification of risks, or
5 in the supervision of the training of insurance producers, and who are
6 not individually engaged in the sale, solicitation, or negotiation of
7 insurance;

8 (e) A person whose activities in this state are limited to
9 advertising without the intent to solicit insurance in this state
10 through communication in printed publications or other forms of
11 electronic mass media whose distribution is not limited to residents of
12 the state, provided that the person does not sell, solicit, or
13 negotiate insurance that would insure risks residing, located, or to be
14 performed in this state;

15 (f) A person who is not a resident of this state who sells,
16 solicits, or negotiates a contract of insurance for commercial property
17 and casualty risks to an insured with risks located in more than one
18 state insured under that contract, provided that the person is
19 otherwise licensed as an insurance producer to sell, solicit, or
20 negotiate the insurance in the state where the insured maintains its
21 principal place of business and the contract of insurance insures risks
22 located in that state;

23 (g) A salaried full-time employee who counsels or advises his or
24 her employer relative to the insurance interests of the employer or of
25 the subsidiaries or business affiliates of the employer, provided that
26 the employee does not sell or solicit insurance or receive a
27 commission; or

28 (h) Any person securing and forwarding information required for the
29 purposes of group credit life and credit disability insurance or credit
30 casualty insurance against loss or damage resulting from failure of
31 debtors to pay their obligations in connection with an extension of
32 credit and such other credit life and disability insurance or credit
33 casualty insurance against loss or damage resulting from failure of
34 debtors to pay their obligations as the commissioner shall determine,
35 and where no commission or other compensation is payable on account of
36 the securing and forwarding of such information. However, the
37 reimbursement of a creditor's actual expenses for securing and
38 forwarding information required for the purposes of such group

1 insurance will not be considered a commission or other compensation if
2 such reimbursement does not exceed three dollars per certificate
3 issued, or in the case of a monthly premium plan extending beyond
4 twelve months, not to exceed three dollars per loan transaction
5 revision per year.

6 **Sec. 4.** RCW 48.17.063 and 2003 c 250 s 5 are each amended to read
7 as follows:

8 ~~(1) ((As used in this section, "person" has the same meaning as in
9 RCW 48.01.070.~~

10 ~~(2))~~ For the purpose of this section, an act is committed in this
11 state if it is committed, in whole or in part, in the state of
12 Washington, or affects persons or property within the state and relates
13 to or involves an insurance contract, health care services contract, or
14 health maintenance agreement.

15 ~~((3))~~ (2) Any person who knowingly violates RCW 48.17.060~~((1))~~
16 is guilty of a class B felony punishable under chapter 9A.20 RCW.

17 ~~((4) Any person who knowingly violates RCW 48.17.060(2) is guilty
18 of a class B felony punishable under chapter 9A.20 RCW.~~

19 ~~(5))~~ (3) Any criminal penalty imposed under this section is in
20 addition to, and not in lieu of, any other civil or administrative
21 penalty or sanction otherwise authorized under state law.

22 ~~((6))~~ (4)(a) If the commissioner has cause to believe that any
23 person has violated the provisions of RCW 48.17.060 ~~((1) or (2))~~, the
24 commissioner may:

25 (i) Issue and enforce a cease and desist order in accordance with
26 the provisions of RCW 48.02.080;

27 (ii) Suspend or revoke a license; and/or

28 (iii) Assess a civil penalty of not more than twenty-five thousand
29 dollars for each violation, after providing notice and an opportunity
30 for a hearing in accordance with chapters 34.05 and 48.04 RCW.

31 (b) Upon failure to pay a civil penalty when due, the attorney
32 general may bring a civil action on behalf of the commissioner to
33 recover the unpaid penalty. Any amounts collected by the commissioner
34 must be paid to the state treasurer for the account of the general
35 fund.

1 **Sec. 5.** RCW 48.17.065 and 1983 c 202 s 7 are each amended to read
2 as follows:

3 The provisions of this chapter shall apply to ~~((agents of))~~
4 insurance producers appointed by either health care service contractors
5 ~~((and))~~ or health maintenance organizations, or both.

6 **Sec. 6.** RCW 48.17.067 and 2003 c 250 s 6 are each amended to read
7 as follows:

8 Any ~~((solicitor, agent, or broker))~~ insurance producer or title
9 insurance agent soliciting, negotiating, or procuring an application
10 for insurance or health care services in this state must make a good
11 faith effort to determine whether the entity that is issuing the
12 coverage is:

- 13 (1) Authorized to transact insurance or health coverage in this
14 state; or
- 15 (2) Conducting business through a surplus line~~((s))~~ broker licensed
16 under chapter 48.15 RCW.

17 **Sec. 7.** RCW 48.17.090 and 2002 c 227 s 2 are each amended to read
18 as follows:

19 ~~((Application for a license to be an agent, broker, solicitor,~~
20 ~~or adjuster shall be made to the commissioner upon forms furnished by~~
21 ~~the commissioner. As a part of or in connection with any such~~
22 ~~application, the applicant shall furnish information concerning his or~~
23 ~~her identity, including fingerprints for submission to the Washington~~
24 ~~state patrol, the federal bureau of investigation, and any governmental~~
25 ~~agency or entity authorized to receive this information for a state and~~
26 ~~national criminal history background check, personal history,~~
27 ~~experience, business record, purposes, and other pertinent facts, as~~
28 ~~the commissioner may reasonably require.~~

29 ~~((2) Persons resident in the United States but not in Washington may~~
30 ~~apply for such a license on a form prepared by the national association~~
31 ~~of insurance commissioners or others, if those forms are approved by~~
32 ~~the commissioner by rule. An applicant shall also furnish any other~~
33 ~~information required to be submitted but not provided for in that form.~~

34 ~~((3) Any person willfully misrepresenting any fact required to be~~
35 ~~disclosed in any such application shall be liable to penalties as~~
36 ~~provided by this code.~~

1 ~~(4) If in the process of verifying fingerprints under subsection~~
2 ~~(1) of this section, business records, or other information the~~
3 ~~commissioner's office incurs fees or charges from another governmental~~
4 ~~agency or from a business firm, the amount of such fees or charges~~
5 ~~shall be paid to the commissioner's office by the applicant.))~~ A person
6 applying for a resident insurance producer license shall make
7 application to the commissioner on the uniform application and declare
8 under penalty of refusal, suspension, or revocation of the license that
9 the statements made in the application are true, correct, and complete
10 to the best of the individual's knowledge and belief. As a part of or
11 in connection with the application, the applicant shall furnish
12 information concerning the applicant's identity, including fingerprints
13 for submission to the Washington state patrol, the federal bureau of
14 investigation, and any governmental agency or entity authorized to
15 receive this information for a state and national criminal history
16 background check. Before approving the application, the commissioner
17 shall find that the individual:

18 (a) Is at least eighteen years of age;

19 (b) Has not committed any act that is a ground for denial,
20 suspension, or revocation set forth in RCW 48.17.530;

21 (c) Has completed a prelicensing course of study for the lines of
22 authority for which the person has applied;

23 (d) Has paid the fees set forth in RCW 48.14.010; and

24 (e) Has successfully passed the examinations for the lines of
25 authority for which the person has applied.

26 (2) A business entity acting as an insurance producer is required
27 to obtain an insurance producer license. Application shall be made
28 using the uniform business entity application. Before approving the
29 application, the commissioner shall find that:

30 (a) The business entity has paid the fees set forth in RCW
31 48.14.010; and

32 (b) The business entity has designated a licensed producer
33 responsible for the business entity's compliance with the insurance
34 laws and rules of this state.

35 (3) A business entity acting as a title insurance agent is required
36 to obtain a title insurance agent license. Application shall be made
37 to the commissioner on the uniform business entity application, and the
38 individual signing the application shall declare under penalty of

1 refusal, suspension, or revocation of the license that the statements
2 made in the application are true, correct, and complete to the best of
3 the individual's knowledge and belief. Before approving the
4 application, the commissioner shall find that the business entity:

5 (a) Has paid the fees set forth in RCW 48.14.010;

6 (b) Maintains a lawfully established place of business in this
7 state or holds a corresponding license issued by the state of its
8 principal place of business, and has complied with the laws of this
9 state governing the admission of foreign corporations;

10 (c) Is empowered to be a title agent under a members' agreement, if
11 a limited liability company, or by its articles of incorporation;

12 (d) Is appointed as an agent by one or more authorized title
13 insurance companies; and

14 (e) Has complied with RCW 48.29.155 and 48.29.160.

15 (4) The commissioner may require any documents reasonably necessary
16 to verify the information contained in an application and may, from
17 time to time, require any licensed insurance producer, title insurance
18 agent, or adjuster to produce the information called for in an
19 application for license.

20 **Sec. 8.** RCW 48.17.110 and 1990 1st ex.s. c 3 s 2 are each amended
21 to read as follows:

22 ~~(1) ((Each applicant for license as an agent, broker, solicitor, or~~
23 ~~adjuster shall, prior to the issuance of any such license, personally~~
24 ~~take and pass to the satisfaction of the examining authority, an~~
25 ~~examination given as a test of that person's qualifications and~~
26 ~~competence, but this requirement shall not apply to:~~

27 ~~(a) Applicants for limited licenses under RCW 48.17.190, at the~~
28 ~~discretion of the commissioner.~~

29 ~~(b) Applicants who within the two year period next preceding date~~
30 ~~of application have been licensed as a resident in this state under a~~
31 ~~license requiring qualifications similar to qualifications required by~~
32 ~~the license applied for or who have successfully completed a course of~~
33 ~~study recognized as a mark of distinction by the insurance industry and~~
34 ~~who are deemed by the commissioner to be fully qualified and competent.~~

35 ~~(c) Applicants for license as a nonresident agent or as a~~
36 ~~nonresident broker or as a nonresident adjuster who are duly licensed~~

1 in their state of residence and who are deemed by the commissioner to
2 be fully qualified and competent for a similar license in this state.

3 ~~(d) Applicants for an agent's or solicitor's license covering the
4 same kinds of insurance as an agent's or solicitor's license then held
5 by them.~~

6 ~~(e) Applicants for an adjuster's license who for a period of one
7 year, a portion of which was in the year next preceding the date of
8 application, have been a full time salaried employee of an insurer or
9 of a general agent to adjust, investigate, or report claims arising
10 under insurance contracts.~~

11 ~~(2) Any person licensed as an insurance broker by this state prior
12 to June 8, 1967, who is otherwise qualified to be a licensed insurance
13 broker, shall be entitled to renew that person's broker's license by
14 payment of the applicable fee for such of the broker's licenses
15 authorized by RCW 48.17.240, as that person shall elect, without taking
16 any additional examination, except as provided in subsection (3).~~

17 ~~(3) The commissioner may at any time require any licensed agent,
18 broker, solicitor, or adjuster to take and successfully pass an
19 examination testing the licensee's competence and qualifications as a
20 condition to the continuance or renewal of a license, if the licensee
21 has been guilty of violation of this code, or has so conducted affairs
22 under an insurance license as to cause the commissioner reasonably to
23 desire further evidence of the licensee's qualifications.)~~ A resident
24 individual applying for an insurance producer or adjuster license shall
25 pass a written examination unless exempt under this section or section
26 14 of this act. The examination shall test the knowledge of the
27 individual concerning the lines of authority for which application is
28 made, the duties and responsibilities of an insurance producer or
29 adjuster, and the insurance laws and rules of this state. Examinations
30 required by this section shall be developed and conducted under the
31 rules prescribed by the commissioner. The commissioner shall prepare,
32 or approve, and make available a manual specifying in general terms the
33 subjects which may be covered in any examination for a particular
34 license.

35 (2) The following are exempt from the examination requirement:

36 (a) Applicants for licenses under RCW 48.17.170(1) (g) and (h), at
37 the discretion of the commissioner;

1 (b) Applicants who within the two-year period next preceding date
2 of application have been licensed as a resident in this state under a
3 license requiring qualifications similar to qualifications required by
4 the license applied for, or who have successfully completed a course of
5 study recognized as a mark of distinction by the insurance industry,
6 and who are deemed by the commissioner to be fully qualified and
7 competent;

8 (c) Applicants for an adjuster's license who for a period of one
9 year, a portion of which was in the year next preceding the date of
10 application, have been a full-time salaried employee of an insurer or
11 of a managing general agent to adjust, investigate, or report claims
12 arising under insurance contracts;

13 (d) Applicants deemed by the commissioner to be qualified by past
14 experience to deal in ocean marine and related coverages.

15 (3) The commissioner may make arrangements, including contracting
16 with an outside testing service, for administering examinations.

17 (4) The commissioner may, at any time, require any licensed
18 insurance producer or adjuster to take and successfully pass an
19 examination testing the licensee's competence and qualifications as a
20 condition to the continuance or renewal of a license, if the licensee
21 has been guilty of violating this title, or has so conducted affairs
22 under an insurance license as to cause the commissioner to reasonably
23 desire further evidence of the licensee's qualifications.

24 **Sec. 9.** RCW 48.17.125 and 1989 c 323 s 1 are each amended to read
25 as follows:

26 It is unlawful for any unauthorized person to remove, reproduce,
27 duplicate, or distribute in any form, any question(s) used by the state
28 of Washington to determine the qualifications and competence of
29 insurance ((~~agents, brokers, solicitors,~~) producers or adjusters
30 required by Title 48 RCW to be licensed. This section shall not
31 prohibit an insurance education provider from creating and using sample
32 test questions in courses approved pursuant to RCW 48.17.150.

33 Any person violating this section shall be subject to penalties as
34 provided by RCW 48.01.080, 48.17.530, and 48.17.560.

35 **Sec. 10.** RCW 48.17.150 and 2005 c 223 s 7 are each amended to read
36 as follows:

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

3 ~~(a) Be at least eighteen years of age, if an individual;~~

4 ~~(b) Be a bona fide resident of and actually reside in this state,~~
5 ~~or if a corporation, be other than an insurer and maintain a lawfully~~
6 ~~established place of business in this state, except as provided in RCW~~
7 ~~48.17.330;~~

8 ~~(c) Be empowered to be an agent or broker under its members'~~
9 ~~agreement, if a firm, or by its articles of incorporation, if a~~
10 ~~corporation;~~

11 ~~(d) Complete the minimum educational requirements for the issuance~~
12 ~~of an agent's license for the kinds of insurance specified in RCW~~
13 ~~48.17.210 as may be required by regulation issued by the commissioner;~~

14 ~~(e) Successfully pass any examination as required under RCW~~
15 ~~48.17.110;~~

16 ~~(f) Be a trustworthy person;~~

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

19 ~~(ii) The commissioner may by regulation establish requirements,~~
20 ~~including notification formats, in addition to or in lieu of the~~
21 ~~requirements of (g)(i) of this subsection to allow an agent to act as~~
22 ~~a representative of and place insurance with an insurer without first~~
23 ~~notifying the commissioner of the appointment for a period of time up~~
24 ~~to but not exceeding thirty days from the date the first insurance~~
25 ~~application is executed by the agent; and~~

26 ~~(h) If for broker's license, have had at least two years experience~~
27 ~~either as an agent, solicitor, adjuster, general agent, broker, or as~~
28 ~~an employee of insurers or representatives of insurers, and special~~
29 ~~education or training of sufficient duration and extent reasonably to~~
30 ~~satisfy the commissioner that the applicant possesses the competence~~
31 ~~necessary to fulfill the responsibilities of broker.~~

32 ~~(2) The commissioner shall by regulation establish minimum~~
33 ~~continuing education requirements for the renewal or reissuance of a~~
34 ~~license to an agent or a broker.~~

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

1 ~~((b))~~ (2) The continuing education requirements must be
2 appropriate to the license for the ~~((kinds))~~ lines of ~~((insurance))~~
3 authority specified in RCW ~~((48.17.210))~~ 48.17.170 or by rule.

4 ~~((c))~~ (3) The continuing education requirements may be waived by
5 the commissioner for good cause shown.

6 ~~((3) If the commissioner finds that the applicant is qualified and
7 that the license fee has been paid, the license shall be issued.
8 Otherwise, the commissioner shall refuse to issue the license.))~~

9 **Sec. 11.** RCW 48.17.160 and 1994 c 131 s 5 are each amended to read
10 as follows:

11 ~~(1) ((Each insurer on appointing an agent in this state shall file
12 written notice thereof with the commissioner on forms as prescribed and
13 furnished by the commissioner, and shall pay the filing fee therefor as
14 provided in RCW 48.14.010. The commissioner shall return the
15 appointment of agent form to the insurer for distribution to the agent.
16 The commissioner may adopt regulations establishing alternative
17 appointment procedures for individuals within licensed firms,
18 corporations, or sole proprietorships who are empowered to exercise the
19 authority conferred by the firm, corporate, or sole proprietorship
20 license.~~

21 ~~(2) Each appointment shall be effective until the agent's license
22 expires or is revoked, the appointment has expired, or written notice
23 of termination of the appointment is filed with the commissioner,
24 whichever occurs first.~~

25 ~~(3) When the appointment is revoked by the insurer, written notice
26 of such revocation shall be given to the agent and a copy of the notice
27 of revocation shall be mailed to the commissioner.~~

28 ~~(4) Revocation of an appointment by the insurer shall be deemed to
29 be effective as of the date designated in the notice as being the
30 effective date if the notice is actually received by the agent prior to
31 such designated date; otherwise, as of the earlier of the following
32 dates:~~

33 ~~(a) The date such notice of revocation was received by the agent.~~

34 ~~(b) The date such notice, if mailed to the agent at his last
35 address of record with the insurer, in due course should have been
36 received by the agent.~~

1 ~~(5) Appointments expire if not timely renewed. Each insurer shall~~
2 ~~pay the renewal fee set forth for each agent holding an appointment on~~
3 ~~the renewal date assigned the agents of the insurer by the~~
4 ~~commissioner. The commissioner, by rule, shall determine renewal~~
5 ~~dates. If a staggered system is used, fees shall be prorated in the~~
6 ~~conversion to a staggered system.))~~ An insurance producer or title
7 insurance agent shall not act as an agent of an insurer unless the
8 insurance producer or title insurance agent becomes an appointed agent
9 of that insurer. An insurance producer who is not acting as an agent
10 of an insurer is not required to become appointed.

11 (2) To appoint an insurance producer or title insurance agent as
12 its agent, the appointing insurer shall file, in a format approved by
13 the commissioner, a notice of appointment within fifteen days from the
14 date the agency contract is executed or when the first insurance
15 application is submitted, whichever is later.

16 (3) Upon receipt of the notice of appointment, the commissioner
17 shall verify within a reasonable time, not to exceed thirty days, that
18 the insurance producer or title insurance agent is eligible for
19 appointment. If the insurance producer or title insurance agent is
20 determined to be ineligible for appointment, the commissioner shall
21 notify the insurer within ten days of the determination.

22 (4) An insurer shall pay an appointment fee, in the amount and
23 method of payment set forth in RCW 48.14.010, for each insurance
24 producer or title insurance agent appointed by the insurer.

25 (5) Contingent upon payment of the appointment renewal fee as set
26 forth in RCW 48.14.010, an appointment shall be effective until
27 terminated by the insurance company, insurance producer, or title
28 insurance agent and notice has been given to the commissioner as
29 required by section 32 of this act.

30 **Sec. 12.** RCW 48.17.170 and 1979 ex.s. c 269 s 3 are each amended
31 to read as follows:

32 ~~((Agents', solicitors', adjusters' and brokers' licenses shall be~~
33 ~~in the form and contain the essential information prescribed by the~~
34 ~~commissioner.))~~ (1) Unless denied licensure under RCW 48.17.530,
35 persons who have met the requirements of RCW 48.17.090 and 48.17.110
36 shall be issued an insurance producer license. An insurance producer

1 may receive a license in one or more of the following lines of
2 authority:

3 (a) "Life", which is insurance coverage on human lives, including
4 benefits of endowment and annuities, and may include benefits in the
5 event of death or dismemberment by accident and benefits for disability
6 income;

7 (b) "Disability", which is insurance coverage for accident, health,
8 and disability or sickness, bodily injury, or accidental death, and may
9 include benefits for disability income;

10 (c) "Property", which is insurance coverage for the direct or
11 consequential loss or damage to property of every kind;

12 (d) "Casualty", which is insurance coverage against legal
13 liability, including that for death, injury, or disability or damage to
14 real or personal property;

15 (e) "Variable life and variable annuity products", which is
16 insurance coverage provided under variable life insurance contracts,
17 variable annuities, or any other life insurance or annuity product that
18 reflects the investment experience of a separate account;

19 (f) "Personal lines", which is property and casualty insurance
20 coverage sold to individuals and families for primarily noncommercial
21 purposes;

22 (g) Limited lines:

23 (i) Surety;

24 (ii) Limited line credit insurance;

25 (iii) Travel;

26 (h) Specialty lines:

27 (i) Communications equipment or services;

28 (ii) Rental car; or

29 (i) Any other line of insurance permitted under state laws or
30 rules.

31 (2) Unless denied licensure under RCW 48.17.530, persons who have
32 met the requirements of RCW 48.17.090(3) shall be issued a title
33 insurance agent license.

34 (3) All insurance producers', title insurance agents', and
35 adjusters' licenses issued by the commissioner shall be valid for the
36 time period established by the commissioner unless suspended or revoked
37 at an earlier date.

1 (4) Subject to the right of the commissioner to suspend, revoke, or
2 refuse to renew any insurance producer's, title insurance agent's, or
3 adjuster's license as provided in this title, the license may be
4 renewed into another like period by filing with the commissioner by any
5 means acceptable to the commissioner on or before the expiration date
6 a request, by or on behalf of the licensee, for such renewal
7 accompanied by payment of the renewal fee as specified in RCW
8 48.14.010.

9 (5) If the request and fee for renewal of an insurance producer's,
10 title insurance agent's, or adjuster's license is filed with the
11 commissioner prior to expiration of the existing license, the licensee
12 may continue to act under such license, unless sooner revoked or
13 suspended, until the issuance of a renewal license, or until the
14 expiration of fifteen days after the commissioner has refused to renew
15 the license and has mailed order of such refusal to the licensee. Any
16 request for renewal not so filed until after date of expiration may be
17 considered by the commissioner as an application for a new license.

18 (6) For all licenses, if request for renewal of an insurance
19 producer's, title insurance agent's, or adjuster's license or payment
20 of the fee is not received by the commissioner prior to the expiration
21 date as required under subsection (4) of this section, the insurer or
22 applicant for renewal shall pay to the commissioner and the
23 commissioner shall collect, in addition to the regular fee, a surcharge
24 as follows: For the first thirty days or part thereof of delinquency
25 the surcharge is fifty percent of the fee; for all delinquencies
26 extending more than thirty days, the surcharge is one hundred percent
27 of the fee. A surcharge of two hundred percent of the renewal fee is
28 required for any delinquency extending more than sixty days after the
29 expiration date. This subsection shall not exempt any person from any
30 penalty provided by law for transacting business without a valid and
31 subsisting license or appointment, or affect the commissioner's right,
32 at his or her discretion, to consider such delinquent application as
33 one for a new license or appointment.

34 (7) An individual insurance producer, title insurance agent, or
35 adjuster who allows his or her license to lapse may, within twelve
36 months after the expiration date, reinstate the same license without
37 the necessity of passing a written examination.

1 (8) A licensed insurance producer who is unable to comply with
2 license renewal procedures due to military service or some other
3 extenuating circumstance such as a long-term medical disability, may
4 request a waiver of those procedures. The producer may also request a
5 waiver of any examination requirement or any other fine or sanction
6 imposed for failure to comply with renewal procedures.

7 (9) The license shall contain the licensee's name, address,
8 personal identification number, and the date of issuance, lines of
9 authority, expiration date, and any other information the commissioner
10 deems necessary.

11 (10) Licensees shall inform the commissioner by any means
12 acceptable to the commissioner of a change of address within thirty
13 days of the change. Failure to timely inform the commissioner of a
14 change in legal name or address may result in a penalty under either
15 RCW 48.17.530 or 48.17.560, or both.

16 NEW SECTION. Sec. 13. A new section is added to chapter 48.17 RCW
17 to read as follows:

18 (1) Unless denied licensure under RCW 48.17.530, a nonresident
19 person shall receive a nonresident producer license for the line or
20 lines of authority under RCW 48.17.170 which is substantially
21 equivalent to the line or lines of authority granted to the nonresident
22 person in the person's home state if:

23 (a) The person is currently licensed as a resident and in good
24 standing in the person's home state;

25 (b) The person has submitted the proper request for licensure and
26 has paid the fees required by RCW 48.14.010;

27 (c) The person has submitted or transmitted to the commissioner the
28 application for licensure that the person submitted to the person's
29 home state, or in lieu, a completed uniform application;

30 (d) The person's home state awards nonresident producer licenses to
31 residents of this state on the same basis; and

32 (e) The person, as part of the request for licensure, has furnished
33 information concerning the person's identity, including fingerprints
34 for submission to the Washington state patrol, the federal bureau of
35 investigation, and any governmental agency or entity authorized to
36 receive this information for a state and national criminal history
37 background check.

1 (2) The commissioner shall waive any license application
2 requirements for a nonresident license applicant with a valid license
3 from the applicant's home state, except the requirements imposed by
4 this section, if the applicant's home state awards nonresident licenses
5 to residents of this state on the same basis.

6 (3) A nonresident insurance producer's satisfaction of the
7 nonresident insurance producer's home state's continuing education
8 requirements for licensed insurance producers shall constitute
9 satisfaction of this state's continuing education requirements if the
10 nonresident producer's home state recognizes the satisfaction of its
11 continuing education requirements imposed upon producers from this
12 state on the same basis.

13 (4) The commissioner shall waive the requirement for providing
14 fingerprints for submission to the Washington state patrol, the federal
15 bureau of investigation, and any governmental agency or entity
16 authorized to receive this information for a state and national
17 criminal history background check, if the person possesses a valid
18 insurance producer's or surplus line broker's license from the person's
19 home state and the person's home state requires submission of
20 information concerning a person's identity, including fingerprints for
21 the licensure of its resident insurance producers or surplus line
22 brokers, respectively.

23 (5) The commissioner may verify the producer's licensing status
24 through the producer database maintained by the NAIC, its affiliates,
25 or subsidiaries.

26 (6) A nonresident producer who moves from one state to another
27 state or a resident producer who moves from this state to another state
28 shall file a change of address and provide certification from the new
29 resident state within thirty days of the change of legal residence. No
30 fee or license application is required.

31 (7) A person licensed as a surplus lines producer in the person's
32 home state and complying with the requirements of subsection (1) of
33 this section and chapter 48.15 RCW shall receive a nonresident surplus
34 line broker license under subsection (1) of this section.

35 (8) A person licensed as a limited line credit insurance or other
36 type of limited lines producer in the person's home state and who
37 complies with the requirements of subsection (1) of this section shall
38 receive a nonresident limited lines producer license, under subsection

1 (1) of this section, granting the same scope of authority as granted
2 under the license issued by the producer's home state. For the purpose
3 of this subsection, limited line insurance is any authority granted by
4 the home state which restricts the authority of the license to the
5 lines set out in RCW 48.17.170(1)(g).

6 (9) Each licensed nonresident insurance producer or title insurance
7 agent shall appoint the commissioner as the insurance producer's or
8 title insurance agent's attorney to receive service of legal process
9 issued against the insurance producer or title insurance agent in this
10 state upon causes of action arising within this state. Service upon the
11 commissioner as attorney shall constitute effective legal service upon
12 the insurance producer or title insurance agent.

13 (a) The appointment shall be irrevocable for as long as there could
14 be any cause of action against the insurance producer or title
15 insurance agent arising out of the insurance producer's or title
16 insurance agent's insurance transactions in this state.

17 (b) Duplicate copies of such legal process against such insurance
18 producer or title insurance agent shall be served upon the commissioner
19 either by a person competent to serve a summons, or through registered
20 mail. At the time of such service the plaintiff shall pay to the
21 commissioner ten dollars, taxable as costs in the action.

22 (c) Upon receiving such service, the commissioner shall forthwith
23 send one of the copies of the process, by registered mail with return
24 receipt requested, to the defendant insurance producer or title
25 insurance agent at the insurance producer's or title insurance agent's
26 last address of record with the commissioner.

27 (d) The commissioner shall keep a record of the day and hour of
28 service upon the commissioner of all such legal process. No proceedings
29 shall be had against the defendant insurance producer or title
30 insurance agent, and the defendant shall not be required to appear,
31 plead, or answer until the expiration of forty days after the date of
32 service upon the commissioner.

33 NEW SECTION. **Sec. 14.** A new section is added to chapter 48.17 RCW
34 to read as follows:

35 (1) An individual who applies for an insurance producer license in
36 this state who was previously licensed for the same lines of authority
37 in another state shall not be required to complete any prelicensing

1 education or examination. This exemption is only available if the
2 person is currently licensed in that state or if the application is
3 received within ninety days of the cancellation of the applicant's
4 previous license, and if the prior state issues a certification that,
5 at the time of cancellation, the applicant was in good standing in that
6 state or the state's producer database records, maintained by the NAIC,
7 its affiliates, or subsidiaries, indicate that the producer is or was
8 licensed in good standing for the line of authority requested.

9 (2) A person licensed as an insurance producer in another state who
10 moves to this state shall make application within ninety days of
11 establishing legal residence to become a resident licensee under RCW
12 48.17.090. No prelicensing education or examination shall be required
13 of that person to obtain any line of authority previously held in the
14 prior state except where the commissioner determines otherwise by rule.

15 **Sec. 15.** RCW 48.17.180 and 1990 1st ex.s. c 3 s 4 are each amended
16 to read as follows:

17 ~~((1) A firm or corporation may be licensed as an agent, adjuster,
18 or broker if each individual empowered to exercise the authority
19 conferred by the corporate or firm license is also licensed. Exercise
20 or attempted exercise of the powers of the firm or corporation by an
21 unlicensed person, with the knowledge or consent of the firm or
22 corporation, shall constitute cause for the revocation or suspension of
23 the license.~~

24 ~~(2) Licenses shall be issued in a trade name only upon proof
25 satisfactory to the commissioner that the trade name has been lawfully
26 registered.~~

27 ~~(3) For the purpose of this section, a firm shall include a duly
28 licensed individual acting as a sole proprietorship having associated
29 licensees authorized to act on the proprietor's behalf in the
30 proprietor's business or trade name.))~~

31 An insurance producer or title insurance agent doing business under
32 any name other than the producer's or title insurance agent's legal
33 name is required to register the name in accordance with chapter 19.80
34 RCW and notify the commissioner before using the assumed name.

35 **Sec. 16.** RCW 48.17.250 and 1979 ex.s. c 269 s 8 are each amended
36 to read as follows:

1 (1) Every (~~applicant for a broker's license or for the renewal of~~
2 ~~a broker's license existing~~) insurance producer licensed under this
3 chapter on or after the effective date of this (~~code shall file with~~
4 ~~the application or request for renewal and shall thereafter~~) act who
5 places insurance either directly or indirectly with an insurer with
6 which the insurance producer is not appointed as an agent must maintain
7 in force while so licensed a bond in favor of the people of the state
8 of Washington or a named insured such that the people of Washington are
9 covered by the bond, executed by an authorized corporate surety
10 approved by the commissioner, in the amount of (~~twenty~~) two thousand
11 five hundred dollars, or five percent of the premiums brokered in the
12 previous calendar year, whichever is greater, but not to exceed one
13 hundred thousand dollars total aggregate liability. (~~If the applicant~~
14 ~~is a firm or corporation, the bond shall be in the amount of twenty~~
15 ~~thousand dollars plus five thousand dollars for the second and five~~
16 ~~thousand dollars for each additional individual empowered and~~
17 ~~designated in the license to exercise the powers conferred thereby.))
18 The bond may be continuous in form, and total aggregate liability on
19 the bond may be limited to the required amount of the bond. The bond
20 shall be contingent on the accounting by the (~~broker~~) insurance
21 producer to any person requesting the (~~broker~~) insurance producer to
22 obtain insurance, for moneys or premiums collected in connection
23 therewith.~~

24 (2) (~~Any such bond shall remain in force until the surety is~~
25 ~~released from liability by the commissioner, or until the bond is~~
26 ~~canceled by the surety. Without prejudice to any liability accrued~~
27 ~~prior to such cancellation, the surety may cancel the bond upon thirty~~
28 ~~days advance notice in writing filed with the commissioner.))
29 Authorized insurance producers of a business entity may meet the
30 requirements of this section with a bond in the name of the business
31 entity, continuous in form, and in the amounts set forth in subsection
32 (1) of this section. Insurance producers may meet the requirements of
33 this section with a bond in the name of an association. The
34 association must have been in existence for five years, have common
35 membership, and have been formed for a purpose other than obtaining a
36 bond. An individual insurance producer remains responsible for
37 assuring that a bond is in effect and is for the correct amount.~~

1 (3) The surety may cancel the bond and be released from further
2 liability thereunder upon thirty days' written notice in advance to the
3 principal. The cancellation does not affect any liability incurred or
4 accrued under the bond before the termination of the thirty-day period.

5 (4) The insurance producer's license may be revoked if the
6 insurance producer acts without a bond that is required under this
7 section.

8 (5) If a party injured under the terms of the bond requests the
9 insurance producer to provide the name of the surety and the bond
10 number, the insurance producer must provide the information within
11 three working days after receiving the request.

12 (6) An association may meet the requirements of this section for
13 all of its members with a bond in the name of the association that is
14 continuous in form and in the amounts set forth in subsection (1) of
15 this section.

16 (7) All records relating to the bond required by this section shall
17 be kept available and open to the inspection of the commissioner at any
18 business time.

19 **Sec. 17.** RCW 48.17.270 and 1994 c 203 s 1 are each amended to read
20 as follows:

21 ~~((A licensed agent may be licensed as a broker and be a broker~~
22 ~~as to insurers for which the licensee is not then appointed as agent.~~
23 ~~A licensed broker may be licensed as and be an agent as to insurers~~
24 ~~appointing such agent.)) The sole relationship between ~~((a broker))~~ an
25 insurance producer and an insurer as to which the ~~((licensee))~~
26 insurance producer is appointed as an agent shall, as to transactions
27 arising during the existence of such agency appointment, be that of
28 insurer and agent.~~

29 (2) Unless the ~~((agency insurer agreement))~~ agent contract provides
30 to the contrary, an insurance ~~((agent licensed as a broker))~~ producer
31 may~~((, with respect to property and casualty insurance,))~~ receive the
32 following compensation:

33 (a) A commission paid by the insurer;

34 (b) A fee paid by the insured; or

35 (c) A combination of commission paid by the insurer and a fee paid
36 by the insured from which ~~((a broker))~~ an insurance producer may offset
37 or reimburse the insured for all or part of the fee.

1 If the compensation received by an (~~agent~~) insurance producer who
2 is (~~also licensed as a broker and who is~~) dealing directly with the
3 insured includes a fee, the full amount of compensation, including an
4 explanation of any offset or reimbursement, must be disclosed in
5 writing, signed by the (~~broker~~) insurance producer and the insured,
6 and the writing must be retained by the (~~broker~~) insurance producer
7 for not less than five years.

8 **Sec. 18.** RCW 48.17.380 and 1981 c 339 s 15 are each amended to
9 read as follows:

10 The commissioner shall license as an adjuster only an individual(~~(~~
11 ~~firm,~~) or (~~corporation~~) business entity which has otherwise complied
12 with this code therefor and the individual or responsible officer of
13 the (~~firm or corporation~~) business entity has furnished evidence
14 satisfactory to the commissioner that (~~he~~) the individual or
15 responsible officer of the business entity is qualified as follows:

- 16 (1) Is eighteen or more years of age.
17 (2) Is a bona fide resident of this state, or is a resident of a
18 state which will permit residents of this state to act as adjusters in
19 such other state.
20 (3) Is a trustworthy person.
21 (4) Has had experience or special education or training with
22 reference to the handling of loss claims under insurance contracts, of
23 sufficient duration and extent reasonably to make (~~him~~) the
24 individual or responsible officer of the business entity competent to
25 fulfill the responsibilities of an adjuster.
26 (5) Has successfully passed any examination as required under this
27 chapter.
28 (6) If for a public adjuster's license, has filed the bond required
29 by RCW 48.17.430.

30 **Sec. 19.** RCW 48.17.390 and 1981 c 339 s 16 are each amended to
31 read as follows:

32 The commissioner may license an individual(~~(, firm, or~~
33 ~~corporation)~~) or business entity as an independent adjuster or as a
34 public adjuster, and separate licenses shall be required for each type
35 of adjuster. An individual(~~(, firm, or corporation)~~) or business

1 entity may be concurrently licensed under separate licenses as an
2 independent adjuster and as a public adjuster. The full license fee
3 shall be paid for each such license.

4 **Sec. 20.** RCW 48.17.410 and 1947 c 79 s .17.41 are each amended to
5 read as follows:

6 An adjuster shall have authority under ~~((his))~~ an adjuster's
7 license only to investigate or report to ~~((his))~~ the adjuster's
8 principal upon claims as limited under RCW ~~((48.17.050))~~ 48.17.010(1)
9 on behalf only of the insurers if licensed as an independent adjuster,
10 or on behalf only of insureds if licensed as a public adjuster. An
11 adjuster licensed concurrently as both an independent and a public
12 adjuster shall not represent both the insurer and the insured in the
13 same transaction.

14 **Sec. 21.** RCW 48.17.420 and 1947 c 79 s .17.42 are each amended to
15 read as follows:

16 (1) On behalf of and as authorized by an insurer for which ~~((he is~~
17 ~~licensed))~~ an insurance producer or title insurance agent has been
18 appointed as an agent, an insurance producer or title insurance agent
19 may from time to time act as an adjuster and investigate and report
20 upon claims without being required to be licensed as an adjuster.

21 (2) No license by this state shall be required of a nonresident
22 independent adjuster, for the adjustment in this state of a single
23 loss, or of losses arising out of a catastrophe common to all such
24 losses.

25 **Sec. 22.** RCW 48.17.450 and 1990 1st ex.s. c 3 s 5 are each amended
26 to read as follows:

27 (1) Every licensed ~~((agent, broker,))~~ insurance producer, title
28 insurance agent, and adjuster, other than an ~~((agent))~~ insurance
29 producer licensed for life or disability insurances only, shall have
30 and maintain in this state, or, if a nonresident ~~((agent or nonresident~~
31 ~~broker))~~ insurance producer or title insurance agent, in this state or
32 in the state of the licensee's domicile, a place of business accessible
33 to the public. Such place of business shall be that wherein the
34 ~~((agent or broker))~~ insurance producer or title insurance agent
35 principally conducts transactions under that person's licenses. ~~((The~~

1 ~~address of the licensee's place of business shall appear on all of that~~
2 ~~person's licenses, and the licensee shall promptly notify the~~
3 ~~commissioner of any change thereof.)~~) A licensee maintaining more than
4 one place of business in this state shall obtain a duplicate license or
5 licenses for each additional such place, and shall pay the full fee
6 therefor.

7 (2) Any notice, order, or written communication from the
8 commissioner to a person licensed under this chapter which directly
9 affects the person's license shall be sent by mail to the person's last
10 ~~((residential address, if an individual, and to the person's last~~
11 ~~business address, if licensed as a firm or corporation, as such address~~
12 ~~is shown in the commissioner's licensing records. A licensee shall~~
13 ~~promptly notify the commissioner of any change of residential or~~
14 ~~business))~~ address of record with the commissioner.

15 **Sec. 23.** RCW 48.17.460 and 1947 c 79 s .17.46 are each amended to
16 read as follows:

17 ~~((1))~~) The license or licenses of each ~~((agent, other than~~
18 ~~licenses as to life or disability insurances only, or of each broker))~~
19 insurance producer, title insurance agent, or adjuster shall be
20 displayed in a conspicuous place in that part of ~~((his))~~ the place of
21 business which is customarily open to the public.

22 ~~((2) The license of a solicitor shall be so displayed in the place~~
23 ~~of business of the agent or broker by whom he is employed.))~~

24 **Sec. 24.** RCW 48.17.470 and 1947 c 79 s .17.47 are each amended to
25 read as follows:

26 (1) Every ~~((agent, or broker,))~~ insurance producer, title insurance
27 agent, or adjuster shall ~~((keep at his address as shown on his~~
28 ~~license,))~~ retain a record of all transactions consummated under
29 ~~((his))~~ the license. This record shall be in organized form and shall
30 include:

31 (a) If an ~~((agent or broker,))~~ insurance producer or title
32 insurance agent:

33 (i) A record of each insurance contract procured~~((,))~~ or issued,
34 ~~((or countersigned,))~~ together with the names of the insurers and
35 insureds, the amount of premium paid or to be paid, and a statement of
36 the subject of the insurance;

1 (ii) The names of any other licensees from whom business is
2 accepted, and of persons to whom commissions or allowances of any kind
3 are promised or paid.

4 (b) If an adjuster, a record of each investigation or adjustment
5 undertaken or consummated, and a statement of any fee, commission, or
6 other compensation received or to be received by the adjuster on
7 account of such investigation or adjustment.

8 (c) Such other and additional information as shall be customary, or
9 as may reasonably be required by the commissioner.

10 (2) All such records as to any particular transaction shall be kept
11 available and open to the inspection of the commissioner at any
12 business time during the five years immediately after the date of the
13 completion of such transaction.

14 (3) This section shall not apply as to life or disability
15 insurances.

16 **Sec. 25.** RCW 48.17.475 and 1967 c 150 s 13 are each amended to
17 read as follows:

18 Every insurance (~~(agent, broker)~~) producer, title insurance agent,
19 adjuster, or other person licensed under this chapter shall promptly
20 reply in writing to an inquiry of the commissioner relative to the
21 business of insurance. A timely response is one that is received by
22 the commissioner within fifteen business days from receipt of the
23 inquiry. Failure to make a timely response constitutes a violation of
24 this section.

25 **Sec. 26.** RCW 48.17.480 and 2003 c 53 s 269 are each amended to
26 read as follows:

27 (1) An (~~agent~~) insurance producer, title insurance agent, or any
28 other representative of an insurer involved in the procuring or
29 issuance of an insurance contract shall report to the insurer the exact
30 amount of consideration charged as premium for such contract, and such
31 amount shall likewise be shown in the contract and in the records of
32 the (~~agent~~) insurance producer, title insurance agent, or other
33 representative. Each willful violation of this provision is a
34 misdemeanor.

35 (2) All funds representing premiums or return premiums received by
36 an (~~agent, solicitor or broker,~~) insurance producer or title

1 insurance agent shall be so received in (~~his or her~~) the insurance
2 producer's or title insurance agent's fiduciary capacity, and shall be
3 promptly accounted for and paid to the insured, insurer, (~~or~~) title
4 insurance agent, or insurance producer as entitled thereto.

5 (3) Any person licensed under this chapter who receives funds which
6 belong to or should be paid to another person as a result of or in
7 connection with an insurance transaction is deemed to have received the
8 funds in a fiduciary capacity. The licensee shall promptly account for
9 and pay the funds to the person entitled to the funds.

10 (4) Any (~~agent, solicitor, broker~~) insurance producer, title
11 insurance agent, adjuster, or other person licensed under this chapter
12 who, not being lawfully entitled thereto, diverts or appropriates funds
13 received in a fiduciary capacity or any portion thereof to his or her
14 own use, is guilty of theft under chapter 9A.56 RCW.

15 **Sec. 27.** RCW 48.17.490 and 1988 c 248 s 13 are each amended to
16 read as follows:

17 (1) (~~No agent, general agent, solicitor, or broker shall~~
18 ~~compensate or offer to compensate in any manner any person other than~~
19 ~~an agent, general agent, solicitor, or broker, licensed in this or any~~
20 ~~other state or province, for procuring or in any manner helping to~~
21 ~~procure applications for or to place insurance in this state. This~~
22 ~~provision shall not prohibit the payment of compensation not contingent~~
23 ~~upon volume of business transacted, in the form of salaries to the~~
24 ~~regular employees of such agent, general agent, solicitor or broker, or~~
25 ~~the payment for services furnished by an unlicensed person who does not~~
26 ~~participate in the transaction of insurance in any way requiring~~
27 ~~licensing as an agent, solicitor, broker, or adjuster and who is not~~
28 ~~compensated on any basis dependent upon a sale of insurance being made.~~

29 (2) ~~No such licensee shall be promised or allowed any compensation~~
30 ~~on account of the procuring of applications for or the placing of kinds~~
31 ~~of insurance which he himself is not then licensed to procure or place.~~

32 (3) ~~The commissioner shall suspend or revoke the licenses of all~~
33 ~~licensees participating in any violation of this section)) An insurance~~
34 company, insurance producer, or title insurance agent shall not pay a
35 commission, service fee, or other valuable consideration to a person
36 for selling, soliciting, or negotiating insurance in this state if that

1 person is required to be licensed under this chapter or chapter 48.15
2 RCW and is not so licensed.

3 (2) A person shall not accept a commission, service fee, or other
4 valuable consideration for selling, soliciting, or negotiating
5 insurance in this state if that person is required to be licensed under
6 this chapter or chapter 48.15 RCW and is not so licensed.

7 (3) Renewal or other deferred commissions may be paid to a person
8 for selling, soliciting, or negotiating insurance in this state if the
9 person was required to be licensed under this chapter or chapter 48.15
10 RCW at the time of the sale, solicitation, or negotiation, and was so
11 licensed at that time.

12 (4) An insurer, except a title insurer, or insurance producer may
13 pay or assign commissions, service fees, or other valuable
14 consideration to an insurance agency, or to persons who do not sell,
15 solicit, or negotiate insurance in this state, unless the payment would
16 violate RCW 48.30.140, 48.30.150, 48.30.155, 48.30.157, or 48.30.170.

17 **Sec. 28.** RCW 48.17.510 and 1982 c 181 s 7 are each amended to read
18 as follows:

19 (1) The commissioner may issue ~~((an agent's or broker's temporary~~
20 ~~license in the following circumstances:~~

21 ~~(a) To the surviving spouse or next of kin or to the administrator~~
22 ~~or executor, or the employee of the administrator or executor, of a~~
23 ~~licensed agent or broker becoming deceased.~~

24 ~~(b) To the spouse, next of kin, employee, or legal guardian of a~~
25 ~~licensed agent or broker becoming disabled because of sickness,~~
26 ~~insanity, or injury.~~

27 ~~(c) To a surviving member of a firm or surviving officer or~~
28 ~~employee of a corporation licensed as agent or broker upon the death of~~
29 ~~an individual designated in the firm or corporation's license to~~
30 ~~exercise powers thereunder.~~

31 ~~(2) An individual to be eligible for any such temporary license~~
32 ~~must be qualified as for a permanent license except as to experience,~~
33 ~~training, or the taking of any examination.~~

34 ~~(3) Any fee paid to the commissioner for issuance of a temporary~~
35 ~~license as specified in RCW 48.14.010 shall be credited toward the fee~~
36 ~~required for a permanent license which is issued to replace the~~
37 ~~temporary license prior to the expiration of such temporary license))~~

1 a temporary insurance producer license for a period not to exceed one
2 hundred eighty days without requiring an examination if the
3 commissioner deems that the temporary license is necessary for the
4 servicing of an insurance business in the following cases:

5 (a) To the surviving spouse or court-appointed personal
6 representative of a licensed insurance producer who dies or becomes
7 mentally or physically disabled to allow adequate time for the sale of
8 the insurance business owned by the insurance producer or for the
9 recovery or return of the insurance producer to the business, or to
10 provide for the training and licensing of new personnel to operate the
11 insurance producer's business;

12 (b) To a member or employee of a business entity licensed as an
13 insurance producer, upon the death or disability of an individual
14 designated in the business entity application or the license;

15 (c) To the designee of a licensed insurance producer entering
16 active service in the armed forces of the United States; or

17 (d) In any other circumstance where the commissioner deems that the
18 public interest will best be served by the issuance of this license.

19 (2) The commissioner may, by order, limit the authority of any
20 temporary licensee in any way deemed necessary to protect insureds and
21 the public. The commissioner may require the temporary licensee to
22 have a suitable sponsor who is a licensed insurance producer or insurer
23 and who assumes responsibility for all acts of the temporary licensee,
24 and may impose other similar requirements designed to protect insureds
25 and the public. The commissioner may, by order, revoke a temporary
26 license if the interest of insureds or the public are endangered. A
27 temporary license may not continue after the owner or the personal
28 representatives dispose of the business.

29 **Sec. 29.** RCW 48.17.530 and 1973 1st ex.s. c 152 s 2 are each
30 amended to read as follows:

31 ~~(1) The commissioner may ((suspend, revoke, or refuse to issue or~~
32 ~~renew any license which is issued or may be issued under this chapter~~
33 ~~or any surplus line broker's license for any cause specified in any~~
34 ~~other provision of this code, or for any of the following causes:~~

35 ~~(a) For any cause for which issuance of the license could have been~~
36 ~~refused had it then existed and been known to the commissioner.~~

1 ~~(b) If the licensee or applicant wilfully violates or knowingly~~
2 ~~participates in the violation of any provision of this code or any~~
3 ~~proper order or regulation of the commissioner.~~

4 ~~(c) If the licensee or applicant has obtained or attempted to~~
5 ~~obtain any such license through wilful misrepresentation or fraud, or~~
6 ~~has failed to pass any examination required under this chapter.~~

7 ~~(d) If the licensee or applicant has misappropriated or converted~~
8 ~~to his own use or has illegally withheld moneys required to be held in~~
9 ~~a fiduciary capacity.~~

10 ~~(e) If the licensee or applicant has, with intent to deceive,~~
11 ~~materially misrepresented the terms or effect of any insurance~~
12 ~~contract; or has engaged or is about to engage in any fraudulent~~
13 ~~transaction.~~

14 ~~(f) If the licensee or applicant has been guilty of "twisting," as~~
15 ~~defined in RCW 48.30.180, or of rebating, as defined in chapter 48.30~~
16 ~~RCW.~~

17 ~~(g) If the licensee or applicant has been convicted, by final~~
18 ~~judgment, of a felony.~~

19 ~~(h) If the licensee or applicant has shown himself to be, and is so~~
20 ~~deemed by the commissioner, incompetent, or untrustworthy, or a source~~
21 ~~of injury and loss to the public.~~

22 ~~(i) If the licensee has dealt with, or attempted to deal with,~~
23 ~~insurances, or to exercise powers relative to insurance outside the~~
24 ~~scope of his licenses.~~

25 ~~(2) If any natural person named under a firm or corporate license,~~
26 ~~or application therefor, commits or has committed any act or fails or~~
27 ~~has failed to perform any duty which is a ground for the commissioner~~
28 ~~to revoke, suspend or refuse to issue or renew the license or~~
29 ~~application for license, the commissioner may revoke, suspend, refuse~~
30 ~~to renew, or refuse to issue:~~

31 ~~(a) The license, or application therefor, of the corporation or~~
32 ~~firm; or~~

33 ~~(b) The right of the natural person to act thereunder; or~~

34 ~~(c) Any other license held or applied for by the natural person; or~~

35 ~~(d) He may take all such steps.~~

36 ~~(3) Any conduct of an applicant or licensee which constitutes~~
37 ~~ground for disciplinary action under this code shall be deemed such~~
38 ~~ground notwithstanding that such conduct took place in another state.~~

1 ~~(4) The holder of any license which has been revoked or suspended~~
2 ~~shall surrender the license certificate to the commissioner at the~~
3 ~~commissioner's request))~~ place on probation, suspend, revoke, or refuse
4 to issue or renew an adjuster's license, an insurance producer's
5 license, a title insurance agent's license, or any surplus line
6 broker's license, or may levy a civil penalty in accordance with RCW
7 48.17.560 or any combination of actions, for any one or more of the
8 following causes:

9 (a) Providing incorrect, misleading, incomplete, or materially
10 untrue information in the license application;

11 (b) Violating any insurance laws, or violating any rule, subpoena,
12 or order of the commissioner or of another state's insurance
13 commissioner;

14 (c) Obtaining or attempting to obtain a license through
15 misrepresentation or fraud;

16 (d) Improperly withholding, misappropriating, or converting any
17 moneys or properties received in the course of doing insurance
18 business;

19 (e) Intentionally misrepresenting the terms of an actual or
20 proposed insurance contract or application for insurance;

21 (f) Having been convicted of a felony;

22 (g) Having admitted or been found to have committed any insurance
23 unfair trade practice or fraud;

24 (h) Using fraudulent, coercive, or dishonest practices, or
25 demonstrating incompetence, untrustworthiness, or financial
26 irresponsibility in this state or elsewhere;

27 (i) Having an insurance producer license, or its equivalent,
28 denied, suspended, or revoked in any other state, province, district,
29 or territory;

30 (j) Forging another's name to an application for insurance or to
31 any document related to an insurance transaction;

32 (k) Improperly using notes or any other reference material to
33 complete an examination for an insurance license;

34 (l) Knowingly accepting insurance business from a person who is
35 required to be licensed under this title and is not so licensed; or

36 (m) Obtaining a loan from an insurance client that is not a
37 financial institution and who is not related to the insurance producer

1 by birth, marriage, or adoption, except the commissioner may, by rule,
2 define and permit reasonable arrangements.

3 (2) The license of a business entity may be suspended, revoked, or
4 refused if the commissioner finds that an individual licensee's
5 violation was known or should have been known by one or more of the
6 partners, officers, or managers acting on behalf of the partnership or
7 corporation, and the violation was neither reported to the commissioner
8 nor corrective action taken.

9 (3) The commissioner shall retain the authority to enforce the
10 provisions of and impose any penalty or remedy authorized by this
11 chapter and this title against any person who is under investigation
12 for or charged with a violation of this chapter or this title, even if
13 the person's license or registration has been surrendered or has lapsed
14 by operation of law.

15 (4) The holder of any license which has been revoked or suspended
16 shall surrender the license certificate to the commissioner at the
17 commissioner's request.

18 (5) The commissioner may probate a suspension or revocation of a
19 license under reasonable terms determined by the commissioner. In
20 addition, the commissioner may require a licensee who is placed on
21 probation to:

22 (a) Report regularly to the commissioner on matters that are the
23 basis of the probation;

24 (b) Limit practice to an area prescribed by the commissioner; or

25 (c) Continue or renew continuing education until the licensee
26 attains a degree of skill satisfactory to the commissioner in the area
27 that is the basis of the probation.

28 (6) At any time during a probation term where the licensee has
29 violated the probation order, the commissioner may:

30 (a) Rescind the probation and enforce the commissioner's original
31 order; and

32 (b) Impose any disciplinary action permitted under this section in
33 addition to or in lieu of enforcing the original order.

34 **Sec. 30.** RCW 48.17.565 and 1989 c 323 s 4 are each amended to read
35 as follows:

36 If an investigation of any insurance education provider culminates
37 in a finding by the commissioner or by any court of competent

1 jurisdiction, that the insurance education provider has failed to
2 comply with or has violated any statute or regulation pertaining to
3 insurance education, the insurance education provider shall pay the
4 expenses reasonably attributable and allocable to such investigation.

5 (1) The commissioner shall calculate such expenses and render a
6 bill therefor by registered mail to the insurance education provider.
7 Within thirty days after receipt of such bill, the insurance education
8 provider shall pay the full amount to the commissioner. The
9 commissioner shall transmit such payment to the state treasurer. The
10 state treasurer shall credit the payment to the office of the insurance
11 commissioner regulatory account, treating such payment as recovery of
12 a prior expenditure.

13 (2) In any action brought under this section, if the insurance
14 commissioner prevails, the court may award to the office of the
15 ((insurance)) commissioner all costs of the action, including a
16 reasonable attorneys' fee to be fixed by the court.

17 **Sec. 31.** RCW 48.17.591 and 1990 c 121 s 1 are each amended to read
18 as follows:

19 (1) No insurer authorized to do business in this state may cancel
20 or refuse to renew any policy because that insurer's contract with the
21 independent ((agent)) insurance producer through whom such policy is
22 written has been terminated by the insurer, the ((agent)) insurance
23 producer, or by mutual agreement.

24 (2) If an insurer intends to terminate a written agency contract
25 with an independent ((agent)) insurance producer, the insurer shall
26 give the ((agent)) insurance producer not less than one hundred twenty
27 days' advance written notice of the intent, unless the reason for
28 ~~termination is ((based upon the agent's abandonment of the agency, the~~
29 ~~agent's gross and willful misconduct, the agent's loss of license by~~
30 ~~order of the insurance commissioner, the agent's sale of, or material~~
31 ~~change of ownership in, the agency, the agent's fraud or material~~
32 ~~misrepresentation relative to the business of insurance, or the agent's~~
33 ~~default in payments due the insurer under the terms of the agreement))~~
34 one of the reasons set forth in RCW 48.17.530. During the notice
35 period the insurer shall not amend the existing contract without the
36 consent of the ((agent)) insurance producer.

1 (a) Unless the agency contract provides otherwise, during the one
2 hundred twenty day notice period the independent ((agent)) insurance
3 producer shall not write or bind any new business on behalf of the
4 terminating insurer without specific written approval. However,
5 routine adjustments by insureds are permitted. The terminating insurer
6 shall permit renewal of all its policies in the ((agent's)) insurance
7 producer's book of business for a period of one year following the
8 effective date of the termination, to the extent the policies meet the
9 insurer's underwriting standards and the insurer has no other reason
10 for nonrenewal. The rate of commission for any policies renewed under
11 this provision shall be the same as the ((agent)) insurance producer
12 would have received had the agency agreement not been terminated.

13 (b) An independent ((agent)) insurance producer whose agency
14 contract has been terminated shall have a reasonable opportunity to
15 transfer affected policies to other insurers with which the ((agent))
16 insurance producer has an appointment: PROVIDED, HOWEVER, That prior
17 to the conclusion of the one-year renewal period following the
18 effective date of the termination, an insurer without a reason for not
19 renewing an insured's policy and which has not received notification of
20 the placement of such policy with another insurer shall provide its
21 insured with appropriate written notice of an offer to continue the
22 policy. In such cases, except where the terminated ((agent)) insurance
23 producer has placed the policy with another agent of the insurer, the
24 insurer shall, where practical, assign the policy to an appointed
25 ((agent)) insurance producer located reasonably near the insured
26 willing to accept the assignment.

27 (c) An insurer is not required to continue the appointment of a
28 terminated independent ((agent)) insurance producer during or after the
29 one year renewal period. However, an ((agent)) insurance producer
30 whose contract has been terminated by the insurer remains an agent of
31 the terminating insurer as to actions associated with the policies
32 subject to this section just as if ((he or she)) the insurance producer
33 were appointed by the insurer as its agent.

34 (3) In the absence of receipt of notice from the insured that
35 coverage will not be continued with the existing insurer, an insurer
36 whose agency contract has been terminated by an independent ((agent))
37 insurance producer, or by the mutual agreement of the insurer and the
38 ((agent)) insurance producer, that elects to renew or lacks a reason

1 not to renew, shall give the renewal notice required by chapter 48.18
2 RCW to affected insureds, and continue renewed coverage in accordance
3 with the methods specified in subsection (2)(b) of this section.
4 (~~Agents~~) Insurance producers affected by this subsection may provide
5 the notice to an insurer that an insured does not intend to continue
6 existing coverage with the insurer, after receiving written authority
7 to do so from an insured.

8 (4) For purposes of this section an "independent (~~agent~~)
9 insurance producer" is a licensed insurance (~~agent~~) producer
10 representing an insurer on an independent contractor basis and not as
11 an employee. This term includes only those (~~agents~~) insurance
12 producers not obligated by contract to place insurance accounts with a
13 particular insurer or group of insurers.

14 (5) This section does not apply to:

15 (a) (~~agents~~) Insurance producers or policies of an insurer or
16 group of insurers if the business is not owned by the (~~agent~~)
17 insurance producer and the termination of any such contractual
18 agreement does not result in the cancellation or nonrenewal of any
19 policies of insurance;

20 (b) Managing general agents, to the extent that they are acting in
21 that capacity;

22 (c) Life, disability, surety, ocean marine and foreign trade, and
23 title insurance policies;

24 (d) Situations where the termination of the agency contract results
25 from the insolvency or liquidation of the terminating insurer.

26 (6) No insurer may terminate its agency contract with an appointed
27 (~~agent~~) insurance producer unless it complies with this section.

28 (7) Nothing contained in this section excuses an insurer from
29 giving cancellation and renewal notices that may be required by chapter
30 48.18 RCW.

31 NEW SECTION. Sec. 32. A new section is added to chapter 48.17 RCW
32 to read as follows:

33 (1) An insurer or authorized representative of the insurer that
34 terminates the appointment, employment, contract, or other insurance
35 business relationship with an insurance producer or title insurance
36 agent shall notify the commissioner within thirty days following the
37 effective date of the termination, using a format prescribed by the

1 commissioner, if the reason for termination is one of the reasons set
2 forth in RCW 48.17.530 or the insurer has knowledge the insurance
3 producer or title insurance agent was found by a court, government
4 body, or self-regulatory organization authorized by law to have engaged
5 in any of the activities in RCW 48.17.530. Upon the written request of
6 the commissioner, the insurer shall provide additional information,
7 documents, records, or other data pertaining to the termination or
8 activity of the insurance producer or title insurance agent.

9 (2) An insurer or authorized representative of the insurer that
10 terminates the appointment, employment, or contract with an insurance
11 producer or title insurance agent for any reason not set forth in RCW
12 48.17.530, shall notify the commissioner within thirty days following
13 the effective date of the termination, using a format prescribed by the
14 commissioner. Upon written request of the commissioner, the insurer
15 shall provide additional information, documents, records, or other data
16 pertaining to the termination.

17 (3) The insurer or the authorized representative of the insurer
18 shall promptly notify the commissioner in a format acceptable to the
19 commissioner if, upon further review or investigation, the insurer
20 discovers additional information that would have been reportable to the
21 commissioner in accordance with subsection (1) of this section had the
22 insurer then known of its existence.

23 (4) A copy of the notification to the commissioner shall be
24 provided to the insurance producer or title insurance agent.

25 (a) Within fifteen days after making the notification required by
26 subsections (1), (2), and (3) of this section, the insurer shall mail
27 a copy of the notification to the insurance producer or title insurance
28 agent at the insurance producer's or title insurance agent's last known
29 address. If the insurance producer or title insurance agent is
30 terminated for cause for any of the reasons listed in RCW 48.17.530,
31 the insurer shall provide a copy of the notification to the insurance
32 producer or title insurance agent at the insurance producer's or title
33 insurance agent's last known address by certified mail, return receipt
34 requested, postage prepaid, or by overnight delivery using a nationally
35 recognized carrier.

36 (b) Within thirty days after the insurance producer or title
37 insurance agent has received the original or additional notification,
38 the insurance producer or title insurance agent may file written

1 comments concerning the substance of the notification with the
2 commissioner. The insurance producer or title insurance agent shall,
3 by the same means, simultaneously send a copy of the comments to the
4 reporting insurer, and the comments shall become a part of the
5 commissioner's file and accompany every copy of a report distributed or
6 disclosed for any reason about the insurance producer or title
7 insurance agent as permitted under subsection (6) of this section.

8 (5) Immunities shall apply as follows:

9 (a) In the absence of actual malice, an insurer, the authorized
10 representative of the insurer, an insurance producer, title insurance
11 agent, the commissioner, or an organization of which the commissioner
12 is a member and that compiles the information and makes it available to
13 other insurance commissioners or regulatory or law enforcement agencies
14 shall not be subject to civil liability, and a civil cause of action of
15 any nature shall not arise against these entities or their respective
16 agents or employees, as a result of any statement or information
17 required by or provided under this section, or any information relating
18 to any statement that may be requested in writing by the commissioner,
19 from an insurer, insurance producer, or title insurance agent; or a
20 statement by a terminating insurer, insurance producer, or title
21 insurance agent to an insurer, insurance producer, or title insurance
22 agent limited solely and exclusively to whether a termination for cause
23 under subsection (1) of this section was reported to the commissioner,
24 provided that the propriety of any termination for cause under
25 subsection (1) of this section is certified in writing by an officer or
26 authorized representative of the insurer, insurance producer, or title
27 insurance agent terminating the relationship.

28 (b) In any action brought against a person that may have immunity
29 under (a) of this subsection for making any statement required by this
30 section or providing any information relating to any statement that may
31 be requested by the commissioner, the party bringing the action shall
32 plead specifically in any allegation that (a) of this subsection does
33 not apply because the person making the statement or providing the
34 information did so with actual malice.

35 (c) Subsection (5)(a) or (b) of this section shall not abrogate or
36 modify any existing statutory or common law privileges or immunities.

37 (6) Information provided under this section is confidential.

1 (a) Any documents, materials, or other information in the control
2 or possession of the commissioner that is furnished by an insurer,
3 insurance producer, title insurance agent, or an employee or agent
4 thereof acting on behalf of the insurer, insurance producer, or title
5 insurance agent, or obtained by the commissioner in an investigation
6 pursuant to this section shall be confidential by law and privileged,
7 shall not be subject to disclosure under chapter 42.56 RCW, shall not
8 be subject to subpoena, and shall not be subject to discovery or
9 admissible in evidence in any private civil action. However, the
10 commissioner is authorized to use the documents, materials, or other
11 information in the furtherance of any regulatory or legal action
12 brought as a part of the commissioner's duties.

13 (b) Neither the commissioner nor any person who received documents,
14 materials, or other information while acting under the authority of the
15 commissioner shall be permitted or required to testify in any private
16 civil action concerning any confidential or privileged documents,
17 materials, or information subject to (a) of this subsection.

18 (c) In order to assist in the performance of the commissioner's
19 duties under this act and in accordance with RCW 48.02.065, the
20 commissioner:

21 (i) May share documents, materials, or other information, including
22 the confidential and privileged documents, materials, or information
23 subject to (a) of this subsection, with other state, federal, and
24 international regulatory agencies, with the NAIC, its affiliates, or
25 subsidiaries, and with state, federal, and international law
26 enforcement authorities, provided that the recipient agrees to maintain
27 the confidentiality and privileged status of the document, material, or
28 other information;

29 (ii) May receive documents, materials, or information, including
30 otherwise confidential and privileged documents, materials, or
31 information, from the NAIC, its affiliates, or subsidiaries, and from
32 regulatory and law enforcement officials of other foreign or domestic
33 jurisdictions, and shall maintain as confidential or privileged any
34 document, material, or information received with notice or the
35 understanding that it is confidential or privileged under the laws of
36 the jurisdiction that is the source of the document, material, or
37 information; and

1 (iii) May enter into agreements governing sharing and use of
2 information consistent with this subsection.

3 (d) No waiver of any applicable privilege or claim of
4 confidentiality in the documents, materials, or information shall occur
5 as a result of disclosure to the commissioner under this section or as
6 a result of sharing as authorized in subsection (5)(c) of this section.

7 (e) Nothing in this chapter shall prohibit the commissioner from
8 releasing final, adjudicated actions including for cause terminations
9 that are open to public inspection pursuant to chapter 42.56 RCW to a
10 database or other clearinghouse service maintained by the NAIC, its
11 affiliates, or subsidiaries.

12 (7) An insurer, the authorized representative of the insurer,
13 insurance producer, or title insurance agent that fails to report as
14 required under the provisions of this section or that is found to have
15 reported with actual malice by a court of competent jurisdiction may,
16 after notice and hearing, have its license or certificate of authority
17 suspended or revoked, and may be fined in accordance with this title.

18 **Sec. 33.** RCW 48.17.600 and 1988 c 248 s 15 are each amended to
19 read as follows:

20 (1) All funds representing premiums or return premiums received by
21 an (~~agent, solicitor or broker~~) insurance producer or title insurance
22 agent in (~~his or her~~) the insurance producer's or title insurance
23 agent's fiduciary capacity shall be accounted for and maintained in a
24 separate account from all other business and personal funds.

25 (2) An (~~agent, solicitor or broker~~) insurance producer or title
26 insurance agent shall not commingle or otherwise combine premiums with
27 any other moneys, except as provided in subsection (3) of this section.

28 (3) An (~~agent, solicitor or broker~~) insurance producer or title
29 insurance agent may commingle with premium funds any additional funds
30 as (~~he or she~~) the insurance producer or title insurance agent may
31 deem prudent for the purpose of advancing premiums, establishing
32 reserves for the paying of return premiums, or for any contingencies as
33 may arise in (~~his or her~~) the insurance producer's or title insurance
34 agent's business of receiving and transmitting premium or return
35 premium funds.

36 (4) Each willful violation of this section shall constitute a
37 misdemeanor.

1 to a technical review committee created to facilitate the development,
2 acquisition, or implementation of state purchased health care under
3 chapter 41.05 RCW;

4 (3) The names and individual identification data of all viators
5 regulated by the insurance commissioner under chapter 48.102 RCW;

6 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

7 (5) Information provided under RCW 48.05.510 through 48.05.535,
8 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
9 through 48.46.625;

10 (6) Information gathered under chapter 19.85 RCW or RCW 34.05.328
11 that can be identified to a particular business;

12 (7) Examination reports and information obtained by the department
13 of financial institutions from banks under RCW 30.04.075, from savings
14 banks under RCW 32.04.220, from savings and loan associations under RCW
15 33.04.110, from credit unions under RCW 31.12.565, from check cashers
16 and sellers under RCW 31.45.030(3), and from securities brokers and
17 investment advisers under RCW 21.20.100, all of which is confidential
18 and privileged information;

19 (8) Information provided to the insurance commissioner under RCW
20 48.110.040(3);

21 (9) Documents, materials, or information obtained by the insurance
22 commissioner under RCW 48.02.065, all of which are confidential and
23 privileged;

24 (10) Confidential proprietary and trade secret information provided
25 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
26 48.31C.070;

27 (11) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
28 7.70.140 that, alone or in combination with any other data, may reveal
29 the identity of a claimant, health care provider, health care facility,
30 insuring entity, or self-insurer involved in a particular claim or a
31 collection of claims. For the purposes of this subsection:

32 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

33 (b) "Health care facility" has the same meaning as in RCW
34 48.140.010(6).

35 (c) "Health care provider" has the same meaning as in RCW
36 48.140.010(7).

37 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

1 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
2 (~~and~~)

3 (12) Documents, materials, or information obtained by the insurance
4 commissioner under RCW 48.135.060; and

5 (13) Documents, materials, or information obtained by the insurance
6 commissioner under section 32 of this act.

7 **Sec. 37.** RCW 48.14.010 and 2005 c 223 s 5 are each amended to read
8 as follows:

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

- 10 (a) **For filing charter documents:**
 - 11 (i) Original charter documents, bylaws
12 or record of organization of
13 insurers, or certified copies thereof,
14 required to be filed \$250.00
 - 15 (ii) Amended charter documents, or
16 certified copy thereof, other than
17 amendments of bylaws \$ 10.00
 - 18 (iii) No additional charge or fee shall be
19 required for filing any of such
20 documents in the office of the
21 secretary of state.
- 22 (b) **Certificate of authority:**
 - 23 (i) Issuance \$ 25.00
 - 24 (ii) Renewal \$ 25.00
- 25 (c) **Annual statement of insurer, filing** \$ 20.00
- 26 (d) **Organization or financing of domestic insurers and**
27 **affiliated corporations:**
 - 28 (i) Application for solicitation permit,
29 filing \$100.00
 - 30 (ii) Issuance of solicitation permit . . . \$ 25.00
- 31 (e) ~~((Agents¹))~~ **Insurance producer licenses:**
 - 32 (i) ~~((Agent's qualification licenses~~
33 ~~every two years))~~ License
34 application ~~((\$ 50.00))~~
35 \$ 60.00

1	(ii)	((Filing)) <u>License renewal, every</u>	
2		<u>two years</u>	<u>\$ 60.00</u>
3	(iii)	<u>Initial appointment and renewal of</u>	
4		<u>appointment of each ((such agent))</u>	
5		<u>insurance producer, every two years</u>	<u>\$ 20.00</u>
6	((iii))	Limited ((license issued pursuant	
7	(iv)	<u>to RCW 48.17.190)) insurance</u>	
8		<u>producer license application and</u>	
9		<u>renewal, every two years</u>	<u>\$ 20.00</u>
10	(f)	Reinsurance intermediary licenses:	
11	(i)	Reinsurance intermediary-broker,	
12		each year	\$ 50.00
13	(ii)	Reinsurance intermediary-	
14		manager, each year	\$100.00
15	(g)	((Brokers' licenses:	
16	(i)	Broker's license, every two	
17		years	\$100.00
18	((ii))	<u>Surplus line broker license</u>	
19		<u>application and renewal, every two</u>	
20		<u>years</u>	<u>\$200.00</u>
21	(h)	((Solicitors' license, every two years . . .	\$ 20.00
22	((i))	Adjusters' licenses:	
23	(i)	Independent adjuster, every two	
24		years	\$ 50.00
25	(ii)	Public adjuster, every two	
26		years	\$ 50.00
27	((j))	Resident general agent's license, every	
28		two years	\$ 50.00
29	((k))	(i) Managing general agent appointment,	
30		every two years	\$200.00
31	((H))		
32	(j)	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))~~

8 **(k) Miscellaneous services:**

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

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

19 (a) Fees for examinations administered by an independent testing
20 service that are approved by the commissioner under subsection
21 ~~(1)((+l))~~ (j) of this section shall be collected directly by the
22 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 NEW SECTION. **Sec. 38.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 39.** The following acts or parts of acts are
32 each repealed:

- 33 (1) RCW 48.17.020 ("Broker" defined) and 1947 c 79 s .17.02;
34 (2) RCW 48.17.030 ("Solicitor" defined) and 1947 c 79 s .17.03;
35 (3) RCW 48.17.040 (Service representatives) and 1947 c 79 s .17.04;
36 (4) RCW 48.17.050 ("Adjuster" defined) and 1947 c 79 s .17.05;

1 (5) RCW 48.17.055 ("Insurance education provider" defined) and 1989
2 c 323 s 2;
3 (6) RCW 48.17.070 (General qualifications for license) and 1947 c
4 79 s .17.07;
5 (7) RCW 48.17.100 (One filing of personal data sufficient) and 1947
6 c 79 s .17.10;
7 (8) RCW 48.17.120 (Scope of examinations) and 1989 c 323 s 6, 1981
8 c 111 s 2, 1967 c 150 s 17, 1955 c 303 s 11, & 1947 c 79 s .17.12;
9 (9) RCW 48.17.130 (Examinations--Form, time of, fee) and 1981 c 111
10 s 3, 1967 c 150 s 18, & 1947 c 79 s .17.13;
11 (10) RCW 48.17.190 (Limited licenses) and 1995 c 214 s 2, 1979 c
12 138 s 1, 1967 c 150 s 21, & 1947 c 79 s .17.19;
13 (11) RCW 48.17.200 (One license required by agent) and 1979 ex.s.
14 c 269 s 5, 1955 c 303 s 14, & 1947 c 79 s .17.20;
15 (12) RCW 48.17.210 (Minimum license combinations) and 1947 c 79 s
16 .17.21;
17 (13) RCW 48.17.230 (Agent placing rejected business) and 1988 c 248
18 s 10 & 1947 c 79 s .17.23;
19 (14) RCW 48.17.240 (Scope of broker's license) and 1967 c 150 s 22
20 & 1947 c 79 s .17.24;
21 (15) RCW 48.17.260 (Broker's authority--Commissions) and 1949 c 190
22 s 24 & 1947 c 79 s .17.26;
23 (16) RCW 48.17.280 (Solicitor's qualifications) and 1947 c 79 s
24 .17.28;
25 (17) RCW 48.17.290 (Solicitor's license--Application) and 1947 c 79
26 s .17.29;
27 (18) RCW 48.17.300 (Solicitor's license fee--Custody--Cancellation)
28 and 1947 c 79 s .17.30;
29 (19) RCW 48.17.310 (Limitations upon solicitors) and 1947 c 79 s
30 .17.31;
31 (20) RCW 48.17.320 (Responsibility of employing agent or broker)
32 and 1947 c 79 s .17.32;
33 (21) RCW 48.17.330 (Nonresident agents and brokers--Reciprocity)
34 and 2001 c 56 s 2, 1973 1st ex.s. c 107 s 1, 1955 c 303 s 28, & 1947 c
35 79 s .17.33;
36 (22) RCW 48.17.340 (Service of process against nonresident agent or
37 broker) and 1981 c 339 s 14 & 1947 c 79 s .17.34;

1 (23) RCW 48.17.500 (Expiration and renewal of licenses) and 1979
2 ex.s. c 269 s 6, 1977 ex.s. c 182 s 6, 1965 ex.s. c 70 s 20, 1957 c 193
3 s 9, 1953 c 197 s 7, & 1947 c 79 s .17.50;

4 (24) RCW 48.17.520 (Temporary licenses--Duration--Limitations) and
5 1985 c 264 s 8, 1953 c 197 s 9, & 1947 c 79 s .17.52; and

6 (25) RCW 48.05.310 (General agents, managers--Appointment--Powers--
7 Licensing) and 1995 c 338 s 1, 1982 c 181 s 17, & 1947 c 79 s .05.31.

8 NEW SECTION. **Sec. 40.** This act takes effect July 1, 2009.

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