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SENATE BILL 6253

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State of Washington

61st Legislature

2010 Regular Session

By Senator Benton; by request of Insurance Commissioner

Read first time 01/11/10. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to insurance; amending RCW 48.02.060, 48.38.010,  
2 48.66.045, 48.155.010, 4.28.080, 48.05.200, 48.05.215, 48.10.170,  
3 48.15.150, 48.17.380, 48.36A.350, 48.94.010, 48.102.011, 48.102.021,  
4 48.110.030, 48.110.055, and 48.155.020; adding a new section to chapter  
5 48.02 RCW; and repealing RCW 48.05.210.

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

7 **Sec. 1.** RCW 48.02.060 and 2009 c 335 s 1 are each amended to read  
8 as follows:

9 (1) The commissioner has the authority expressly conferred upon him  
10 or her by or reasonably implied from the provisions of this code.

11 (2) The commissioner (~~shall~~) must execute his or her duties and  
12 (~~shall~~) must enforce the provisions of this code.

13 (3) The commissioner may:

14 (a) Make reasonable rules for effectuating any provision of this  
15 code, except those relating to his or her election, qualifications, or  
16 compensation. Rules are not effective prior to their being filed for  
17 public inspection in the commissioner's office.

18 (b) Conduct investigations to determine whether any person has  
19 violated any provision of this code.

1 (c) Conduct examinations, investigations, hearings, in addition to  
2 those specifically provided for, useful and proper for the efficient  
3 administration of any provision of this code.

4 (4) When the governor proclaims a state of emergency under RCW  
5 43.06.010(12), the commissioner may issue an order that addresses any  
6 or all of the following matters related to insurance policies issued in  
7 this state:

8 (a) Reporting requirements for claims;

9 (b) Grace periods for payment of insurance premiums and performance  
10 of other duties by insureds;

11 (c) Temporary postponement of cancellations and ~~((renewals))~~  
12 nonrenewals; and

13 (d) Medical coverage to ensure access to care.

14 (5) An order by the commissioner under subsection (4) of this  
15 section may remain effective for not more than sixty days unless the  
16 commissioner extends the termination date for the order for an  
17 additional period of not more than thirty days. The commissioner may  
18 extend the order if, in the commissioner's judgment, the circumstances  
19 warrant an extension. An order of the commissioner under subsection  
20 (4) of this section is not effective after the related state of  
21 emergency is terminated by proclamation of the governor under RCW  
22 43.06.210. The order must specify, by line of insurance:

23 (a) The geographic areas in which the order applies, which must be  
24 within but may be less extensive than the geographic area specified in  
25 the governor's proclamation of a state of emergency and must be  
26 specific according to an appropriate means of delineation, such as the  
27 United States postal service zip codes or other appropriate means; and

28 (b) The date on which the order becomes effective and the date on  
29 which the order terminates.

30 (6) The commissioner may adopt rules that establish general  
31 criteria for orders issued under subsection (4) of this section and may  
32 adopt emergency rules applicable to a specific proclamation of a state  
33 of emergency by the governor.

34 (7) The rule-making authority set forth in subsection (6) of this  
35 section does not limit or affect the rule-making authority otherwise  
36 granted to the commissioner by law.

1       **Sec. 2.** RCW 48.38.010 and 1998 c 284 s 1 are each amended to read  
2 as follows:

3       The commissioner may grant a certificate of exemption to any  
4 insurer or educational, religious, charitable, or scientific  
5 institution conducting a charitable gift annuity business:

6       (1) Which is organized and operated exclusively as, or for the  
7 purpose of aiding, an educational, religious, charitable, or scientific  
8 institution which is organized as a nonprofit organization without  
9 profit to any person, firm, partnership, association, corporation, or  
10 other entity;

11       (2) Which possesses a current tax exempt status under the laws of  
12 the United States;

13       (3) Which serves such purpose by issuing charitable gift annuity  
14 contracts only for the benefit of such educational, religious,  
15 charitable, or scientific institution;

16       (4) Which appoints the insurance commissioner as its true and  
17 lawful attorney upon whom may be served lawful process in any action,  
18 suit, or proceeding in any court, which appointment (~~((shall be))~~) is  
19 irrevocable, (~~((shall))~~) binds the insurer or institution or any  
20 successor in interest, (~~((shall))~~) remains in effect as long as there is  
21 in force in this state any contract made or issued by the insurer or  
22 institution, or any obligation arising therefrom, and (~~((shall))~~) must be  
23 processed in accordance with (~~((RCW 48.05.210))~~) section 6 of this act;

24       (5) Which is fully and legally organized and qualified to do  
25 business and has been actively doing business under the laws of the  
26 state of its domicile for a period of at least three years prior to its  
27 application for a certificate of exemption;

28       (6) Which has and maintains minimum unrestricted net assets of five  
29 hundred thousand dollars. "Unrestricted net assets" means the excess  
30 of total assets over total liabilities that are neither permanently  
31 restricted nor temporarily restricted by donor-imposed stipulations;

32       (7) Which files with the insurance commissioner its application for  
33 a certificate of exemption showing:

34       (a) Its name, location, and organization date;

35       (b) The kinds of charitable annuities it proposes to offer;

36       (c) A statement of the financial condition, management, and affairs  
37 of the organization and any affiliate thereof, as that term is defined

1 in RCW 48.31B.005, on a form satisfactory to, or furnished by the  
2 insurance commissioner;

3 (d) (~~Such~~) Other documents, stipulations, or information as the  
4 insurance commissioner may reasonably require to evidence compliance  
5 with the provisions of this chapter;

6 (8) Which subjects itself and any affiliate thereof, as that term  
7 is defined in RCW 48.31B.005, to periodic examinations conducted under  
8 chapter 48.03 RCW as may be deemed necessary by the insurance  
9 commissioner;

10 (9) Which files with the insurance commissioner for the  
11 commissioner's advance approval a copy of any policy or contract form  
12 to be offered or issued to residents of this state. The grounds for  
13 disapproval of the policy or contract form (~~shall be those~~) are set  
14 forth in RCW 48.18.110; and

15 (10) Which:

16 (a) Files with the insurance commissioner (~~on or before March 1 of~~  
17 ~~each~~) annually, within sixty days of the end of its fiscal year a  
18 (~~copy of its annual statement prepared pursuant to the laws of its~~  
19 ~~state of domicile~~) report of its current financial condition,  
20 management, and affairs, on a form and in a manner prescribed by the  
21 commissioner, as well as such other financial material as may be  
22 requested, including the annual statement or other such financial  
23 materials as may be requested relating to any affiliate, as that term  
24 is defined in RCW 48.31B.005; (~~and~~)

25 (b) (~~Coincident with the filing of its annual statement, pays an~~  
26 ~~annual filing fee of twenty five dollars plus five dollars for each~~  
27 ~~charitable gift annuity contract written for residents of this state~~  
28 ~~during the previous calendar year; and~~

29 (~~c~~) ~~Which includes on or~~) Attaches to the (~~first page of the~~  
30 ~~annual statement~~) report of its current financial condition the  
31 statement of a qualified actuary setting forth the actuary's opinion  
32 relating to annuity reserves and other actuarial items for the fiscal  
33 year covered by the report. "Qualified actuary" as used in this  
34 subsection means a member in good standing of the American academy of  
35 actuaries or a person who has otherwise demonstrated actuarial  
36 competence to the satisfaction of the insurance regulatory official of  
37 the domiciliary state; and

1        (c) On or before March 1st of each year, pays an annual filing fee  
2 of twenty-five dollars plus five dollars for each charitable gift  
3 annuity contract written for residents of this state during its fiscal  
4 year ending on or before December 31st of the previous calendar year.

5        **Sec. 3.** RCW 48.66.045 and 2009 c 161 s 5 are each amended to read  
6 as follows:

7        (1) Every issuer of a medicare supplement insurance policy or  
8 certificate providing coverage to a resident of this state issued on or  
9 after January 1, 1996, and before June 1, 2010, (~~shall~~) must:

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

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

28        (2)(a) Unless otherwise provided for in RCW 48.66.055, every issuer  
29 of a medicare supplement insurance policy or certificate providing  
30 coverage to a resident of this state issued on or after June 1, 2010,  
31 (~~shall~~) must issue coverage under its standardized plans B, C, D,  
32 (~~E~~) F, F with high deductible, G, K, L, M, or N without evidence of  
33 insurability to any resident of this state who is eligible for both  
34 medicare hospital and physician services by reason of age or by reason  
35 of disability or end-stage renal disease, if the medicare supplement  
36 policy or certificate replaces another medicare supplement policy or  
37 certificate or other more comprehensive coverage; and

1 (b) Unless otherwise provided for in RCW 48.66.055, issue coverage  
2 under its standardized plan A without evidence of insurability to any  
3 resident of this state who is eligible for both medicare hospital and  
4 physician services by reason of age or by reason of disability or end-  
5 stage renal disease, if the medicare supplement policy or certificate  
6 replaces another standardized plan A medicare supplement policy or  
7 certificate.

8 (3) Every issuer of a medicare supplement insurance policy or  
9 certificate providing coverage to a resident of this state issued on or  
10 after January 1, 1996, (~~shall~~) must set rates only on a community-  
11 rated basis. Premiums (~~shall~~) must be equal for all policyholders  
12 and certificate holders under a standardized medicare supplement  
13 benefit plan form, except that an issuer may vary premiums based on  
14 spousal discounts, frequency of payment, and method of payment  
15 including automatic deposit of premiums and may develop no more than  
16 two rating pools that distinguish between an insured's eligibility for  
17 medicare by reason of:

18 (a) Age; or

19 (b) Disability or end-stage renal disease.

20 **Sec. 4.** RCW 48.155.010 and 2009 c 175 s 3 are each amended to read  
21 as follows:

22 The definitions in this section apply throughout this chapter  
23 unless the context clearly requires otherwise.

24 (1) "Affiliate" means a person that directly, or indirectly through  
25 one or more intermediaries, controls, or is controlled by, or is under  
26 common control with, the person specified.

27 (2) "Commissioner" means the Washington state insurance  
28 commissioner.

29 (3)(a) "Control" or "controlled by" or "under common control with"  
30 means the possession, direct or indirect, of the power to direct or  
31 cause the direction of the management and policies of a person, whether  
32 through the ownership of voting securities, by contract other than a  
33 commercial contract for goods or nonmanagement services, or otherwise,  
34 unless the power is the result of an official position with or  
35 corporate office held by the person.

36 (b) Control exists when any person, directly or indirectly, owns,  
37 controls, holds with the power to vote, or holds proxies representing

1 ten percent or more of the voting securities of any other person. A  
2 presumption of control may be rebutted by a showing made in the manner  
3 provided by RCW 48.31B.005(2) and 48.31B.025(11) that control does not  
4 exist in fact. The commissioner may determine, after furnishing all  
5 persons in interest notice and opportunity to be heard and making  
6 specific findings of fact to support the determination, that control  
7 exists in fact, notwithstanding the absence of a presumption to that  
8 effect.

9 (4)(a) "Discount plan" means a business arrangement or contract in  
10 which a person or organization, in exchange for fees, dues, charges, or  
11 other consideration, provides or purports to provide discounts to its  
12 members on charges by providers for health care services.

13 (b) "Discount plan" does not include:

14 (i) A plan that does not charge a membership or other fee to use  
15 the plan's discount card;

16 (ii) A patient access program as defined in this chapter;

17 (iii) A medicare prescription drug plan as defined in this chapter;

18 or

19 (iv) A discount plan offered by a health carrier authorized under  
20 chapter 48.20, 48.21, 48.44, or 48.46 RCW.

21 (5)(a) "Discount plan organization" means a person that, in  
22 exchange for fees, dues, charges, or other consideration, provides or  
23 purports to provide access to discounts to its members on charges by  
24 providers for health care services. "Discount plan organization" also  
25 means a person or organization that contracts with providers, provider  
26 networks, or other discount plan organizations to offer discounts on  
27 health care services to its members. This term also includes all  
28 persons that determine the charge to or other consideration paid by  
29 members.

30 (b) "Discount plan organization" does not mean:

31 (i) Pharmacy benefit managers;

32 (ii) Health care provider networks, when the network's only  
33 involvement in discount plans is contracting with the plan to provide  
34 discounts to the plan's members;

35 (iii) Marketers who market the discount plans of discount plan  
36 organizations which are licensed under (~~to~~) this chapter as long as  
37 all written communications of the marketer in connection with a

1 discount plan clearly identify the licensed discount plan organization  
2 as the responsible entity; or

3 (iv) Health carriers, if the discount on health care services is  
4 offered by a health carrier authorized under chapter 48.20, 48.21,  
5 48.44, or 48.46 RCW.

6 (6) "Health care facility" or "facility" has the same meaning as in  
7 RCW 48.43.005(15).

8 (7) "Health care provider" or "provider" has the same meaning as in  
9 RCW 48.43.005(16).

10 (8) "Health care provider network," "provider network," or  
11 "network" means any network of health care providers, including any  
12 person or entity that negotiates directly or indirectly with a discount  
13 plan organization on behalf of more than one provider to provide health  
14 care services to members.

15 (9) "Health care services" has the same meaning as in RCW  
16 48.43.005(17).

17 (10) "Health carrier" or "carrier" has the same meaning as in RCW  
18 48.43.005(18).

19 (11) "Marketer" means a person or entity that markets, promotes,  
20 sells, or distributes a discount plan, including a contracted marketing  
21 organization and a private label entity that places its name on and  
22 markets or distributes a discount plan pursuant to a marketing  
23 agreement with a discount plan organization.

24 (12) "Medicare prescription drug plan" means a plan that provides  
25 a medicare part D prescription drug benefit in accordance with the  
26 requirements of the federal medicare prescription drug improvement and  
27 modernization act of 2003.

28 (13) "Member" means any individual who pays fees, dues, charges, or  
29 other consideration for the right to receive the benefits of a discount  
30 plan, but does not include any individual who enrolls in a patient  
31 access program.

32 (14) "Patient access program" means a voluntary program sponsored  
33 by a pharmaceutical manufacturer, or a consortium of pharmaceutical  
34 manufacturers, that provides free or discounted health care products  
35 for no additional consideration directly to low-income or uninsured  
36 individuals either through a discount card or direct shipment.

37 (15) "Person" means an individual, a corporation, a governmental



1 entity, a partnership, an association, a joint venture, a joint stock  
2 company, a trust, an unincorporated organization, any similar entity,  
3 or any combination of the persons listed in this subsection.

4 (16)(a) "Pharmacy benefit manager" means a person that performs  
5 pharmacy benefit management for a covered entity.

6 (b) For purposes of this subsection, a "covered entity" means an  
7 insurer, a health care service contractor, a health maintenance  
8 organization, or a multiple employer welfare arrangement licensed,  
9 certified, or registered under the provisions of this title. "Covered  
10 entity" also means a health program administered by the state as a  
11 provider of health coverage, a single employer that provides health  
12 coverage to its employees, or a labor union that provides health  
13 coverage to its members as part of a collective bargaining agreement.

14 **Sec. 5.** RCW 4.28.080 and 1997 c 380 s 1 are each amended to read  
15 as follows:

16 Service made in the modes provided in this section (~~(shall be)~~) are  
17 taken and held to be personal service. The summons (~~(shall)~~) must be  
18 served by delivering a copy thereof, as follows:

19 (1) If the action be against any county in this state, to the  
20 county auditor or, during normal office hours, to the deputy auditor,  
21 or in the case of a charter county, summons may be served upon the  
22 agent, if any, designated by the legislative authority.

23 (2) If against any town or incorporated city in the state, to the  
24 mayor, city manager, or, during normal office hours, to the mayor's or  
25 city manager's designated agent or the city clerk thereof.

26 (3) If against a school or fire district, to the superintendent or  
27 commissioner thereof or by leaving the same in his or her office with  
28 an assistant superintendent, deputy commissioner, or business manager  
29 during normal business hours.

30 (4) If against a railroad corporation, to any station, freight,  
31 ticket or other agent thereof within this state.

32 (5) If against a corporation owning or operating sleeping cars, or  
33 hotel cars, to any person having charge of any of its cars or any agent  
34 found within the state.

35 (6) If against a domestic insurance company, to any agent  
36 authorized by such company to solicit insurance within this state.

1 (7)(a) If against ((a)) an authorized foreign or alien insurance  
2 company, as provided in ((chapter 48.05)) RCW 48.05.200.

3 (b) If against an unauthorized insurer, as provided in RCW  
4 48.05.215 and 48.15.150.

5 (c) If against a reciprocal insurer, as provided in RCW 48.10.170.

6 (d) If against a nonresident surplus line broker, as provided in  
7 RCW 48.15.073.

8 (e) If against a nonresident insurance producer or title insurance  
9 agent, as provided in RCW 48.17.173.

10 (f) If against a nonresident adjuster, as provided in RCW  
11 48.17.380.

12 (g) If against a fraternal benefit society, as provided in RCW  
13 48.36A.350.

14 (h) If against a nonresident reinsurance intermediary, as provided  
15 in RCW 48.94.010.

16 (i) If against a nonresident life settlement provider, as provided  
17 in RCW 48.102.011.

18 (j) If against a nonresident life settlement broker, as provided in  
19 RCW 48.102.021.

20 (k) If against a service contract provider, as provided in RCW  
21 48.110.030.

22 (l) If against a protection product guarantee provider, as provided  
23 in RCW 48.110.055.

24 (m) If against a discount plan organization, as provided in RCW  
25 48.155.020.

26 (8) If against a company or corporation doing any express business,  
27 to any agent authorized by said company or corporation to receive and  
28 deliver express matters and collect pay therefor within this state.

29 (9) If the suit be against a company or corporation other than  
30 those designated in ((the preceding subdivisions)) subsections (1)  
31 through (8) of this section, to the president or other head of the  
32 company or corporation, the registered agent, secretary, cashier or  
33 managing agent thereof or to the secretary, stenographer or office  
34 assistant of the president or other head of the company or corporation,  
35 registered agent, secretary, cashier or managing agent.

36 (10) If the suit be against a foreign corporation or nonresident  
37 joint stock company, partnership or association doing business within  
38 this state, to any agent, cashier or secretary thereof.

1 (11) If against a minor under the age of fourteen years, to  
2 ((such)) the minor personally, and also to his or her father, mother,  
3 guardian, or if there be none within this state, then to any person  
4 having the care or control of ((such)) the minor, or with whom he or  
5 she resides, or in whose service he or she is employed, if such there  
6 be.

7 (12) If against any person for whom a guardian has been appointed  
8 for any cause, then to ((such)) the guardian.

9 (13) If against a foreign or alien steamship company or steamship  
10 charterer, to any agent authorized by ((such)) the company or charterer  
11 to solicit cargo or passengers for transportation to or from ports in  
12 the state of Washington.

13 (14) If against a self-insurance program regulated by chapter 48.62  
14 RCW, as provided in chapter 48.62 RCW.

15 (15) In all other cases, to the defendant personally, or by leaving  
16 a copy of the summons at the house of his or her usual abode with some  
17 person of suitable age and discretion then resident therein.

18 (16) In lieu of service under subsection (15) of this section,  
19 where the person cannot with reasonable diligence be served as  
20 described, the summons may be served as provided in this subsection,  
21 and ((shall be)) are deemed complete on the tenth day after the  
22 required mailing: By leaving a copy at his or her usual mailing  
23 address with a person of suitable age and discretion who is a resident,  
24 proprietor, or agent thereof, and by thereafter mailing a copy by  
25 first-class mail, postage prepaid, to the person to be served at his or  
26 her usual mailing address. For the purposes of this subsection, "usual  
27 mailing address" ((shall)) does not include a United States postal  
28 service post office box or the person's place of employment.

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

31 (1) Legal process against a person: (a) For whom the commissioner  
32 has been appointed attorney for service of process, or (b) who may be  
33 served by service of process upon the commissioner, must be served upon  
34 the commissioner either by a person competent to serve a summons, or by  
35 registered mail. At the time of service the plaintiff must pay to the  
36 commissioner ten dollars, taxable as costs in the action.

1 (2) As soon as practicable, the commissioner must send by mail,  
2 electronic means, or other means reasonably calculated to give notice  
3 a copy of the process to the person on whose behalf he or she has been  
4 served.

5 (3) The commissioner must keep a record of the day and hour of  
6 service upon him or her of all legal process.

7 (4) Proceedings must not be had against the person, and the person  
8 must not be required to appear, plead, or answer until the expiration  
9 of forty days after the date of service upon the commissioner.

10 (5) The commissioner may adopt rules to implement this section.

11 **Sec. 7.** RCW 48.05.200 and 1985 c 264 s 3 are each amended to read  
12 as follows:

13 (1) Each authorized foreign or alien insurer (~~shall~~) must appoint  
14 the commissioner as its attorney to receive service of, and upon whom  
15 (~~shall~~) must be served, all legal process issued against it in this  
16 state upon causes of action arising within this state. Service upon  
17 the commissioner as attorney (~~shall~~) constitutes service upon the  
18 insurer. Service of legal process against (~~such~~) the insurer can be  
19 had only by service upon the commissioner, except actions upon  
20 contractor bonds pursuant to RCW 18.27.040, where service may be upon  
21 the department of labor and industries.

22 (2) With the appointment the insurer (~~shall~~) must designate (~~by~~  
23 ~~name and address~~) the person to whom the commissioner (~~shall~~) must  
24 forward legal process so served upon him or her. The insurer may  
25 change (~~such~~) the person by filing a new designation.

26 (3) The appointment of the commissioner as attorney (~~shall be~~) is  
27 irrevocable, (~~shall~~) binds any successor in interest or to the assets  
28 or liabilities of the insurer, and (~~shall~~) remains in effect as long  
29 as there is in force in this state any contract made by the insurer or  
30 liabilities or duties arising therefrom.

31 (4) The service of process must be accomplished and processed in  
32 the manner prescribed under section 6 of this act.

33 **Sec. 8.** RCW 48.05.215 and 1981 c 339 s 4 are each amended to read  
34 as follows:

35 (1) Any foreign or alien insurer not (~~thereunto~~) authorized by  
36 the commissioner, whether it be a surplus lines insurer operating under

1 chapter 48.15 RCW or not, who, by mail or otherwise, solicits insurance  
2 business in this state or transacts insurance business in this state as  
3 defined by RCW 48.01.060, thereby submits itself to the jurisdiction of  
4 the courts of this state in any action, suit or proceeding instituted  
5 by or on behalf of an insured, beneficiary or the commissioner arising  
6 out of ((such)) the unauthorized solicitation of insurance business,  
7 including, but not limited to, an action for injunctive relief by the  
8 commissioner.

9 (2) In any ((such)) action, suit, or proceeding instituted by or on  
10 behalf of an insured or beneficiary, service of legal process against  
11 ((such)) the unauthorized foreign or alien insurer ((may be made by  
12 service of duplicate copies of legal process on the commissioner by a  
13 person competent to serve a summons or by registered mail. At the time  
14 of service the plaintiff shall pay to the commissioner ten dollars,  
15 taxable as costs in the action. The commissioner shall forthwith mail  
16 one of the copies of the process, by registered mail with return  
17 receipt requested, to the defendant at its last known principal place  
18 of business)) must be accomplished and processed in the manner  
19 prescribed in section 6 of this act. The defendant insurer ((shall  
20 have)) has forty days from the date of the service on the commissioner  
21 within which to plead, answer or otherwise defend the action.

22 (3) In any such action, suit, or proceeding by the commissioner,  
23 service of legal process against ((such)) the unauthorized foreign or  
24 alien insurer may be made by personal service of legal process upon any  
25 officer of such insurer at its last known principal place of business  
26 outside the state of Washington. The summons upon ((such)) the  
27 unauthorized foreign or alien insurer ((shall)) must contain the same  
28 requisites and be served in like manner as personal summons within the  
29 state of Washington; except, the insurer ((shall have)) has forty days  
30 from the date of ((such)) personal service within which to plead,  
31 answer, or otherwise defend the action.

32 **Sec. 9.** RCW 48.10.170 and 2009 c 549 s 7042 are each amended to  
33 read as follows:

34 (1) ((A certificate of authority shall not be issued to a  
35 domestic)) Each authorized reciprocal insurer ((unless prior thereto  
36 the attorney has executed and filed with the commissioner the insurer's

1 ~~irrevocable authorization of the commissioner to receive legal process~~  
2 ~~issued in this state against the insurer upon any cause of action~~  
3 ~~arising within this state.~~

4 ~~(2) The provisions of RCW 48.05.210 shall apply to service of such~~  
5 ~~process upon the commissioner)) must appoint the commissioner as its~~  
6 ~~attorney to receive service of, and upon whom must be served, all legal~~  
7 ~~process issued against it in this state upon causes of action arising~~  
8 ~~within this state. Service upon the commissioner as attorney~~  
9 ~~constitutes service upon the insurer.~~

10 ~~(2) With the appointment the insurer must designate the person to~~  
11 ~~whom the commissioner must forward legal process so served upon him or~~  
12 ~~her.~~

13 ~~(3) The appointment of the commissioner as attorney is irrevocable,~~  
14 ~~binds any successor in interest or to the assets or liabilities of the~~  
15 ~~insurer, and remains in effect as long as there is in force in this~~  
16 ~~state any contract made by the insurer or liabilities or duties arising~~  
17 ~~therefrom.~~

18 ~~(4) The service of process must be accomplished and processed in~~  
19 ~~the manner prescribed in section 6 of this act.~~

20 ~~((+3)) (5) In lieu of service on the commissioner, legal process~~  
21 ~~may be served upon a domestic reciprocal insurer by serving the~~  
22 ~~insurer's attorney at his or her principal offices.~~

23 ~~((+4)) (6) Any judgment against the insurer based upon legal~~  
24 ~~process so served ~~((shall be))~~ is binding upon each of the insurer's~~  
25 ~~subscribers as their respective interests may appear and in an amount~~  
26 ~~not exceeding their respective contingent liabilities.~~

27 **Sec. 10.** RCW 48.15.150 and 1979 ex.s. c 199 s 4 are each amended  
28 to read as follows:

29 (1) An unauthorized insurer ~~((shall))~~ must be sued, upon any cause  
30 of action arising in this state under any contract issued by it as a  
31 surplus line contract, ~~((pursuant to))~~ under this chapter, in the  
32 superior court of the county in which the cause of action arose.

33 (2) ~~((Service of legal process against the insurer may be made in~~  
34 ~~any such action by service upon the commissioner of duplicate copies of~~  
35 ~~such legal process either by a person competent to serve a summons or~~  
36 ~~by registered mail or certified mail with return receipt requested. At~~  
37 ~~the time of such service the plaintiff shall pay to the commissioner~~

1 ~~ten dollars, taxable as costs in the action. The commissioner shall~~  
2 ~~forthwith mail the documents of process served, or a true copy thereof,~~  
3 ~~to the insurer at its principal place of business last known to the~~  
4 ~~commissioner, or to the person designated by the insurer for that~~  
5 ~~purpose in the most recent document filed with the commissioner, on~~  
6 ~~forms prescribed by the commissioner, by prepaid registered or~~  
7 ~~certified mail with return receipt requested. The insurer shall have~~  
8 ~~forty days from the date of service upon the commissioner within which~~  
9 ~~to plead, answer, or otherwise defend the action. Upon service of~~  
10 ~~process upon the commissioner in accordance with this provision, the~~  
11 ~~court shall be deemed to have jurisdiction in personam of the insurer.~~

12 ~~(3)) An unauthorized insurer issuing ((such)) a policy ((shall~~  
13 ~~be)) under this chapter is deemed thereby to have authorized service of~~  
14 ~~process against it in the manner ((and to the effect as provided in~~  
15 ~~this)) prescribed in section 6 of this act. Any such policy ((shall))~~  
16 ~~must contain a provision designating the commissioner as the person~~  
17 ~~upon whom service of process may be made.~~

18 (3) The insurer has forty days from the date of the service upon  
19 the commissioner within which to plead, answer, or otherwise defend the  
20 action. Upon service of process upon the commissioner in accordance  
21 with this section, the court is deemed to have jurisdiction in personam  
22 of the insurer.

23 **Sec. 11.** RCW 48.17.380 and 2009 c 162 s 23 are each amended to  
24 read as follows:

25 (1) Application for a license to be an adjuster ((shall)) must be  
26 made to the commissioner upon forms furnished by the commissioner. As  
27 a part of or in connection with the application, an individual  
28 applicant ((shall)) must furnish information concerning his or her  
29 identity, including fingerprints for submission to the Washington state  
30 patrol, the federal bureau of investigation, and any governmental  
31 agency or entity authorized to receive this information for a state and  
32 national criminal history background check, personal history,  
33 experience, business record, purposes, and other pertinent facts, as  
34 the commissioner may reasonably require. If, in the process of  
35 verifying fingerprints, business records, or other information, the  
36 commissioner's office incurs fees or charges from another governmental

1 agency or from a business firm, the amount of the fees or charges must  
2 be paid to the commissioner's office by the applicant.

3 (2) Any person willfully misrepresenting any fact required to be  
4 disclosed in any application shall be liable to penalties as provided  
5 by this code.

6 (3) The commissioner (~~shall~~) licenses as an adjuster only an  
7 individual or business entity which has otherwise complied with this  
8 code therefor and the individual or responsible officer of the business  
9 entity has furnished evidence satisfactory to the commissioner that the  
10 individual or responsible officer of the business entity is qualified  
11 as follows:

12 (a) Is eighteen or more years of age;

13 (b) Is a bona fide resident of this state, or is a resident of a  
14 state which will permit residents of this state to act as adjusters in  
15 such other state;

16 (c) Is a trustworthy person;

17 (d) Has had experience or special education or training with  
18 reference to the handling of loss claims under insurance contracts, of  
19 sufficient duration and extent reasonably to make the individual or  
20 responsible officer of the business entity competent to fulfill the  
21 responsibilities of an adjuster;

22 (e) Has successfully passed any examination as required under this  
23 chapter;

24 (f) If for a public adjuster's license, has filed the bond required  
25 by RCW 48.17.430;

26 (g) If a nonresident business entity, it has designated an  
27 individual licensed adjuster responsible for the business entity's  
28 compliance with the insurance laws and rules of this state.

29 (4)(a) Each licensed nonresident adjuster, by application for and  
30 issuance of a license, is deemed to have appointed the commissioner as  
31 the adjuster's attorney to receive service of legal process against the  
32 adjuster in this state upon causes of action arising within this state.  
33 Service upon the commissioner as attorney constitutes effective legal  
34 service on the adjuster.

35 (b) The appointment of the commissioner as attorney is irrevocable,  
36 binds any successor in interest or to the assets or liabilities of the  
37 adjuster, and remains in effect for as long as there could be any cause  
38 of action against the adjuster arising out of the adjuster's



1 transactions in this state. The service of process must be  
2 accomplished and processed in the manner prescribed in section 6 of  
3 this act.

4 (5) The commissioner may require any documents reasonably necessary  
5 to verify the information contained in an application and may, from  
6 time to time, require any licensed adjuster to produce the information  
7 called for in an application for a license.

8 **Sec. 12.** RCW 48.36A.350 and 1987 c 366 s 35 are each amended to  
9 read as follows:

10 (1) Every society authorized to do business in this state (~~shall~~

11 ~~(a) Appoint in writing the commissioner and each successor in~~  
12 ~~office to be its true and lawful attorney upon whom all lawful process~~  
13 ~~in any action or proceeding against it shall be served;~~

14 ~~(b) Agree in writing that any lawful process against it which is~~  
15 ~~served on the commissioner shall be of the same legal force and~~  
16 ~~validity as if served upon the society; and~~

17 ~~(c) Agree that the authority shall continue in force so long as any~~  
18 ~~liability remains outstanding in this state.~~

19 ~~Copies of such appointment, certified by said commissioner, shall~~  
20 ~~be deemed sufficient evidence thereof and shall be admitted in evidence~~  
21 ~~with the same force and effect as the original.~~

22 ~~(2) Service shall only be made upon the commissioner, or if absent,~~  
23 ~~upon the person in charge of the commissioner's office. It shall be~~  
24 ~~made in duplicate and shall constitute sufficient service upon the~~  
25 ~~society. When legal process against a society is served upon the~~  
26 ~~commissioner, the commissioner shall forward one of the duplicate~~  
27 ~~copies by registered mail, prepaid, directed to the secretary or~~  
28 ~~corresponding officer. No service shall require a society to file its~~  
29 ~~answer, pleading, or defense in less than forty days from the date of~~  
30 ~~mailing the copy of the service to a society. Legal process shall not~~  
31 ~~be served upon a society except in the manner provided in this section.~~  
32 ~~At the time of serving any process upon the commissioner, the plaintiff~~  
33 ~~or complainant in the action shall pay to the commissioner the fee~~  
34 ~~established pursuant to RCW 48.05.210)) must appoint the commissioner~~  
35 ~~as its attorney to receive service of, and upon whom must be served,~~  
36 ~~all legal process issued against it in this state upon causes of action~~

1 arising within this state. Service upon the commissioner as attorney  
2 constitutes service upon the society.

3 (2) With the appointment the society must designate the person to  
4 whom the commissioner must forward legal process so served upon him or  
5 her.

6 (3) The appointment of the commissioner as attorney is irrevocable,  
7 binds any successor in interest or to the assets or liabilities of the  
8 society, and remains in effect as long as there is in force in this  
9 state any contract made by the society or liabilities or duties arising  
10 therefrom.

11 (4) The service of process must be accomplished and processed in  
12 the manner prescribed in section 6 of this act.

13 **Sec. 13.** RCW 48.94.010 and 2005 c 274 s 317 are each amended to  
14 read as follows:

15 (1) No person, firm, association, or corporation may act as a  
16 reinsurance intermediary-broker in this state if the person, firm,  
17 association, or corporation maintains an office either directly or as  
18 a member or employee of a firm or association, or an officer, director,  
19 or employee of a corporation:

20 (a) In this state, unless the person, firm, association, or  
21 corporation is a licensed reinsurance intermediary-broker in this  
22 state; or

23 (b) In another state, unless the person, firm, association, or  
24 corporation is a licensed reinsurance intermediary-broker in this state  
25 or another state having a regulatory scheme substantially similar to  
26 this chapter.

27 (2) No person, firm, association, or corporation may act as a  
28 reinsurance intermediary-manager:

29 (a) For a reinsurer domiciled in this state, unless the person,  
30 firm, association, or corporation is a licensed reinsurance  
31 intermediary-manager in this state;

32 (b) In this state, if the person, firm, association, or corporation  
33 maintains an office either directly or as a member or employee of a  
34 firm or association, or an officer, director, or employee of a  
35 corporation in this state, unless the person, firm, association, or  
36 corporation is a licensed reinsurance intermediary-manager in this  
37 state;

1 (c) In another state for a nondomestic reinsurer, unless the  
2 person, firm, association, or corporation is a licensed reinsurance  
3 intermediary-manager in this state or another state having a  
4 substantially similar regulatory scheme.

5 (3) The commissioner may require a reinsurance intermediary-manager  
6 subject to subsection (2) of this section to:

7 (a) File a bond in an amount and from an insurer acceptable to the  
8 commissioner for the protection of the reinsurer; and

9 (b) Maintain an errors and omissions policy in an amount acceptable  
10 to the commissioner.

11 (4)((~~a~~)) The commissioner may issue a reinsurance intermediary  
12 license to a person, firm, association, or corporation who has complied  
13 with the requirements of this chapter. Any such license issued to a  
14 firm or association authorizes all the members of the firm or  
15 association and any designated employees to act as reinsurance  
16 intermediaries under the license, and all such persons may be named in  
17 the application and any supplements to it. Any such license issued to  
18 a corporation authorizes all of the officers, and any designated  
19 employees and directors of it, to act as reinsurance intermediaries on  
20 behalf of the corporation, and all such persons must be named in the  
21 application and any supplements to it.

22 (~~(b) If the applicant for a reinsurance intermediary license is a  
23 nonresident, the applicant, as a condition precedent to receiving or  
24 holding a license, shall designate the commissioner as agent for  
25 service of process in the manner, and with the same legal effect,  
26 provided for by this title for designation of service of process upon  
27 unauthorized insurers, and also shall furnish the commissioner with the  
28 name and address of a resident of this state upon whom notices or  
29 orders of the commissioner or process affecting the nonresident  
30 reinsurance intermediary may be served. The licensee shall promptly  
31 notify the commissioner in writing of every change in its designated  
32 agent for service of process, but the change does not become effective  
33 until acknowledged by the commissioner.~~)

34 (5)(a) Each licensed nonresident reinsurance intermediary must  
35 appoint the commissioner as the reinsurance intermediary's attorney to  
36 receive service of legal process issued against the reinsurance  
37 intermediary in this state upon causes of action arising within this

1 state. Service upon the commissioner as attorney constitutes effective  
2 legal service upon the reinsurance intermediary.

3 (b) With the appointment the reinsurance intermediary must  
4 designate the person to whom the commissioner must forward legal  
5 process so served upon him or her.

6 (c) The appointment is irrevocable, binds any successor in interest  
7 or to the assets or liabilities of the reinsurance intermediary, and  
8 remains in effect for as long as there could be any cause of action  
9 against the reinsurance intermediary arising out of the reinsurance  
10 intermediary's insurance transactions in this state.

11 (d) The service of process must be accomplished and processed in  
12 the manner prescribed in section 6 of this act.

13 (6) The commissioner may refuse to issue a reinsurance intermediary  
14 license if, in his or her judgment, the applicant, anyone named on the  
15 application, or a member, principal, officer, or director of the  
16 applicant, is not trustworthy, or that a controlling person of the  
17 applicant is not trustworthy to act as a reinsurance intermediary, or  
18 that any of the foregoing has given cause for revocation or suspension  
19 of the license, or has failed to comply with a prerequisite for the  
20 issuance of such license. Upon written request, the commissioner will  
21 furnish a summary of the basis for refusal to issue a license, which  
22 document is privileged and not subject to chapter 42.56 RCW.

23 ~~((+6+))~~ (7) Licensed attorneys-at-law of this state when acting in  
24 their professional capacity as such are exempt from this section.

25 **Sec. 14.** RCW 48.102.011 and 2009 c 104 s 3 are each amended to  
26 read as follows:

27 (1) A person, wherever located, ~~((shall))~~ may not act as a provider  
28 with an owner who is a resident of this state or if there is more than  
29 one owner on a single policy and one of the owners is a resident of  
30 this state, without first having obtained a license from the  
31 commissioner.

32 (2) An application for a provider license ~~((shall))~~ must be made to  
33 the commissioner by the applicant on a form prescribed by the  
34 commissioner, and the application ~~((shall))~~ must be accompanied by a  
35 licensing fee in the amount of two hundred fifty dollars~~((, which shall~~  
36 ~~be deposited to the insurance commissioner's regulatory account under~~  
37 ~~RCW 48.02.190))~~ for deposit into the general fund.

1 (3) All provider licenses (~~shall~~) continue in force until  
2 suspended, revoked, or not renewed. A license (~~shall be~~) is subject  
3 to renewal annually on the first day of July upon application of the  
4 provider and payment of a renewal fee of two hundred fifty dollars(~~—~~  
5 ~~which shall be deposited to the insurance commissioner's regulatory~~  
6 ~~account under RCW 48.02.190~~) for deposit into the general fund. If  
7 not so renewed, the license (~~shall~~) automatically expires on the  
8 renewal date.

9 (a) If the renewal fee is not received by the commissioner prior to  
10 the expiration date, the provider (~~shall~~) must pay to the  
11 commissioner in addition to the renewal fee, a surcharge as follows:

12 (i) For the first thirty days or part thereof delinquency the  
13 surcharge is fifty percent of the renewal fee;

14 (ii) For the next thirty days or part thereof delinquency the  
15 surcharge is one hundred percent of the renewal fee;

16 (b) If the renewal fee is not received by the commissioner after  
17 sixty days but prior to twelve months after the expiration date the  
18 payment of the renewal fee (~~shall be~~) is for reinstatement of the  
19 license and the provider (~~shall~~) must pay to the commissioner the  
20 renewal fee and a surcharge of two hundred percent.

21 (4) Subsection (3)(a) and (b) of this section does not exempt any  
22 person from any penalty provided by law for transacting a life  
23 settlement business without a valid and subsisting license.

24 (5) The applicant (~~shall~~) must provide (~~such~~) information as  
25 the commissioner may require on forms prescribed by the commissioner.  
26 The commissioner has the authority, at any time, to require (~~such~~) an  
27 applicant to fully disclose the identity of its stockholders, partners,  
28 officers, and employees, and the commissioner may, in the exercise of  
29 the commissioner's sole discretion, refuse to issue (~~such~~) a license  
30 in the name of any person if not satisfied that any officer, employee,  
31 stockholder, or partner thereof who may materially influence the  
32 applicant's conduct meets the standards of this chapter.

33 (6) A license issued to a partnership, corporation, or other entity  
34 authorizes all members, officers, and designated employees to act as a  
35 licensee under the license, if those persons are named in the  
36 application and any supplements to the application.

37 (7) Upon the filing of an application for a provider's license and

1 the payment of the license fee, the commissioner (~~shall~~) must make an  
2 investigation of each applicant and may issue a license if the  
3 commissioner finds that the applicant:

4 (a) Has provided a detailed plan of operation;

5 (b) Is competent and trustworthy and intends to transact its  
6 business in good faith;

7 (c) Has a good business reputation and has had experience,  
8 training, or education so as to be qualified in the business for which  
9 the license is applied;

10 (d)(i) Has demonstrated evidence of financial responsibility in a  
11 form and in an amount prescribed by the commissioner by rule.

12 (ii) The commissioner may ask for evidence of financial  
13 responsibility at any time the commissioner deems necessary;

14 (e) If the applicant is a legal entity, is formed or organized  
15 pursuant to the laws of this state, is a foreign legal entity  
16 authorized to transact business in this state, or provides a  
17 certificate of good standing from the state of its domicile; and

18 (f) Has provided to the commissioner an antifraud plan that meets  
19 the requirements of RCW 48.102.140 and includes:

20 (i) A description of the procedures for detecting and investigating  
21 possible fraudulent acts and procedures for resolving material  
22 inconsistencies between medical records and insurance applications;

23 (ii) A description of the procedures for reporting fraudulent  
24 insurance acts to the commissioner;

25 (iii) A description of the plan for antifraud education and  
26 training of its underwriters and other personnel; and

27 (iv) A written description or chart outlining the arrangement of  
28 the antifraud personnel who are responsible for the investigation and  
29 reporting of possible fraudulent insurance acts and investigating  
30 unresolved material inconsistencies between medical records and  
31 insurance applications.

32 (8)(a) A nonresident provider (~~shall~~) must appoint the  
33 commissioner as its attorney to receive service of, and upon whom  
34 (~~shall~~) must be served, all legal process issued against it in this  
35 state upon causes of action arising within this state. Service upon  
36 the commissioner as attorney (~~shall~~) constitutes service upon the  
37 provider. Service of legal process against the provider can be had  
38 only by service upon the commissioner.

1 (b) With the appointment the provider (~~shall~~) must designate the  
2 person to whom the commissioner (~~shall~~) must forward legal process so  
3 served upon him or her. The provider may change the person by filing  
4 a new designation.

5 (c) The appointment of the commissioner as attorney (~~shall be~~) is  
6 irrevocable, (~~shall~~) binds any successor in interest or to the assets  
7 or liabilities of the provider, and (~~shall~~) remain in effect as long  
8 as there is in this state any contract made by the provider or  
9 liabilities or duties arising therefrom.

10 ~~(d) (Duplicate copies of legal process against a provider for whom  
11 the commissioner is attorney shall be served upon him or her either by  
12 a person competent to serve summons, or by registered mail. At the  
13 time of service the plaintiff shall pay to the commissioner ten  
14 dollars, taxable as costs in the action.~~

15 ~~(e) The commissioner shall immediately send one of the copies of  
16 the process, by registered mail with return receipt requested, to the  
17 person designated for the purpose by the provider in its most recent  
18 designation filed with the commissioner.~~

19 ~~(f) The commissioner shall keep a record of the day and hour of  
20 service upon him or her of all legal process. Proceedings shall not be  
21 had against the provider, and the provider shall not be required to  
22 appear, plead, or answer until the expiration of forty days after the  
23 date of service upon the commissioner.)~~ The service of process must be  
24 accomplished and processed in the manner prescribed in section 6 of  
25 this act.

26 (9) A provider may not use any person to perform the functions of  
27 a broker unless the person is authorized to act as a broker under this  
28 chapter.

29 (10) A provider (~~shall~~) must provide to the commissioner new or  
30 revised information about officers, stockholders, partners, directors,  
31 members, or designated employees within thirty days of the change.

32 **Sec. 15.** RCW 48.102.021 and 2009 c 104 s 4 are each amended to  
33 read as follows:

34 (1) Only a life insurance producer who has been duly licensed as a  
35 resident insurance producer with a lifeline of authority in this state  
36 or his or her home state for at least one year and is licensed as a  
37 nonresident producer in this state is permitted to operate as a broker.

1 (2) Not later than thirty days from the first day of operating as  
2 a broker, the life insurance producer (~~shall~~) must notify the  
3 commissioner that he or she intends acting as a broker on a form  
4 prescribed by the commissioner, pay a fee of one hundred dollars, and  
5 if a nonresident producer appoint the commissioner as attorney for  
6 service of process under subsection (6) of this section. Notification  
7 (~~shall~~) must include an acknowledgement by the life insurance  
8 producer that he or she will operate as a broker in accordance with  
9 this chapter.

10 (3) A person licensed as an attorney, certified public accountant,  
11 or financial planner accredited by a nationally recognized  
12 accreditation agency, who is retained to represent the owner, whose  
13 compensation is not paid directly or indirectly by the provider or  
14 purchaser, may negotiate life settlement contracts on behalf of the  
15 owner without having to obtain a license as a broker.

16 (4) The authority to act as a broker (~~shall~~) continues in force  
17 until suspended, revoked, or not renewed. The authority to act as a  
18 broker (~~shall~~) automatically expires if not timely renewed. The  
19 authority to act as a broker (~~shall be~~) is valid for a time period  
20 coincident with the expiration date of the broker's insurance producer  
21 license. The authority to act as a broker is renewable at that time,  
22 upon payment of a renewal fee in the amount of one hundred dollars and  
23 if the payment is received by the commissioner prior to the expiration  
24 date, the broker's authority to act as a broker continues in effect.

25 (a) If the renewal fee is not received by the commissioner prior to  
26 the expiration date, the broker (~~shall~~) must pay to the commissioner  
27 in addition to the renewal fee, a surcharge as follows:

28 (i) For the first thirty days or part thereof of delinquency the  
29 surcharge is fifty percent of the renewal fee;

30 (ii) For the next thirty days or part thereof delinquency the  
31 surcharge is one hundred percent of the renewal fee;

32 (b) If the payment of the renewal fee is not received by the  
33 commissioner after sixty days the surcharge is two hundred percent of  
34 the renewal fee.

35 (5) Subsection (4)(a) of this section does not exempt any person  
36 from any penalty provided by law for transacting life settlement  
37 business without the valid authority to act as a broker.



1 (6)(a) A nonresident broker (~~(shall)~~) must appoint the commissioner  
2 as its attorney to receive service of, and upon whom (~~(shall)~~) must be  
3 served, all legal process issued against it in this state upon causes  
4 of action arising within this state. Service upon the commissioner as  
5 attorney (~~(shall)~~) constitutes service upon the broker. Service of  
6 legal process against the broker can be had only by service upon the  
7 commissioner.

8 ~~(b) ((With the appointment the broker shall designate the person to  
9 whom the commissioner shall forward legal process so served upon him or  
10 her. The broker may change the person by filing a new designation.~~

11 ~~(c))~~ The appointment of the commissioner as attorney (~~(shall be)~~)  
12 is irrevocable, (~~(shall)~~) binds any successor in interest or to the  
13 assets or liabilities of the broker, and (~~(shall)~~) remains in effect as  
14 long as there is in this state any contract made by the broker or  
15 liabilities or duties arising therefrom.

16 ~~((d) Duplicate copies of legal process against a broker for whom  
17 the commissioner is attorney shall be served upon him or her either by  
18 a person competent to serve summons, or by registered mail. At the  
19 time of service the plaintiff shall pay to the commissioner ten  
20 dollars, taxable as costs in the action.~~

21 ~~(e) The commissioner shall immediately send one of the copies of  
22 the process, by registered mail with return receipt requested, to the  
23 person designated for the purpose by the broker in its most recent  
24 designation filed with the commissioner.~~

25 ~~(f) The commissioner shall keep a record of the day and hour of  
26 service upon him or her of all legal process. Proceedings shall not be  
27 had against the broker, and the broker shall not be required to appear,  
28 plead, or answer until the expiration of forty days after the date of  
29 service upon the commissioner)) (c) The service of process must be  
30 accomplished and processed in the manner prescribed in section 6 of  
31 this act.~~

32 (7) A broker may not use any person to perform the functions of a  
33 provider unless such a person holds a current, valid license as a  
34 provider, and as provided in this chapter.

35 **Sec. 16.** RCW 48.110.030 and 2006 c 274 s 4 are each amended to  
36 read as follows:

37 (1) A person may not act as, or offer to act as, or hold himself or

1 herself out to be a service contract provider in this state, nor may a  
2 service contract be sold to a consumer in this state, unless the  
3 service contract provider has a valid registration as a service  
4 contract provider issued by the commissioner.

5 (2) Applicants to be a service contract provider must make an  
6 application to the commissioner upon a form to be furnished by the  
7 commissioner. The application must include or be accompanied by the  
8 following information and documents:

9 (a) All basic organizational documents of the service contract  
10 provider, including any articles of incorporation, articles of  
11 association, partnership agreement, trade name certificate, trust  
12 agreement, shareholder agreement, bylaws, and other applicable  
13 documents, and all amendments to those documents;

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

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

30 (d) An application fee of two hundred fifty dollars, which  
31 (~~shall~~) must be deposited into the general fund; and

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

33 (3) (~~The applicant shall appoint the commissioner as its attorney  
34 to receive service of legal process in any action, suit, or proceeding  
35 in any court. This appointment is irrevocable and shall bind the  
36 service contract provider or any successor in interest, shall remain in  
37 effect as long as there is in force in this state any contract or any  
38 obligation arising therefrom related to residents of this state, and~~

1 ~~shall be processed in accordance with RCW 48.05.210))~~ Each registered  
2 service contract provider must appoint the commissioner as the service  
3 contract provider's attorney to receive service of legal process issued  
4 against the service contract provider in this state upon causes of  
5 action arising within this state. Service upon the commissioner as  
6 attorney constitutes effective legal service upon the service contract  
7 provider.

8 (a) With the appointment the service contract provider must  
9 designate the person to whom the commissioner must forward legal  
10 process so served upon him or her.

11 (b) The appointment is irrevocable, binds any successor in interest  
12 or to the assets or liabilities of the service contract provider, and  
13 remains in effect for as long as there could be any cause of action  
14 against the service contract provider arising out of any of the service  
15 contract provider's contracts or obligations in this state.

16 (c) The service of process must be accomplished and processed in  
17 the manner prescribed in section 6 of this act.

18 (4) The commissioner may refuse to issue a registration if the  
19 commissioner determines that the service contract provider, or any  
20 individual responsible for the conduct of the affairs of the service  
21 contract provider under subsection (2)(b) of this section, is not  
22 competent, trustworthy, financially responsible, or has had a license  
23 as a service contract provider or similar license denied or revoked for  
24 cause by any state.

25 (5) A registration issued under this section is valid, unless  
26 surrendered, suspended, or revoked by the commissioner, or not renewed  
27 for so long as the service contract provider continues in business in  
28 this state and remains in compliance with this chapter. A registration  
29 is subject to renewal annually on the first day of July upon  
30 application of the service contract provider and payment of a fee of  
31 two hundred dollars, which (~~shall~~) must be deposited into the general  
32 fund. If not so renewed, the registration expires on the June 30th  
33 next preceding.

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

1       **Sec. 17.** RCW 48.110.055 and 2006 c 274 s 17 are each amended to  
2 read as follows:

3       (1) This section applies to protection product guarantee providers.

4       (2) A person (~~shall~~) may not act as, or offer to act as, or hold  
5 himself or herself out to be a protection product guarantee provider in  
6 this state, nor may a protection product be sold to a consumer in this  
7 state, unless the protection product guarantee provider has:

8       (a) A valid registration as a protection product guarantee provider  
9 issued by the commissioner; and

10       (b) Either demonstrated its financial responsibility or assured the  
11 faithful performance of the protection product guarantee provider's  
12 obligations to its protection product guarantee holders by insuring all  
13 protection product guarantees under a reimbursement insurance policy  
14 issued by an insurer holding a certificate of authority from the  
15 commissioner or a risk retention group, as defined in 15 U.S.C. Sec.  
16 3901(a)(4), as long as that risk retention group is in full compliance  
17 with the federal liability risk retention act of 1986 (15 U.S.C. Sec.  
18 3901 et seq.), is in good standing in its domiciliary jurisdiction, and  
19 properly registered with the commissioner under chapter 48.92 RCW. The  
20 insurance required by this subsection must meet the following  
21 requirements:

22       (i) The insurer or risk retention group must, at the time the  
23 policy is filed with the commissioner, and continuously thereafter,  
24 maintain surplus as to policyholders and paid-in capital of at least  
25 fifteen million dollars and annually file audited financial statements  
26 with the commissioner; and

27       (ii) The commissioner may authorize an insurer or risk retention  
28 group that has surplus as to policyholders and paid-in capital of less  
29 than fifteen million dollars, but at least equal to ten million  
30 dollars, to issue the insurance required by this subsection if the  
31 insurer or risk retention group demonstrates to the satisfaction of the  
32 commissioner that the company maintains a ratio of direct written  
33 premiums, wherever written, to surplus as to policyholders and paid-in  
34 capital of not more than three to one.

35       (3) Applicants to be a protection product guarantee provider  
36 (~~shall~~) must make an application to the commissioner upon a form to  
37 be furnished by the commissioner. The application (~~shall~~) must  
38 include or be accompanied by the following information and documents:

1 (a) The names of the protection product guarantee provider's  
2 executive officer or officers directly responsible for the protection  
3 product guarantee provider's protection product guarantee business and  
4 their biographical affidavits on a form prescribed by the commissioner;

5 (b) The name, address, and telephone number of any administrators  
6 designated by the protection product guarantee provider to be  
7 responsible for the administration of protection product guarantees in  
8 this state;

9 (c) A copy of the protection product guarantee reimbursement  
10 insurance policy or policies;

11 (d) A copy of each protection product guarantee the protection  
12 product guarantee provider proposes to use in this state;

13 (e) Any other pertinent information required by the commissioner;  
14 and

15 (f) A nonrefundable application fee of two hundred fifty dollars.

16 (4) ~~((The applicant shall appoint the commissioner as its attorney  
17 to receive service of legal process in any action, suit, or proceeding  
18 in any court. This appointment is irrevocable and shall bind the  
19 protection product guarantee provider or any successor in interest,  
20 shall remain in effect as long as there is in force in this state any  
21 protection product guarantee or any obligation arising therefrom  
22 related to residents of this state, and shall be processed in  
23 accordance with RCW 48.05.210))~~ Each registered protection product  
24 guarantee provider must appoint the commissioner as the protection  
25 product guarantee provider's attorney to receive service of legal  
26 process issued against the protection product guarantee provider in  
27 this state upon causes of action arising within this state. Service  
28 upon the commissioner as attorney constitutes effective legal service  
29 upon the protection product guarantee provider.

30 (a) With the appointment the protection product guarantee provider  
31 must designate the person to whom the commissioner must forward legal  
32 process so served upon him or her.

33 (b) The appointment is irrevocable, binds any successor in interest  
34 or to the assets or liabilities of the protection product guarantee  
35 provider, and remains in effect for as long as there could be any cause  
36 of action against the protection product guarantee provider arising out  
37 of any of the protection product guarantee provider's contracts or  
38 obligations in this state.

1        (c) The service of process must be accomplished and processed in  
2 the manner prescribed in section 6 of this act.

3        (5) The commissioner may refuse to issue a registration if the  
4 commissioner determines that the protection product guarantee provider,  
5 or any individual responsible for the conduct of the affairs of the  
6 protection product guarantee provider under subsection (3)(a) of this  
7 section, is not competent, trustworthy, financially responsible, or has  
8 had a license as a protection product guarantee provider or similar  
9 license denied or revoked for cause by any state.

10        (6) A registration issued under this section is valid, unless  
11 surrendered, suspended, or revoked by the commissioner, or not renewed  
12 for so long as the protection product guarantee provider continues in  
13 business in this state and remains in compliance with this chapter. A  
14 registration is subject to renewal annually on the first day of July  
15 upon application of the protection product guarantee provider and  
16 payment of a fee of two hundred fifty dollars. If not so renewed, the  
17 registration expires on the June 30th next preceding.

18        (7) A protection product guarantee provider (~~shall~~) must keep  
19 current the information required to be disclosed in its registration  
20 under this section by reporting all material changes or additions  
21 within thirty days after the end of the month in which the change or  
22 addition occurs.

23        **Sec. 18.** RCW 48.155.020 and 2009 c 175 s 5 are each amended to  
24 read as follows:

25        (1) Before conducting discount plan business to which this chapter  
26 applies, a person (~~shall~~) must obtain a license from the commissioner  
27 to operate as a discount plan organization.

28        (2) Except as provided in subsection (~~(+3)~~) (4) of this section,  
29 each application for a license to operate as a discount plan  
30 organization:

31        (a) Must be in a form prescribed by the commissioner and verified  
32 by an officer or authorized representative of the applicant; and

33        (b) Must demonstrate, set forth, or be accompanied by the  
34 following:

35        (i) The two hundred fifty dollar application fee, which must be  
36 deposited into the general fund;

1 (ii) A copy of the organization documents of the applicant, such as  
2 the articles of incorporation, including all amendments;

3 (iii) A copy of the applicant's bylaws or other enabling documents  
4 that establish organizational structure;

5 (iv) The applicant's federal identification number, business  
6 address, and mailing address;

7 (v)(A) A list of names, addresses, official positions, and  
8 biographical information of the individuals who are responsible for  
9 conducting the applicant's affairs, including all members of the board  
10 of directors, board of trustees, executive committee, or other  
11 governing board or committee, the officers, contracted management  
12 company personnel, and any person or entity owning or having the right  
13 to acquire ten percent or more of the voting securities of the  
14 applicant; and

15 (B) A disclosure in the listing of the extent and nature of any  
16 contracts or arrangements between any individual who is responsible for  
17 conducting the applicant's affairs and the discount plan organization,  
18 including all possible conflicts of interest;

19 (vi) A complete biographical statement, on forms prescribed by the  
20 commissioner, with respect to each individual identified under (b)(v)  
21 of this subsection;

22 (vii) A statement generally describing the applicant, its  
23 facilities and personnel, and the health care services for which a  
24 discount will be made available under the discount plan;

25 (viii) A copy of the form of all contracts made or to be made  
26 between the applicant and any health care providers or health care  
27 provider networks regarding the provision of health care services to  
28 members and discounts to be made available to members;

29 (ix) A copy of the form of any contract made or arrangement to be  
30 made between the applicant and any individual listed in (b)(v) of this  
31 subsection;

32 (x) A list identifying by name, address, telephone number, and e-  
33 mail address all persons who will market each discount plan offered by  
34 the applicant. If the person who will market a discount plan is an  
35 entity, only the entity must be identified. This list must be  
36 maintained and updated within sixty days of any change in the  
37 information. An updated list must be sent to the commissioner as part

1 of the discount plan organization's renewal application under (b)(vii)  
2 of this subsection;

3 (xi) A copy of the form of any contract made or to be made between  
4 the applicant and any person, corporation, partnership, or other entity  
5 for the performance on the applicant's behalf of any function,  
6 including marketing, administration, enrollment, and subcontracting for  
7 the provision of health care services to members and discounts to be  
8 made available to members;

9 (xii) A copy of the applicant's most recent financial statements  
10 audited by an independent certified public accountant, except that,  
11 subject to the approval of the commissioner, an applicant that is an  
12 affiliate of a parent entity that is publicly traded and that prepares  
13 audited financial statements reflecting the consolidated operations of  
14 the parent entity may submit the audited financial statement of the  
15 parent entity and a written guaranty that the minimum capital  
16 requirements required under RCW 48.155.030 will be met by the parent  
17 entity instead of the audited financial statement of the applicant;

18 (xiii) A description of the proposed methods of marketing  
19 including, but not limited to, describing the use of marketers, use of  
20 the internet, sales by telephone, electronic mail, or facsimile  
21 machine, and use of salespersons to market the discount plan benefits;

22 (xiv) A description of the member complaint procedures which must  
23 be established and maintained by the applicant;

24 (xv) If domiciled in this state, the name and address of the  
25 applicant's Washington statutory agent for service of process, notice,  
26 or demand ((or, if not domiciled in this state, a power of attorney  
27 duly executed by the applicant, appointing the commissioner and duly  
28 authorized deputies as the true and lawful attorney of the applicant in  
29 and for this state upon whom all law process in any legal action or  
30 proceeding against the discount plan organization on a cause of action  
31 arising in this state may be served)); and

32 (xvi) Any other information the commissioner may reasonably  
33 require.

34 (3)(a) If the applicant is not domiciled in this state, the  
35 applicant must appoint the commissioner as the discount plan  
36 organization's attorney to receive service of legal process issued  
37 against the discount plan organization in this state upon causes of



1 action arising within this state. Service upon the commissioner as  
2 attorney constitutes effective legal service upon the discount plan  
3 organization.

4 (b) With the appointment the discount plan organization must  
5 designate the person to whom the commissioner must forward legal  
6 process so served upon him or her.

7 (c) The appointment is irrevocable, binds any successor in interest  
8 or to the assets or liabilities of the discount plan organization, and  
9 remains in effect for as long as there could be any cause of action  
10 against the discount plan organization arising out of the discount plan  
11 organization's transactions in this state.

12 (d) The service of process must be accomplished and processed in  
13 the manner prescribed in section 6 of this act.

14 (4)(a) Upon application to and approval by the commissioner and  
15 payment of the applicable fees, a discount plan organization that holds  
16 a current license or other form of authority from another state to  
17 operate as a discount plan organization, at the commissioner's  
18 discretion, may not be required to submit the information required  
19 under subsection (2) of this section in order to obtain a license under  
20 this section if the commissioner is satisfied that the other state's  
21 requirements, at a minimum, are equivalent to those required under  
22 subsection (2) of this section or the commissioner is satisfied that  
23 the other state's requirements are sufficient to protect the interests  
24 of the residents of this state.

25 (b) Whenever the discount plan organization loses its license or  
26 other form of authority in that other state to operate as a discount  
27 plan organization, or is the subject of any disciplinary administrative  
28 proceeding related to the organization's operating as a discount plan  
29 organization in that other state, the discount plan organization  
30 ~~((shall))~~ must immediately notify the commissioner.

31 ~~((+4))~~ (5) After the receipt of an application filed under  
32 subsection (2) or ~~((+3))~~ (4) of this section, the commissioner  
33 ~~((shall))~~ must review the application and notify the applicant of any  
34 deficiencies in the application.

35 ~~((+5))~~ (6)(a) Within ninety days after the date of receipt of a  
36 completed application, the commissioner ~~((shall))~~ must:

37 (i) Issue a license if the commissioner is satisfied that the  
38 applicant has met the following:

1 (A) The applicant has fulfilled the requirements of this section  
2 and the minimum capital requirements in accordance with RCW 48.155.030;  
3 and

4 (B) The persons who own, control, and manage the applicant are  
5 competent and trustworthy and possess managerial experience that would  
6 make the proposed operation of the discount plan organization  
7 beneficial to discount plan members; or

8 (ii) Disapprove the application and state the grounds for  
9 disapproval.

10 (b) In making a determination under (a) of this subsection, the  
11 commissioner may consider, for example, whether the applicant or an  
12 officer or manager of the applicant: (i) Is not financially  
13 responsible; (ii) does not have adequate expertise or experience to  
14 operate a medical discount plan organization; or (iii) is not of good  
15 character. Among the factors that the commissioner may consider in  
16 making the determination is whether the applicant or an affiliate or a  
17 business formerly owned or managed by the applicant or an officer or  
18 manager of the applicant has had a previous application for a license,  
19 or other authority, to operate as any entity regulated by the  
20 commissioner denied, revoked, suspended, or terminated for cause, or is  
21 under investigation for or has been found in violation of a statute or  
22 regulation in another jurisdiction within the previous five years.

23 ((+6+)) (7) Prior to licensure by the commissioner, each discount  
24 plan organization ((shall)) must establish an internet web site in  
25 order to conform to the requirements of RCW 48.155.070(2).

26 ((+7+)) (8)(a) A license is effective for up to one year, unless  
27 prior to its expiration the license is renewed in accordance with this  
28 subsection or suspended or revoked in accordance with subsection  
29 ((+8+)) (9) of this section. Licenses issued or renewed on or after  
30 July 1, 2010, will be subject to renewal annually on July 1st. If not  
31 so renewed, the license will automatically expire on the renewal date.

32 (b) At least ninety days before a license expires, the discount  
33 plan organization ((shall)) must submit:

34 (i) A renewal application form; and

35 (ii) A two hundred dollar renewal application fee for deposit into  
36 the general fund.

37 (c) The commissioner ((shall)) must renew the license of each

1 holder that meets the requirements of this chapter and pays the  
2 appropriate renewal fee required.

3 ~~((+8))~~ (9)(a) The commissioner may suspend the authority of a  
4 discount plan organization to enroll new members or refuse to renew or  
5 revoke a discount plan organization's license if the commissioner finds  
6 that any of the following conditions exist:

7 (i) The discount plan organization is not operating in compliance  
8 with this chapter;

9 (ii) The discount plan organization does not have the minimum net  
10 worth as required under RCW 48.155.030;

11 (iii) The discount plan organization has advertised, merchandised,  
12 or attempted to merchandise its services in such a manner as to  
13 misrepresent its services or capacity for service or has engaged in  
14 deceptive, misleading, or unfair practices with respect to advertising  
15 or merchandising;

16 (iv) The discount plan organization is not fulfilling its  
17 obligations as a discount plan organization; or

18 (v) The continued operation of the discount plan organization would  
19 be hazardous to its members.

20 (b) If the commissioner has cause to believe that grounds for the  
21 nonrenewal, suspension, or revocation of a license exists, the  
22 commissioner ~~((shall))~~ must notify the discount plan organization in  
23 writing specifically stating the grounds for the refusal to renew or  
24 suspension or revocation and may also pursue a hearing on the matter  
25 under chapter 48.04 RCW.

26 (c) When the license of a discount plan organization is nonrenewed,  
27 surrendered, or revoked, the discount plan organization ~~((shall))~~ must  
28 immediately upon the effective date of the order of revocation or, in  
29 the case of a nonrenewal, the date of expiration of the license, stop  
30 any further advertising, solicitation, collecting of fees, or renewal  
31 of contracts, and proceed to wind up its affairs transacted under the  
32 license.

33 (d)(i) When the commissioner suspends a discount plan  
34 organization's authority to enroll new members, the suspension order  
35 must specify the period during which the suspension is to be in effect  
36 and the conditions, if any, that must be met by the discount plan  
37 organization prior to reinstatement of its license to enroll members.

1 (ii) The commissioner may rescind or modify the order of suspension  
2 prior to the expiration of the suspension period.

3 (iii) The license of a discount plan organization may not be  
4 reinstated unless requested by the discount plan organization. The  
5 commissioner (~~shall~~) may not grant the request for reinstatement if  
6 the commissioner finds that the circumstances for which the suspension  
7 occurred still exist or are likely to recur.

8 (~~(9)~~) (10) Each licensed discount plan organization (~~shall~~)  
9 must notify the commissioner immediately whenever the discount plan  
10 organization's license, or other form of authority to operate as a  
11 discount plan organization in another state, is suspended, revoked, or  
12 nonrenewed in that state.

13 (~~(10)~~) (11) A health care provider who provides discounts to his  
14 or her own patients without any cost or fee of any kind to the patient  
15 is not required to obtain and maintain a license under this chapter as  
16 a discount plan organization.

17 NEW SECTION. **Sec. 19.** RCW 48.05.210 (Service of process--  
18 Procedure) and 2009 c 549 s 7018, 1981 c 339 s 3, & 1947 c 79 s .05.21  
19 are each repealed.

--- END ---