

SHB 1032 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

**NOT CONSIDERED**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 48.18.103 and 2006 c 8 s 215 are each amended to read  
4 as follows:

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

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

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

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

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

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

28 (5) Upon a final determination of a disapproval of a policy form  
29 under subsection (4) of this section, the insurer must amend any

1 previously issued disapproved form by endorsement to comply with the  
2 commissioner's disapproval.

3 (6) For purposes of this section, "commercial property casualty"  
4 means insurance pertaining to a business, profession, occupation,  
5 nonprofit organization, or public entity for the lines of property and  
6 casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, or  
7 48.11.070, but does not mean medical malpractice insurance or portable  
8 electronics insurance as defined in RCW 48.120.005.

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

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

17 (9) In the event a hearing is held on the actions of the  
18 commissioner under subsection (4) of this section, the burden of proof  
19 shall be on the commissioner.

20 **Sec. 2.** RCW 48.19.040 and 2012 c 222 s 1 are each amended to read  
21 as follows:

22 (1) Every insurer or rating organization shall, before using, file  
23 with the commissioner every classifications manual, manual of rules and  
24 rates, rating plan, rating schedule, minimum rate, class rate, and  
25 rating rule, and every modification of any of the foregoing which it  
26 proposes. The insurer need not so file any rate on individually rated  
27 risks as described in subdivision (1) of RCW 48.19.030; except that any  
28 such specific rate made by a rating organization shall be filed.

29 (2) Every such filing shall indicate the type and extent of the  
30 coverage contemplated and must be accompanied by sufficient information  
31 to permit the commissioner to determine whether it meets the  
32 requirements of this chapter. An insurer or rating organization shall  
33 offer in support of any filing:

34 (a) The experience or judgment of the insurer or rating  
35 organization making the filing;

36 (b) An exhibit detailing the major elements of operating expense  
37 for the types of insurance affected by the filing;

1 (c) An explanation of how investment income has been taken into  
2 account in the proposed rates; and

3 (d) Any other information which the insurer or rating organization  
4 deems relevant.

5 (3) If an insurer has insufficient loss experience to support its  
6 proposed rates, it may submit:

7 (a) Loss experience for similar exposures of other insurers or of  
8 a rating organization; or

9 (b) A complete and logical explanation of how it has developed its  
10 proposed rates, including the insurer's analysis of any relevant  
11 information and showing why the proposed rates should be considered to  
12 meet the requirements of RCW 48.19.020.

13 (4) Every such filing shall state its proposed effective date.

14 (5)(a) A filing made pursuant to this chapter shall be exempt from  
15 the provisions of RCW 48.02.120(3). However, the filing and all  
16 supporting information accompanying it shall be open to public  
17 inspection only after the filing becomes effective, except as provided  
18 in (b) of this subsection.

19 (b) For the purpose of this section, "usage-based insurance" means  
20 private passenger automobile coverage that uses data gathered from any  
21 recording device as defined in RCW 46.35.010, or a system, or business  
22 method that records and preserves data arising from the actual usage of  
23 a motor vehicle to determine rates or premiums. Information in a  
24 filing of usage-based insurance about the usage-based component of the  
25 rate is confidential and must be withheld from public inspection.

26 (6) Where a filing is required no insurer shall make or issue an  
27 insurance contract or policy except in accordance with its filing then  
28 in effect, except as is provided by RCW 48.19.090.

29 **Sec. 3.** RCW 48.19.043 and 2006 c 8 s 216 are each amended to read  
30 as follows:

31 (1) It is the intent of the legislature to assist the purchasers of  
32 commercial property casualty insurance by allowing policies to be  
33 issued more expeditiously and provide a more competitive market for  
34 rates.

35 (2) Notwithstanding the provisions of RCW 48.19.040(1), commercial  
36 property casualty policies may be issued prior to filing the rates.

1 All commercial property casualty rates shall be filed with the  
2 commissioner within thirty days after an insurer issues any policy  
3 using them.

4 (3) If, within thirty days after a commercial property casualty  
5 rate has been filed, the commissioner finds that the rate does not meet  
6 the requirements of this chapter, the commissioner shall disapprove the  
7 filing and give notice to the insurer or rating organization that made  
8 the filing, specifying how the filing fails to meet the requirements  
9 and stating when, within a reasonable period thereafter, the filing  
10 shall be deemed no longer effective. The commissioner may extend the  
11 time for review another fifteen days by giving notice to the insurer  
12 prior to the expiration of the original thirty-day period.

13 (4) Upon a final determination of a disapproval of a rate filing  
14 under subsection (3) of this section, the insurer shall issue an  
15 endorsement changing the rate to comply with the commissioner's  
16 disapproval from the date the rate is no longer effective.

17 (5) For purposes of this section, "commercial property casualty"  
18 means insurance pertaining to a business, profession, occupation,  
19 nonprofit organization, or public entity for the lines of property and  
20 casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, or  
21 48.11.070, but does not mean medical malpractice insurance or portable  
22 electronics insurance as defined in RCW 48.120.005.

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

26 (7) In the event a hearing is held on the actions of the  
27 commissioner under subsection (3) of this section, the burden of proof  
28 is on the commissioner.

29 **Sec. 4.** RCW 48.120.015 and 2012 c 154 s 3 are each amended to read  
30 as follows:

31 (1) A specialty producer license authorizes a vendor and its  
32 employees and authorized representatives to offer and sell to, enroll  
33 in, and bill and collect premiums from customers for insurance covering  
34 portable electronics on a master, corporate, group commercial inland  
35 marine policy, or on an individual policy basis on a month-to-month or  
36 other periodic basis at each location at which the vendor engages in  
37 portable electronics transactions. However:

1 (a) The supervising person must maintain a list of a vendor's  
2 locations that are authorized to sell or solicit portable electronics  
3 insurance coverage; and

4 (b) The list under (a) of this subsection must be provided to the  
5 commissioner within ten days of a request by the commissioner.

6 (2) An employee or authorized representative of a vendor may sell  
7 or offer portable electronics insurance to the vendor's customers  
8 without being individually licensed as an insurance producer if the  
9 vendor is licensed under this chapter and is acting in compliance with  
10 this chapter and any rules adopted by the commissioner.

11 (3) A vendor billing and collecting premiums from customers for  
12 portable electronics insurance coverage is not required to maintain  
13 these funds in a segregated account if the vendor:

14 (a) Is authorized by the insurer to hold the funds in an  
15 alternative manner; and

16 (b) Remits the funds to the supervising person within sixty days of  
17 receipt.

18 (4) All funds received by a vendor from an enrolled customer for  
19 the sale of portable electronics insurance are considered funds held in  
20 trust by the vendor in a fiduciary capacity for the benefit of the  
21 insurer.

22 (5) Any charge to the enrolled customer for coverage that is not  
23 included in the cost associated with the purchase or lease of portable  
24 electronics or related services must be separately itemized on the  
25 enrolled customer's bill.

26 (6) If portable electronics insurance coverage is included with the  
27 purchase or lease of portable electronics or related services, the  
28 vendor must clearly and conspicuously disclose to the enrolled customer  
29 that the portable electronics insurance coverage is included with the  
30 portable electronics or related services.

31 (7) Vendors may receive compensation for billing and collection  
32 services.

33 **Sec. 5.** RCW 48.120.020 and 2012 c 154 s 4 are each amended to read  
34 as follows:

35 (1) A vendor issued a specialty producer license may not issue  
36 insurance under RCW 48.120.015 unless:

1 (a) At every location where customers are enrolled in portable  
2 electronics insurance programs, written material regarding the program  
3 is made available to prospective customers that:

4 (i) Discloses that portable electronics insurance may provide a  
5 duplication of coverage already provided by a customer's homeowner's  
6 insurance policy, renter's insurance policy, or other source of  
7 coverage;

8 (ii) States that the enrollment by the customer in a portable  
9 electronics insurance program is not required in order to purchase or  
10 lease portable electronics or services;

11 (iii) Summarizes the material terms of the insurance coverage,  
12 including the identity of the insurer, the identity of the supervising  
13 person, the amount of any applicable deductible and how it is to be  
14 paid, benefits of the coverage, and key terms and conditions of  
15 coverage, such as whether portable electronics may be replaced with a  
16 similar make and model or reconditioned make and model or repaired with  
17 nonoriginal manufacturer parts or equipment;

18 (iv) Summarizes the process for filing a claim, including a  
19 description of how to return portable electronics and the maximum fee  
20 applicable in the event the customer fails to comply with any equipment  
21 return requirements; and

22 (v) States that an enrolled customer may cancel enrollment for  
23 coverage under a portable electronics insurance policy at any time and  
24 the person paying the premium will receive a refund or credit of any  
25 applicable unearned premium; (~~and~~)

26 (b)(i) The written materials required by (a) of this subsection  
27 disclose with specificity under what circumstances and subject to what  
28 limitations an insurer may cancel, terminate, modify, or otherwise  
29 change the terms and conditions of a policy of portable electronics  
30 insurance; or

31 (ii) Within a reasonable time from the date of purchase, materials  
32 are delivered to an enrolled customer that state with specificity under  
33 what circumstances and subject to what limitations an insurer may  
34 cancel, terminate, modify, or otherwise change the terms and conditions  
35 of a policy of portable electronics insurance; and

36 (c) The portable electronics insurance program is operated with the  
37 participation of a supervising person who, with authorization and

1 approval from the appointing insurer, supervises a training program for  
2 employees of the licensed vendor. The training must comply with the  
3 following:

4 (i) The training must be delivered to employees and authorized  
5 representatives of vendors who are directly engaged in the activity of  
6 selling or offering portable electronics insurance;

7 (ii) The training may be provided in electronic form. However, if  
8 conducted in an electronic form, the supervising person must implement  
9 a supplemental education program regarding the portable electronics  
10 insurance product that is conducted and overseen by licensed employees  
11 of the supervising person; and

12 (iii) Each employee and authorized representative must receive  
13 basic instruction about the portable electronics insurance offered to  
14 customers and the disclosures required under this section.

15 (2) No employee or authorized representative of a vendor of  
16 portable electronics may advertise, represent, or otherwise hold  
17 himself or herself out as a nonlimited lines licensed insurance  
18 producer.

19 (3) Employees and authorized representatives of a vendor issued a  
20 specialty producer license may only act on behalf of the vendor in the  
21 offer, sale, solicitation, or enrollment of customers in a portable  
22 electronics insurance program. The conduct of these employees and  
23 authorized representatives within the scope of their employment or  
24 agency is the same as conduct of the vendor for purposes of this title.

25 **Sec. 6.** RCW 48.120.020 and 2012 c 154 s 4 are each amended to read  
26 as follows:

27 (1) A vendor issued a specialty producer license may not issue  
28 insurance under RCW 48.120.015 unless:

29 (a) At every location where customers are enrolled in portable  
30 electronics insurance programs, written material regarding the program  
31 is made available to prospective customers that:

32 (i) Discloses that portable electronics insurance may provide a  
33 duplication of coverage already provided by a customer's homeowner's  
34 insurance policy, renter's insurance policy, or other source of  
35 coverage;

36 (ii) States that the enrollment by the customer in a portable

1 electronics insurance program is not required in order to purchase or  
2 lease portable electronics or services;

3 (iii) Summarizes the material terms of the insurance coverage,  
4 including the identity of the insurer, the identity of the supervising  
5 person, the amount of any applicable deductible and how it is to be  
6 paid, benefits of the coverage, and key terms and conditions of  
7 coverage, such as whether portable electronics may be replaced with a  
8 similar make and model or reconditioned make and model or repaired with  
9 nonoriginal manufacturer parts or equipment;

10 (iv) Summarizes the process for filing a claim, including a  
11 description of how to return portable electronics and the maximum fee  
12 applicable in the event the customer fails to comply with any equipment  
13 return requirements; (~~and~~)

14 (v) States that an enrolled customer may cancel enrollment for  
15 coverage under a portable electronics insurance policy at any time and  
16 the person paying the premium will receive a refund or credit of any  
17 applicable unearned premium; and

18 (vi) Discloses with specificity under what circumstances and  
19 subject to what limitations an insurer may cancel, terminate, modify,  
20 or otherwise change the terms and conditions of a policy of portable  
21 electronics insurance; and

22 (b) The portable electronics insurance program is operated with the  
23 participation of a supervising person who, with authorization and  
24 approval from the appointing insurer, supervises a training program for  
25 employees of the licensed vendor. The training must comply with the  
26 following:

27 (i) The training must be delivered to employees and authorized  
28 representatives of vendors who are directly engaged in the activity of  
29 selling or offering portable electronics insurance;

30 (ii) The training may be provided in electronic form. However, if  
31 conducted in an electronic form, the supervising person must implement  
32 a supplemental education program regarding the portable electronics  
33 insurance product that is conducted and overseen by licensed employees  
34 of the supervising person; and

35 (iii) Each employee and authorized representative must receive  
36 basic instruction about the portable electronics insurance offered to  
37 customers and the disclosures required under this section.



1 (2) No employee or authorized representative of a vendor of  
2 portable electronics may advertise, represent, or otherwise hold  
3 himself or herself out as a nonlimited lines licensed insurance  
4 producer.

5 (3) Employees and authorized representatives of a vendor issued a  
6 specialty producer license may only act on behalf of the vendor in the  
7 offer, sale, solicitation, or enrollment of customers in a portable  
8 electronics insurance program. The conduct of these employees and  
9 authorized representatives within the scope of their employment or  
10 agency is the same as conduct of the vendor for purposes of this title.

11 **Sec. 7.** RCW 48.120.025 and 2002 c 357 s 5 are each amended to read  
12 as follows:

13 (1) A vendor issued a specialty producer license under this chapter  
14 is subject to RCW ((48.17.540)) 48.17.530 through 48.17.560.

15 (2) The commissioner may adopt rules necessary for the  
16 implementation of this chapter, including, but not limited to, rules  
17 governing:

18 (a) The specialty producer license application process, including  
19 any forms required to be used;

20 (b) The standards for approval and the required content of written  
21 materials required under RCW 48.120.020(1)(a);

22 (c) The approval and required content of training materials  
23 required under RCW 48.120.020(1)((~~b~~));

24 (d) Establishing license fees to defray the cost of administering  
25 the specialty producer licensure program;

26 (e) Establishing requirements for the remittance of premium funds  
27 to the supervising agent under authority from the program insurer; and

28 (f) Determining the applicability or nonapplicability of other  
29 provisions of this title to this chapter.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.18 RCW  
31 to read as follows:

32 (1) The cancellation provisions in RCW 48.18.290 and the nonrenewal  
33 provisions in RCW 48.18.2901 apply to portable electronics insurance  
34 policies issued under chapter 48.120 RCW, unless inconsistent with this  
35 section in which case this section controls.

1 (2) An insurer may cancel, nonrenew, modify, or otherwise change  
2 the terms and conditions of a policy of portable electronics only:

3 (a) Upon providing the policyholder and enrolled customers with at  
4 least thirty days' notice; or

5 (b) As provided in subsections (5) through (7) of this section.

6 (3) An insurer may not increase premiums or deductibles or  
7 otherwise restrict benefits more than once in any six-month period.

8 (4) If an insurer changes the terms and conditions, then the  
9 insurer must provide:

10 (a) The vendor policyholder with a revised policy endorsement; and

11 (b) Each enrolled customer with:

12 (i) A revised certificate or endorsement and a summary of material  
13 changes; or

14 (ii) If the change is limited to a change in premium, a revised  
15 certificate, endorsement, updated brochure, or other evidence  
16 indicating a change in premium.

17 (5) An insurer may terminate an enrolled customer's enrollment  
18 under a portable electronics insurance policy upon fifteen days' notice  
19 for discovery of fraud or material misrepresentation in obtaining  
20 coverage or in the presentation of a claim.

21 (6) An insurer may terminate an enrolled customer's enrollment  
22 under a portable electronics insurance policy upon ten days' notice for  
23 nonpayment of premium.

24 (7) An insurer may immediately terminate an enrolled customer's  
25 enrollment under a portable electronics insurance policy:

26 (a) Without notice, if the enrolled customer ceases to have an  
27 active service with the vendor of portable electronics; or

28 (b) Without prior notice if an enrolled customer exhausts the  
29 aggregate limit of liability, if any, under the terms of the portable  
30 electronics insurance policy and the insurer sends notice of  
31 termination to the enrolled customer within thirty calendar days after  
32 exhaustion of the limit. However, if notice is not timely sent,  
33 coverage continues notwithstanding the aggregate limit of liability  
34 until the insurer sends notice of termination to the enrolled customer.

35 (8) If a policy of portable electronics insurance is being  
36 cancelled or terminated by the insurer, the notice must include the  
37 insurer's actual reason for cancellation or termination.

1 (9) When a portable electronics insurance policy is terminated by  
2 a policyholder, the insurer must mail or deliver written notice to each  
3 enrolled customer advising the enrolled customer of the termination of  
4 the policy and the effective date of termination. The written notice  
5 must be mailed or delivered to the enrolled customer at least thirty  
6 days prior to the termination. The written notice must include the  
7 actual reason for the termination. However, if the policyholder is a  
8 vendor licensed as a specialty producer pursuant to RCW 48.120.010, the  
9 notice required by this subsection must be mailed or delivered by the  
10 vendor.

11 (10) Any notice or correspondence with respect to a policy of  
12 portable electronics insurance required under this section or otherwise  
13 required by law must be in writing. Notice or correspondence may be  
14 sent either by mail or by electronic means. If the notice or  
15 correspondence is mailed, it must be sent to the vendor of portable  
16 electronics at the vendor's mailing address specified for that purpose  
17 and to its affected enrolled customers' last known mailing addresses on  
18 file with the insurer.

19 The insurer or vendor of portable electronics must maintain proof  
20 of mailing in a form authorized or accepted by the United States postal  
21 service or other commercial mail delivery service. If a notice or  
22 correspondence is sent by electronic means, it must be sent to the  
23 vendor of portable electronics at the vendor's electronic mail address  
24 specified for that purpose and to its affected enrolled customers' last  
25 known electronic mail address as provided by each enrolled customer to  
26 the insurer or vendor of portable electronics, as the case may be.

27 For purposes of this subsection, an enrolled customer's provision  
28 of an electronic mail address to the insurer, supervising person, or  
29 vendor of portable electronics means that the enrolled customer  
30 consents to receive notices and correspondence by electronic mail as  
31 long as a disclosure to that effect is provided to the consumer at the  
32 time the consumer provides an electronic mail address. The insurer or  
33 vendor of portable electronics, as the case may be, must maintain proof  
34 that the notice or correspondence was sent.

35 (11) Notice or correspondence required by this section or otherwise  
36 required by law may be sent by the supervising person appointed by the  
37 insurer on behalf of an insurer or a vendor.

1        NEW SECTION.   **Sec. 9.**   Section 5 of this act expires July 1, 2015.

2        NEW SECTION.   **Sec. 10.**   Section 6 of this act takes effect July 1,  
3        2015."

**SHB 1032** - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

**NOT CONSIDERED**

4        On page 1, line 1 of the title, after "insurance;" strike the  
5        remainder of the title and insert "amending RCW 48.18.103, 48.19.040,  
6        48.19.043, 48.120.015, 48.120.020, 48.120.020, and 48.120.025; adding  
7        a new section to chapter 48.18 RCW; providing an effective date; and  
8        providing an expiration date."

EFFECT:    Technical correction changing the word "deductions" to  
"deductibles."

--- END ---