

SHB 2461 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

NOT ADOPTED 03/07/2014

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

3 "Sec. 1. RCW 48.31B.005 and 1993 c 462 s 2 are each amended to
4 read as follows:

5 ~~((As used in this chapter, the following terms have the meanings
6 set forth in this section, unless the context requires otherwise.))~~ The
7 definitions in this section apply throughout this chapter unless the
8 context clearly requires otherwise.

9 (1) ~~((An))~~ "Affiliate" means an affiliate of, or person
10 ~~((=))~~affiliated~~((=))~~ with, a specific person, ~~((is))~~ and includes a
11 person ~~((who))~~ that directly, or indirectly through one or more
12 intermediaries, controls, or is controlled by, or is under common
13 control with, the person specified.

14 (2) ~~((The term))~~ "Commissioner" means the insurance commissioner,
15 the commissioner's deputies, or the office of the insurance
16 commissioner, as appropriate.

17 (3) "Control" means as follows:

18 (a) For a for-profit person, "control," including the terms "con-
19 trolling," "controlled by," and "under common control with," means the
20 possession, direct or indirect, of the power to direct or cause the
21 direction of the management and policies of a person, whether through
22 the ownership of voting securities, by contract other than a commercial
23 contract for goods or nonmanagement services, or otherwise, unless the
24 power is the result of an official position with or corporate office
25 held by the person. Control is presumed to exist if ~~((a))~~ any person,
26 directly or indirectly, owns, controls, holds with the power to vote,
27 or holds proxies representing, ten percent or more of the voting
28 securities of any other person. This presumption may be rebutted by a
29 showing made in a manner similar to that provided by RCW 48.31B.025(11)
30 that control does not exist in fact. The commissioner may determine,

1 after furnishing all persons in interest notice and opportunity to be
2 heard and making specific findings of fact to support such
3 determination, that control exists in fact, notwithstanding the absence
4 of a presumption to that effect.

5 ~~((3) An))~~ (b) For a nonprofit corporation organized under chapters
6 24.03 and 24.06 RCW, control exists if a person, directly or
7 indirectly, owns, controls, holds with the power to vote, or holds
8 proxies representing a majority of voting rights of the person or the
9 power to elect or appoint a majority of the board of directors,
10 trustees, or other governing body of the person, unless the power is
11 the result of an official position of, or corporate office held by, the
12 person; and

13 (c) Control includes either permanent or temporary control.

14 (4) "Enterprise risk" means any activity, circumstance, event, or
15 series of events involving one or more affiliates of an insurer that,
16 if not remedied promptly, is likely to have a material adverse effect
17 upon the financial condition or liquidity of the insurer or its
18 insurance holding company system as a whole including, but not limited
19 to, anything that would cause the insurer's risk-based capital to fall
20 into company action level as set forth in RCW 48.05.440 or 48.43.310 or
21 would cause the insurer to be in hazardous financial condition as
22 defined in WAC 284-16-310.

23 (5) "Insurance holding company system" means a system that consists
24 of two or more affiliated persons, one or more of which is an insurer.

25 ~~((4) The term)~~ (6) "Insurer" ((has the same meaning as set forth
26 in RCW 48.01.050;)) includes an insurer authorized under chapter 48.05
27 RCW, a fraternal mutual insurer or society holding a license under RCW
28 48.36A.290, a health care service contractor registered under chapter
29 48.44 RCW, a health maintenance organization registered under chapter
30 48.46 RCW, and a self-funded multiple employer welfare arrangement
31 under chapter 48.125 RCW, as well as all persons engaged as, or
32 purporting to be engaged as insurers, fraternal benefit societies,
33 health care service contractors, health maintenance organizations, or
34 self-funded multiple employer welfare arrangements in this state, and
35 to persons in process of organization to become insurers, fraternal
36 benefit societies, health care service contractors, health maintenance
37 organizations, or self-funded multiple employer welfare arrangements,
38 except it does not include agencies, authorities, or instrumentalities

1 of the United States, its possessions and territories, the commonwealth
2 of Puerto Rico, the District of Columbia, or a state or political
3 subdivision of a state.

4 ~~((+5)A))~~ (7) "Person" ((is)) means an individual, a corporation,
5 a partnership, an association, a joint stock company, a trust, an
6 unincorporated organization, ((a)) any similar entity, or any
7 combination of the foregoing acting in concert, but does not include a
8 joint venture partnership exclusively engaged in owning, managing,
9 leasing, or developing real or tangible personal property.

10 ~~((+6)A))~~ (8) "Securityholder" means a securityholder of a
11 specified person ((is one)) who owns ((a)) any security of that person,
12 including common stock, preferred stock, debt obligations, and any
13 other security convertible into or evidencing the right to acquire any
14 of the foregoing.

15 ~~((+7)A))~~ (9) "Subsidiary" means a subsidiary of a specified person
16 who is an affiliate controlled by that person directly or indirectly
17 through one or more intermediaries.

18 ~~((+8)The term))~~ (10) "Supervisory colleges" means a forum for
19 cooperation and communication among involved regulators and
20 international supervisors facilitating the effectiveness of supervision
21 of entities which belong to an insurance group and supervision of the
22 group as a whole on a group-wide basis and improving the legal entity
23 supervision of the entities within the insurance group.

24 (11) "Voting security" includes ((a)) any security convertible into
25 or evidencing a right to acquire a voting security.

26 **Sec. 2.** RCW 48.31B.010 and 1993 c 462 s 3 are each amended to read
27 as follows:

28 (1) A domestic insurer, either by itself or in cooperation with one
29 or more persons, may organize or acquire one or more subsidiaries. The
30 subsidiaries may conduct any kind of business or businesses authorized
31 in RCW 48.13.061(4) and subject to the percentage limitations contained
32 in chapter 48.13 RCW.

33 (2) If an insurer ceases to control a subsidiary, it shall dispose
34 of any investment in the subsidiary within three years from the time of
35 the cessation of control or within such further time as the
36 commissioner may prescribe, unless at any time after the investment

1 ((has been)) was made, the investment ((meets)) met the requirements
2 for investment under any other section of this title, and the insurer
3 has notified the commissioner thereof.

4 **Sec. 3.** RCW 48.31B.015 and 1993 c 462 s 4 are each amended to read
5 as follows:

6 (1)(a) No person other than the issuer may make a tender offer for
7 or a request or invitation for tenders of, or enter into an agreement
8 to exchange securities of, seek to acquire, or acquire, in the open
9 market or otherwise, voting security of a domestic insurer if, after
10 the consummation thereof, the person would, directly or indirectly, or
11 by conversion or by exercise of a right to acquire, be in control of
12 the insurer((-)) and no person may enter into an agreement to merge
13 with or otherwise to acquire control of a domestic insurer or any
14 person controlling a domestic insurer unless, at the time the offer,
15 request, or invitation is made or the agreement is entered into, or
16 ((before)) prior to the acquisition of the securities if no offer or
17 agreement is involved, the person has filed with the commissioner and
18 has sent to the insurer, a statement containing the information
19 required by this section and the offer, request, invitation, agreement,
20 or acquisition has been approved by the commissioner as prescribed in
21 this ((section)) chapter.

22 (b) For purposes of this section, any controlling person of a
23 domestic insurer seeking to divest its controlling interest in the
24 domestic insurer, in any manner, must file with the commissioner, with
25 a copy to the insurer, notice of its proposed divestiture at least
26 thirty days prior to the cessation of control. If the statement
27 referred to in (a) of this subsection is otherwise filed, this
28 subsection does not apply.

29 (c) With respect to a transaction subject to this section, the
30 acquiring person must also file a preacquisition notification with the
31 commissioner, which must contain the information set forth in RCW
32 48.31B.020(3)(a). A failure to file the notification may be subject to
33 penalties specified in RCW 48.31B.020(5)(c).

34 (d) For purposes of this section a domestic insurer includes a
35 person controlling a domestic insurer unless the person, as determined
36 by the commissioner, is either directly or through its affiliates
37 primarily engaged in business other than the business of insurance.

1 ((However, the person shall file a preacquisition notification with the
2 commissioner containing the information set forth in RCW
3 48.31B.020(3)(a) sixty days before the proposed effective date of the
4 acquisition. Persons who fail to file the required preacquisition
5 notification with the commissioner are subject to the penalties in RCW
6 48.31B.020(5)(c).)) For the purposes of this section, "person" does
7 not include ((a)) any securities broker holding, in usual and customary
8 broker's function, less than twenty percent of the voting securities of
9 an insurance company or of ((a)) any person who controls an insurance
10 company.

11 (2) The statement to be filed with the commissioner under this
12 section must be made under oath or affirmation and must contain the
13 following ((information)):

14 (a) The name and address of each person by whom or on whose behalf
15 the merger or other acquisition of control referred to in subsection
16 (1) of this section is to be effected, ((hereinafter called " ")) and
17 referred to in this section as the acquiring party(()) and:

18 (i) If that person is an individual, his or her principal
19 occupation and all offices and positions held during the past five
20 years, and any conviction of crimes other than minor traffic violations
21 during the past ten years; and

22 (ii) If that person is not an individual, a report of the nature of
23 its business operations during the past five years or for such lesser
24 period as the person and any predecessors have been in existence; an
25 informative description of the business intended to be done by the
26 person and the person's subsidiaries; any convictions of crimes during
27 the past ten years; and a list of all individuals who are or who have
28 been selected to become directors or executive officers of the person,
29 or who perform or will perform functions appropriate to those
30 positions. The list must include for each such individual the
31 information required by (a)(i) of this subsection(());

32 (b) The source, nature, and amount of the consideration used or to
33 be used in effecting the merger or other acquisition of control, a
34 description of any transaction ((in which)) where funds were or are to
35 be obtained for any such purpose, including ((a)) any pledge of the
36 insurer's stock(()) or the stock of any of its subsidiaries or
37 controlling affiliates, and the identity of persons furnishing ((the))
38 consideration. However, ((where)) when a source of ((the))

1 consideration is a loan made in the lender's ordinary course of
2 business, the identity of the lender must remain confidential, if the
3 person filing the statement so requests((-));

4 (c) Fully audited financial information as to the earnings and
5 financial condition of each acquiring party for the preceding five
6 fiscal years of each acquiring party, or for such lesser period as the
7 acquiring party and any predecessors have been in existence, and
8 similar unaudited information as of a date not earlier than ninety days
9 ((before)) prior to the filing of the statement((-));

10 (d) Any plans or proposals that each acquiring party may have to
11 liquidate the insurer, to sell its assets or merge or consolidate it
12 with any person, or to make any other material change in its business
13 or corporate structure or management((-));

14 (e) The number of shares of any security referred to in subsection
15 (1) of this section ((that)) which each acquiring party proposes to
16 acquire, the terms of the offer, request, invitation, agreement, or
17 acquisition referred to in subsection (1) of this section, and a
18 statement as to the method by which the fairness of the proposal was
19 arrived at((-));

20 (f) The amount of each class of any security referred to in
21 subsection (1) of this section that is beneficially owned or concerning
22 which there is a right to acquire beneficial ownership by each
23 acquiring party((-));

24 (g) A full description of any contracts, arrangements, or
25 understandings with respect to any security referred to in subsection
26 (1) of this section in which an acquiring party is involved, including
27 but not limited to transfer of any of the securities, joint ventures,
28 loan or option arrangements, puts or calls, guarantees of loans,
29 guarantees against loss or guarantees of profits, division of losses or
30 profits, or the giving or withholding of proxies. The description must
31 identify the persons with whom the contracts, arrangements, or
32 understandings have been entered into((-));

33 (h) A description of the purchase of any security referred to in
34 subsection (1) of this section during the twelve calendar months
35 ((before)) preceding the filing of the statement, by an acquiring
36 party, including the dates of purchase, names of the purchasers, and
37 consideration paid or agreed to be paid ((for the security.));

1 (i) A description of any recommendations to purchase any security
2 referred to in subsection (1) of this section made during the twelve
3 calendar months (~~(before)~~) preceding the filing of the statement, by an
4 acquiring party, or by anyone based upon interviews or at the
5 suggestion of the acquiring party(~~(-)~~);

6 (j) Copies of all tender offers for, requests or invitations for
7 tenders of, exchange offers for, and agreements to acquire or exchange
8 any securities referred to in subsection (1) of this section, and, if
9 distributed, of additional soliciting material relating to (~~the~~
10 ~~securities-~~) them;

11 (k) The term of an agreement, contract, or understanding made with
12 or proposed to be made with (~~(a)~~) any broker-dealer as to solicitation
13 or securities referred to in subsection (1) of this section for tender,
14 and the amount of fees, commissions, or other compensation to be paid
15 to broker-dealers with regard (~~(to the securities-)~~) thereto;

16 (l) An agreement by the person required to file the statement
17 referred to in subsection (1) of this section that it will provide the
18 annual report, specified in RCW 48.31B.025(12), for so long as control
19 exists;

20 (m) An acknowledgement by the person required to file the statement
21 referred to in subsection (1) of this section that the person and all
22 subsidiaries within its control in the insurance holding company system
23 will provide information to the commissioner upon request as necessary
24 to evaluate enterprise risk to the insurer;

25 (n) Such additional information as the commissioner may prescribe
26 by rule as necessary or appropriate for the protection of policyholders
27 of the insurer or in the public interest(~~(-)~~);

28 (o) If the person required to file the statement referred to in
29 subsection (1) of this section is a partnership, limited partnership,
30 syndicate, or other group, the commissioner may require that the
31 information called for by (a) through (~~(+)~~) (n) of this subsection
32 shall be given with respect to each partner of the partnership or
33 limited partnership, each member of the syndicate or group, and each
34 person who controls a partner or member. If (~~(a)~~) any partner, member,
35 or person is a corporation(~~(-)~~) or the person required to file the
36 statement referred to in subsection (1) of this section is a
37 corporation, the commissioner may require that the information called
38 for by (a) through (~~(+)~~) (n) of this subsection (~~(shall)~~) be given

1 with respect to the corporation, each officer and director of the
2 corporation, and each person who is directly or indirectly the
3 beneficial owner of more than ten percent of the outstanding voting
4 securities of the corporation(~~(-)~~);

5 (p) If (~~(a)~~) any material change occurs in the facts set forth in
6 the statement filed with the commissioner and sent to the insurer under
7 this section, an amendment setting forth the change, together with
8 copies of all documents and other material relevant to the change, must
9 be filed with the commissioner and sent to the insurer within two
10 business days after the person learns of the change.

11 (3) If (~~(an)~~) any offer, request, invitation, agreement, or
12 acquisition referred to in subsection (1) of this section is proposed
13 to be made by means of a registration statement under the securities
14 act of 1933 or in circumstances requiring the disclosure of similar
15 information under the securities exchange act of 1934, or under a state
16 law requiring similar registration or disclosure, the person required
17 to file the statement referred to in subsection (1) of this section may
18 (~~(use those)~~) utilize the documents in furnishing the information
19 called for by that statement.

20 (4)(a) The commissioner shall approve a merger or other acquisition
21 of control referred to in subsection (1) of this section unless, after
22 a public hearing thereon, he or she finds that:

23 (i) After the change of control, the domestic insurer referred to
24 in subsection (1) of this section would not be able to satisfy the
25 requirements for the issuance of a license to write the line or lines
26 of insurance for which it is presently licensed;

27 (ii) The effect of the merger or other acquisition of control would
28 be substantially to lessen competition in insurance in this state or
29 tend to create a monopoly therein. In applying the competitive
30 standard in this subsection (4)(a)(ii) (~~(of this subsection)~~):

31 (A) The informational requirements of RCW 48.31B.020(3)(a) and the
32 standards of RCW 48.31B.020(4)(b) apply;

33 (B) The (~~commissioner may not disapprove the~~) merger or other
34 acquisition may not be disapproved if the commissioner finds that any
35 of the situations meeting the criteria provided by RCW 48.31B.020(4)(c)
36 exist; and

37 (C) The commissioner may condition the approval of the merger or

1 other acquisition on the removal of the basis of disapproval within a
2 specified period of time;

3 (iii) The financial condition of (~~an~~) any acquiring party is such
4 as might jeopardize the financial stability of the insurer, or
5 prejudice the interest of its policyholders;

6 (iv) The plans or proposals (~~that~~) which the acquiring party has
7 to liquidate the insurer, sell its assets, consolidate or merge it with
8 any person, or to make any other material change in its business or
9 corporate structure or management, are unfair and unreasonable to
10 policyholders of the insurer and not in the public interest;

11 (v) The competence, experience, and integrity of those persons who
12 would control the operation of the insurer are such that it would not
13 be in the interest of policyholders of the insurer and of the public to
14 permit the merger or other acquisition of control; or

15 (vi) The acquisition is likely to be hazardous or prejudicial to
16 the insurance-buying public.

17 (b) The commissioner shall approve an exchange or other acquisition
18 of control referred to in this section within sixty days after he or
19 she declares the statement filed under this section to be complete and
20 after holding a public hearing. At the hearing, the person filing the
21 statement, the insurer, and any person whose significant interest is
22 determined by the commissioner to be affected may present evidence,
23 examine and cross-examine witnesses, and offer oral and written
24 arguments and in connection therewith may conduct discovery proceedings
25 in the same manner as is allowed in the superior court of this state.
26 All discovery proceedings must be concluded not later than three days
27 before the commencement of the public hearing.

28 (c) If the proposed acquisition of control will require the
29 approval of more than one commissioner, the public hearing referred to
30 in (b) of this subsection may be held on a consolidated basis upon
31 request of the person filing the statement referred to in subsection
32 (1) of this section. Such person shall file the statement referred to
33 in subsection (1) of this section with the national association of
34 insurance commissioners within five days of making the request for a
35 public hearing. A commissioner may opt out of a consolidated hearing,
36 and shall provide notice to the applicant of the opt out within ten
37 days of the receipt of the statement referred to in subsection (1) of
38 this section. A hearing conducted on a consolidated basis shall be

1 public and shall be held within the United States before the
2 commissioners of the states in which the insurers are domiciled. Such
3 commissioners shall hear and receive evidence. A commissioner may
4 attend such hearing, in person, or by telecommunication.

5 (d) In connection with a change of control of a domestic insurer,
6 any determination by the commissioner that the person acquiring control
7 of the insurer shall be required to maintain or restore the capital of
8 the insurer to the level required by the laws and rules of this state
9 shall be made not later than sixty days after the date of notification
10 of the change in control submitted pursuant to subsection (1)(a) of
11 this section.

12 (e) The commissioner may retain at the acquiring person's expense
13 any attorneys, actuaries, accountants, and other experts not otherwise
14 a part of the commissioner's staff as may be reasonably necessary to
15 assist the commissioner in reviewing the proposed acquisition of
16 control. All reasonable costs of a hearing held under this section, as
17 determined by the commissioner, including costs associated with the
18 commissioner's use of investigatory, professional, and other necessary
19 personnel, mailing of required notices and other information, and use
20 of equipment or facilities, must be paid before issuance of the
21 commissioner's order by the acquiring person.

22 (5) This section does not apply to:

23 (a) ~~((A))~~ Any transaction that is subject to RCW 48.31.010, dealing
24 with the merger or consolidation of two or more insurers;

25 (b) An offer, request, invitation, agreement, or acquisition
26 ~~((that))~~ which the commissioner by order ~~((has exempted from this~~
27 ~~section as: (i) Not))~~ exempts as not having been made or entered into
28 for the purpose and not having the effect of changing or influencing
29 the control of a domestic insurer, or ~~((+ii))~~ as otherwise not
30 comprehended within the purposes of this section.

31 (6) The following are violations of this section:

32 (a) The failure to file a statement, amendment, or other material
33 required to be filed under subsection (1) or (2) of this section; or

34 (b) The effectuation or an attempt to effectuate an acquisition of
35 control of, divestiture of, or merger with, a domestic insurer unless
36 the commissioner has given approval thereto.

37 (7) The courts of this state ~~((have))~~ are hereby vested with
38 jurisdiction over every person not resident, domiciled, or authorized

1 to do business in this state who files a statement with the
2 commissioner under this section, and over all actions involving that
3 person arising out of violations of this section, and each such person
4 is deemed to have performed acts equivalent to and constituting an
5 appointment by that person of the commissioner to be the person's true
6 and lawful attorney upon whom may be served all lawful process in an
7 action, suit, or proceeding arising out of violations of this section.
8 Copies of all (~~such~~) lawful process (~~shall~~) must be served on the
9 commissioner and transmitted by registered or certified mail by the
10 commissioner to such person at the person's last known address.

11 **Sec. 4.** RCW 48.31B.020 and 1993 c 462 s 5 are each amended to read
12 as follows:

13 (1) The following definitions (~~in this subsection~~) apply (~~only~~)
14 for the purposes of this section(~~to~~) only:

15 (a) "Acquisition" means (~~an~~) any agreement, arrangement, or
16 activity(~~to~~) the consummation of which results in a person acquiring
17 directly or indirectly the control of another person, and includes but
18 is not limited to the acquisition of voting securities, the acquisition
19 of assets, bulk reinsurance, and mergers.

20 (b) An "involved insurer" includes an insurer which either acquires
21 or is acquired, is affiliated with an acquirer or acquired, or is the
22 result of a merger.

23 (2)(a) Except as exempted in (b) of this subsection, this section
24 applies to any acquisition in which there is a change in control of an
25 insurer authorized to do business in this state.

26 (b) This section does not apply to the following:

27 (i) (~~An acquisition subject to approval or disapproval by the~~
28 ~~commissioner under RCW 48.31B.015;~~

29 ~~(ii))~~) A purchase of securities solely for investment purposes so
30 long as the securities are not used by voting or otherwise to cause or
31 attempt to cause the substantial lessening of competition in any
32 insurance market in this state. If a purchase of securities results in
33 a presumption of control under RCW 48.31B.005(~~(+2))~~) (3), it is not
34 solely for investment purposes unless the commissioner of the insurer's
35 state of domicile accepts a disclaimer of control or affirmatively
36 finds that control does not exist and the disclaimer action or

1 affirmative finding is communicated by the domiciliary commissioner to
2 the commissioner of this state;

3 ~~((+iii+))~~ (ii) The acquisition of a person by another person when
4 neither person is directly nor through affiliates primarily engaged in
5 the business of insurance, if preacquisition notification is filed with
6 the commissioner in accordance with subsection (3)(a) of this section
7 sixty days ~~((before))~~ prior to the proposed effective date of the
8 acquisition. However, the preacquisition notification is not required
9 for exclusion from this section if the acquisition would otherwise be
10 excluded from this section by this subsection (2)(b);

11 ~~((+iv+))~~ (iii) The acquisition of already affiliated persons;

12 ~~((+v+))~~ (iv) An acquisition if, as an immediate result of the
13 acquisition:

14 (A) In no market would the combined market share of the involved
15 insurers exceed five percent of the total market;

16 (B) There would be no increase in any market share; or

17 (C) In no market would the:

18 (I) ~~((The))~~ Combined market share of the involved insurers exceed
19 twelve percent of the total market; and

20 (II) ~~((The))~~ Market share increase by more than two percent of the
21 total market.

22 For the purpose of this subsection (2)(b)~~((+v) of this subsection))~~
23 (iv), a ~~((=))~~market~~((=))~~ means direct written insurance premium in this
24 state for a line of business as contained in the annual statement
25 required to be filed by insurers licensed to do business in this state;

26 ~~((+vi+))~~ (v) An acquisition for which a preacquisition notification
27 would be required under this section due solely to the resulting effect
28 on the ocean marine insurance line of business;

29 ~~((+vii+))~~ (vi) An acquisition of an insurer whose domiciliary
30 commissioner affirmatively finds~~((+))~~ that the insurer is in failing
31 condition~~((+))~~ and there is a lack of feasible alternative to improving
32 such condition~~((+))~~ and the public benefits of improving the insurer's
33 condition through the acquisition exceed the public benefits that would
34 arise from not lessening competition; and the findings are communicated
35 by the domiciliary commissioner to the commissioner of this state.

36 (3) An acquisition covered by subsection (2) of this section may be
37 subject to an order under subsection (5) of this section unless the

1 acquiring person files a preacquisition notification and the waiting
2 period has expired. The acquired person may file a preacquisition
3 notification.

4 (a) The preacquisition notification must be in such form and
5 contain such information as prescribed by the national association of
6 insurance commissioners relating to those markets that, under
7 subsection (2)(b)((+v)) (iv) of this section, cause the acquisition
8 not to be exempted from this section. The commissioner may require
9 such additional material and information as he or she deems necessary
10 to determine whether the proposed acquisition, if consummated, would
11 violate the competitive standard of subsection (4) of this section.
12 The required information may include an opinion of an economist as to
13 the competitive impact of the acquisition in this state accompanied by
14 a summary of the education and experience of the person indicating his
15 or her ability to render an informed opinion.

16 (b) The waiting period required begins on the date the commissioner
17 declares the preacquisition notification to be complete and ends on the
18 earlier of the sixtieth day after the date of the declaration or the
19 termination of the waiting period by the commissioner. ((Before))
20 Prior to the end of the waiting period, the commissioner on a one-time
21 basis may require the submission of additional needed information
22 relevant to the proposed acquisition(~~(. If additional information is~~
23 ~~required)), in which event the waiting period ends on the earlier of~~
24 the sixtieth day after ((~~the commissioner declares he or she has~~
25 ~~received~~) receipt of the additional information by the commissioner or
26 the termination of the waiting period by the commissioner.

27 (4)(a) The commissioner may enter an order under subsection (5)(a)
28 of this section with respect to an acquisition if there is substantial
29 evidence that the effect of the acquisition may be substantially to
30 lessen competition in a line of insurance in this state or tend to
31 create a monopoly therein or if the insurer fails to file adequate
32 information in compliance with subsection (3) of this section.

33 (b) In determining whether a proposed acquisition would violate the
34 competitive standard of (a) of this subsection, the commissioner shall
35 consider the following:

36 (i) An acquisition covered under subsection (2) of this section
37 involving two or more insurers competing in the same market is prima
38 facie evidence of violation of the competitive standards, as follows:

1 (A) If the market is highly concentrated and the involved insurers
2 possess the following shares of the market:

3	Insurer A	Insurer B
4	4%	4% or more
5	10%	2% or more
6	15%	1% or more; or

7 (B) If the market is not highly concentrated and the involved
8 insurers possess the following shares of the market:

9	Insurer A	Insurer B
10	5%	5% or more
11	10%	4% or more
12	15%	3% or more
13	19%	1% or more

14 A highly concentrated market is one in which the share of the four
15 largest insurers is seventy-five percent or more of the market.
16 Percentages not shown in the tables are interpolated proportionately to
17 the percentages that are shown. If more than two insurers are
18 involved, exceeding the total of the two columns in the table is prima
19 facie evidence of violation of the competitive standard in (a) of this
20 subsection. For the purpose of this subsection (4)(b)(i) (~~of this~~
21 ~~subsection~~)), the insurer with the largest share of the market is
22 Insurer A.

23 (ii) There is a significant trend toward increased concentration
24 when the aggregate market share of a grouping of the largest insurers
25 in the market, from the two largest to the eight largest, has increased
26 by seven percent or more of the market over a period of time extending
27 from a base year five to ten years before the acquisition up to the
28 time of the acquisition. An acquisition or merger covered under
29 subsection (2) of this section involving two or more insurers competing
30 in the same market is prima facie evidence of violation of the
31 competitive standard in (a) of this subsection if:

1 (A) There is a significant trend toward increased concentration in
2 the market;

3 (B) One of the insurers involved is one of the insurers in a
4 grouping of such large insurers showing the requisite increase in the
5 market share; and

6 (C) Another involved insurer's market is two percent or more.

7 (iii) For the purposes of this subsection (4)(b) (~~of this~~
8 ~~subsection~~):

9 (A) (~~The term~~) "Insurer" includes ((a)) any company or group of
10 companies under common management, ownership, or control;

11 (B) (~~The term~~) "Market" means the relevant product and
12 geographical markets. In determining the relevant product and
13 geographical markets, the commissioner shall give due consideration to,
14 among other things, the definitions or guidelines, if any, adopted by
15 the National Association of Insurance Commissioners and to information,
16 if any, submitted by parties to the acquisition. In the absence of
17 sufficient information to the contrary, the relevant product market is
18 assumed to be the direct written insurance premium for a line of
19 business, such line being that used in the annual statement required to
20 be filed by insurers doing business in this state, and the relevant
21 geographical market is assumed to be this state;

22 (C) The burden of showing prima facie evidence of violation of the
23 competitive standard rests upon the commissioner.

24 (iv) Even though an acquisition is not prima facie violative of the
25 competitive standard under (b)(i) and (ii) of this subsection, the
26 commissioner may establish the requisite anticompetitive effect based
27 upon other substantial evidence. Even though an acquisition is prima
28 facie violative of the competitive standard under (b)(i) and (ii) of
29 this subsection, a party may establish the absence of the requisite
30 anticompetitive effect based upon other substantial evidence. Relevant
31 factors in making a determination under (~~(b)(iv) of~~) this subsection
32 include, but are not limited to, the following: Market shares,
33 volatility of ranking of market leaders, number of competitors,
34 concentration, trend of concentration in the industry, and ease of
35 entry and exit into the market.

36 (c) An order may not be entered under subsection (5)(a) of this
37 section if:

1 (i) The acquisition will yield substantial economies of scale or
2 economies in resource use that cannot be feasibly achieved in any other
3 way, and the public benefits that would arise from the economies exceed
4 the public benefits that would arise from not lessening competition; or

5 (ii) The acquisition will substantially increase the availability
6 of insurance, and the public benefits of the increase exceed the public
7 benefits that would arise from not lessening competition.

8 (5)(a)(i) If an acquisition violates the standards of this section,
9 the commissioner may enter an order:

10 (A) Requiring an involved insurer to cease and desist from doing
11 business in this state with respect to the line or lines of insurance
12 involved in the violation; or

13 (B) Denying the application of an acquired or acquiring insurer for
14 a license to do business in this state.

15 (ii) ~~((The commissioner))~~ Such an order may not ~~((enter the order))~~
16 be entered unless:

17 (A) There is a hearing;

18 (B) Notice of the hearing is issued ~~((before))~~ prior to the end of
19 the waiting period and not less than fifteen days ~~((before))~~ prior to
20 the hearing; and

21 (C) The hearing is concluded and the order is issued no later than
22 sixty days after the ~~((end of the waiting period))~~ filing of the
23 preacquisition notification with the commissioner.

24 (iii) Every order must be accompanied by a written decision of the
25 commissioner setting forth ~~((his or her))~~ findings of fact and
26 conclusions of law.

27 ~~((+iii))~~ (iv) An order entered under this subsection (5)(a) ~~((of~~
28 ~~this subsection))~~ may not become final earlier than thirty days after
29 it is issued, during which time the involved insurer may submit a plan
30 to remedy the anticompetitive impact of the acquisition within a
31 reasonable time. Based upon the plan or other information, the
32 commissioner shall specify the conditions, if any, under the time
33 period during which the aspects of the acquisition causing a violation
34 of the standards of this section would be remedied and the order
35 vacated or modified.

36 ~~((+iv))~~ (v) An order pursuant to this subsection (5)(a) ~~((of this~~
37 ~~subsection))~~ does not apply if the acquisition is not consummated.

1 (b) ((A)) Any person who violates a cease and desist order of the
2 commissioner under (a) of this subsection and while the order is in
3 effect, may, after notice and hearing and upon order of the
4 commissioner, be subject at the discretion of the commissioner to one
5 or more of the following:

6 (i) A monetary ((penalty)) fine of not more than ten thousand
7 dollars for every day of violation; or

8 (ii) Suspension or revocation of the person's license; or

9 (iii) Both (b)(i) and ((b))((ii)) of this subsection.

10 (c) ((An)) Any insurer or other person who fails to make a filing
11 required by this section, and who also fails to demonstrate a good
12 faith effort to comply with the filing requirement, is subject to a
13 civil penalty of not more than fifty thousand dollars.

14 (6) RCW 48.31B.045 (2) and (3) and 48.31B.050 do not apply to
15 acquisitions covered under subsection (2) of this section.

16 **Sec. 5.** RCW 48.31B.025 and 2000 c 214 s 1 are each amended to read
17 as follows:

18 (1) Every insurer that is authorized to do business in this state
19 ((that)) and is a member of an insurance holding company system shall
20 register with the commissioner, except a foreign insurer subject to
21 registration requirements and standards adopted by statute or
22 regulation in the jurisdiction of its domicile that are substantially
23 similar to those contained in:

24 (a) This section;

25 (b) RCW 48.31B.030 (1)(a), (2), and (3); and

26 (c) Either RCW 48.31B.030(1)(b) or a provision such as the
27 following: Each registered insurer shall keep current the information
28 required to be disclosed in its registration statement by reporting all
29 material changes or additions within fifteen days after the end of the
30 month in which it learns of each change or addition.

31 ((An)) Any insurer which is subject to registration under this
32 section shall register within fifteen days after it becomes subject to
33 registration, and annually thereafter by ((May 15th)) April 30th of
34 each year for the previous calendar year, unless the commissioner for
35 good cause shown extends the time for registration, and then within the
36 extended time. The commissioner may require ((an)) any insurer
37 authorized to do business in the state that is a member of a holding

1 company system, (~~but that~~) and which is not subject to registration
2 under this section, to furnish a copy of the registration statement,
3 the summary specified in subsection (3) of this section, or other
4 information filed by the insurance company with the insurance
5 regulatory authority of its domiciliary jurisdiction.

6 (2) (~~An~~) Every insurer subject to registration shall file the
7 registration statement on a form and in a format prescribed by the
8 national association of insurance commissioners, containing the
9 following current information:

10 (a) The capital structure, general financial condition, ownership,
11 and management of the insurer and any person controlling the insurer;

12 (b) The identity and relationship of every member of the insurance
13 holding company system;

14 (c) The following agreements in force, and transactions currently
15 outstanding or that have occurred during the last calendar year between
16 the insurer and its affiliates:

17 (i) Loans, other investments, or purchases, sales, or exchanges of
18 securities of the affiliates by the insurer or of the insurer by its
19 affiliates;

20 (ii) Purchases, sales, or exchange of assets;

21 (iii) Transactions not in the ordinary course of business;

22 (iv) Guarantees or undertakings for the benefit of an affiliate
23 that result in an actual contingent exposure of the insurer's assets to
24 liability, other than insurance contracts entered into in the ordinary
25 course of the insurer's business;

26 (v) All management agreements, service contracts, and cost-sharing
27 arrangements;

28 (vi) Reinsurance agreements;

29 (vii) Dividends and other distributions to shareholders; and

30 (viii) Consolidated tax allocation agreements;

31 (d) Any pledge of the insurer's stock, including stock of
32 subsidiary or controlling affiliate, for a loan made to a member of the
33 insurance holding company system;

34 (e) If requested by the commissioner, the insurer must include
35 financial statements of or within an insurance holding company system,
36 including all affiliates. Financial statements may include but are not
37 limited to annual audited financial statements filed with the United
38 States securities and exchange commission pursuant to the securities

1 act of 1933, as amended, or the securities exchange act of 1934, as
2 amended. An insurer required to file financial statements pursuant to
3 this subsection (2)(e) may satisfy the request by providing the
4 commissioner with the most recently filed parent corporation financial
5 statements that have been filed with the United States securities and
6 exchange commission;

7 (f) Other matters concerning transactions between registered
8 insurers and any affiliates as may be included from time to time in
9 registration forms adopted or approved by the commissioner;

10 (g) Statements that the insurer's board of directors oversees
11 corporate governance and internal controls and that the insurer's
12 officers or senior management have approved, implemented, and continue
13 to maintain and monitor corporate governance and internal control
14 procedures; and

15 (h) Any other information required by the commissioner by rule.

16 (3) All registration statements must contain a summary outlining
17 all items in the current registration statement representing changes
18 from the prior registration statement.

19 (4) No information need be disclosed on the registration statement
20 filed under subsection (2) of this section if the information is not
21 material for the purposes of this section. Unless the commissioner by
22 rule or order provides otherwise, sales, purchases, exchanges, loans or
23 extensions of credit, investments, or guarantees involving one-half of
24 one percent or less of an insurer's admitted assets as of (~~the 31st~~
25 ~~day of the previous~~) December 31st next preceding are not material for
26 purposes of this section.

27 (5)(a) Subject to RCW 48.31B.030(2), each registered insurer shall
28 report to the commissioner all dividends and other distributions to
29 shareholders within five business days after their declaration and (~~at~~
30 ~~least~~) fifteen business days before payment, and shall provide the
31 commissioner such other information as may be required by rule.

32 (b) If the commissioner determines that a registered insurer's
33 surplus as regards policyholders is not reasonable in relation to the
34 insurer's outstanding liabilities and adequate to its financial needs,
35 the commissioner may order the registered insurance company to limit or
36 discontinue the payment of stockholder dividends until such time as the
37 surplus is adequate.

1 (6) ((A)) Any person within an insurance holding company system
2 subject to registration (~~((shall))~~) is required to provide complete and
3 accurate information to an insurer, where the information is reasonably
4 necessary to enable the insurer to comply with this chapter.

5 (7) The commissioner shall terminate the registration of an insurer
6 that demonstrates that it no longer is a member of an insurance holding
7 company system.

8 (8) The commissioner may require or allow two or more affiliated
9 insurers subject to registration under this section to file a
10 consolidated registration statement.

11 (9) The commissioner may allow an insurer authorized to do business
12 in this state and which is part of an insurance holding company system
13 to register on behalf of an affiliated insurer (~~((that))~~) which is
14 required to register under subsection (1) of this section and to file
15 all information and material required to be filed under this section.

16 (10) This section does not apply to an insurer, information, or
17 transaction if and to the extent that the commissioner by rule or order
18 exempts the insurer, information, or transaction from this section.

19 (11) ((A)) Any person may file with the commissioner a disclaimer
20 of affiliation with (~~((an))~~) any authorized insurer, or (~~((an))~~) any
21 insurer or ((a)) any member of (~~((an))~~) any insurance holding company
22 system may file the disclaimer. The person making such a filing with
23 the commissioner shall at the same time deliver a complete copy of the
24 filing to each domestic insurer which is the subject of such filing.
25 The disclaimer must fully disclose all material relationships and bases
26 for affiliation between the person and the insurer as well as the basis
27 for disclaiming the affiliation. (~~((After a disclaimer has been filed,~~
28 ~~the insurer is relieved of any duty to register or report under this~~
29 ~~section that may arise out of the insurer's relationship with the~~
30 ~~person unless and until the commissioner disallows the disclaimer. The~~
31 ~~commissioner shall disallow the disclaimer only after furnishing all~~
32 ~~parties in interest with notice and opportunity to be heard and after~~
33 ~~making specific findings of fact to support the disallowance.~~

34 ~~((12))~~) A disclaimer of affiliation is deemed to have been granted
35 unless the commissioner, within thirty days following receipt of a
36 complete disclaimer, notifies the filing party the disclaimer is
37 disallowed. In the event of disallowance, the disclaiming party may
38 request an administrative hearing, which shall be granted. The

1 disclaiming party is relieved of its duty to register under this
2 section if approval of the disclaimer has been granted by the
3 commissioner, or if the disclaimer is deemed to have been approved.

4 (12) The ultimate controlling person of every insurer subject to
5 registration shall also file an annual enterprise risk report. The
6 report must, to the best of the ultimate controlling person's knowledge
7 and belief, identify the material risks within the insurance holding
8 company system that could pose enterprise risk to the insurer. The
9 report must be filed with the lead state commissioner of the insurance
10 holding company system as determined by the procedures within the
11 financial analysis handbook adopted by the national association of
12 insurance commissioners.

13 (13) The failure to file a registration statement or ((a)) any
14 summary of the registration statement or enterprise risk filing
15 required by this section within the time specified for ((the)) filing
16 is a violation of this section.

17 **Sec. 6.** RCW 48.31B.030 and 1993 c 462 s 7 are each amended to read
18 as follows:

19 (1)(a) Transactions within ((a)) an insurance holding company
20 system to which an insurer subject to registration is a party are
21 subject to the following standards:

22 (i) The terms must be fair and reasonable;

23 (ii) Agreements for cost-sharing services and management must
24 include such provisions as required by rule issued by the commissioner;

25 (iii) Charges or fees for services performed must be fair and
26 reasonable;

27 ~~((iii))~~ (iv) Expenses incurred and payment received must be
28 allocated to the insurer in conformity with customary insurance
29 accounting practices consistently applied;

30 ~~((iv))~~ (v) The books, accounts, and records of each party to all
31 such transactions must be so maintained as to clearly and accurately
32 disclose the nature and details of the transactions((r)) including such
33 accounting information as is necessary to support the reasonableness of
34 the charges or fees to the respective parties; and

35 ~~((v))~~ (vi) The insurer's surplus regarding policyholders
36 ((after)) following any dividends or distributions to shareholders or

1 affiliates must be reasonable in relation to the insurer's outstanding
2 liabilities and adequate to its financial needs.

3 (b) The following transactions involving a domestic insurer and a
4 person in its insurance holding company system, including amendments or
5 modifications of affiliate agreements previously filed pursuant to this
6 section, which are subject to the materiality standards contained in
7 this subsection, may not be entered into unless the insurer has
8 notified the commissioner in writing of its intention to enter into the
9 transaction and the commissioner declares the notice to be sufficient
10 at least sixty days before, or such shorter period as the commissioner
11 may permit, and the commissioner has not disapproved it within that
12 period. The notice for amendments or modifications must include the
13 reasons for the change and the financial impact on the domestic
14 insurer. Informal notice must be reported, within thirty days after a
15 termination of a previously filed agreement, to the commissioner for
16 determination of the type of filing required, if any:

17 (i) Sales, purchases, exchanges, loans or extensions of credit,
18 guarantees, or investments if the transactions are equal to or exceed:

19 (A) With respect to nonlife insurers and not including health care
20 service contractors and health maintenance organizations, the lesser of
21 three percent of the insurer's admitted assets or twenty-five percent
22 of surplus as regards policyholders;

23 (B) With respect to life insurers, three percent of the insurer's
24 admitted assets (~~(; each as of the 31st day of the previous December)~~)
25 as of December 31st next preceding;

26 (C) With respect to health care service contractors and health
27 maintenance organizations, the lesser of five percent of the insurer's
28 admitted assets or twenty-five percent of its capital and surplus or
29 net worth as of December 31st next preceding;

30 (ii) Loans or extensions of credit to any person who is not an
31 affiliate, where the insurer makes the loans or extensions of credit
32 with the agreement or understanding that the proceeds of the
33 transactions, in whole or in substantial part, are to be used to make
34 loans or extensions of credit to, to purchase assets of, or to make
35 investments in, an affiliate of the insurer making the loans or
36 extensions of credit if the transactions are equal to or exceed:

37 (A) With respect to nonlife insurers and not including health care

1 service contractors and health maintenance organizations, the lesser of
2 three percent of the insurer's admitted assets or twenty-five percent
3 of surplus as regards policyholders;

4 (B) With respect to life insurers, three percent of the insurer's
5 admitted assets (~~(; each as of the 31st day of the previous December)~~)
6 as of December 31st next preceding;

7 (C) With respect to health care service contractors and health
8 maintenance organizations, the lesser of five percent of the insurer's
9 admitted assets or twenty-five percent of its capital and surplus or
10 net worth as of December 31st next preceding;

11 (iii) Reinsurance agreements or modifications (~~(to them)~~) thereto,
12 including:

13 (A) All reinsurance pooling agreements;

14 (B) Agreements in which the reinsurance premium or a change in the
15 insurer's liabilities, or the projected reinsurance premium or a change
16 in the insurer's liabilities in any of the next three years, equals or
17 exceeds five percent of the insurer's surplus as regards policyholders,
18 as of (~~(the 31st day of the previous)~~) December 31st next preceding,
19 including those agreements that may require as consideration the
20 transfer of assets from an insurer to a nonaffiliate, if an agreement
21 or understanding exists between the insurer and nonaffiliate that any
22 portion of the assets will be transferred to one or more affiliates of
23 the insurer;

24 (iv) All management agreements, service contracts, tax allocation
25 agreements, guarantees, and all cost-sharing arrangements; (~~(and)~~)

26 (v) Guarantees when made by a domestic insurer. However, a
27 guarantee which is quantifiable as to amount is not subject to the
28 notice requirements of this subsection (1)(b)(v) unless it exceeds the
29 lesser of one-half of one percent of the insurer's admitted assets or
30 ten percent of surplus as regards policyholders as of December 31st
31 next preceding. Further, all guarantees which are not quantifiable as
32 to amount are subject to the notice requirements of this subsection
33 (1)(b)(v);

34 (vi) Direct or indirect acquisitions or investments in a person
35 that controls the insurer or in an affiliate of the insurer in an
36 amount which, together with its present holdings in such investments,
37 exceeds two and one-half percent of the insurer's surplus to
38 policyholders. Direct or indirect acquisitions or investments in

1 subsidiaries acquired or authorized pursuant to chapter 48.13 RCW, or
2 in nonsubsidiary insurance affiliates that are subject to this chapter,
3 are exempt from this requirement; and

4 (vii) Any material transactions, specified by rule, (~~that~~) which
5 the commissioner determines may adversely affect the interests of the
6 insurer's policyholders.

7 ~~((Nothing contained in this section authorizes or permits a))~~ This
8 subsection does not authorize or permit any transaction (~~that~~) which,
9 in the case of an insurer not a member of the same insurance holding
10 company system, would be otherwise contrary to law.

11 (c) A domestic insurer may not enter into transactions (~~that~~)
12 which are part of a plan or series of like transactions with persons
13 within the insurance holding company system if the purpose of those
14 separate transactions is to avoid the statutory threshold amount and
15 thus avoid the review that would occur otherwise. If the commissioner
16 determines that the separate transactions were entered into over ~~((a))~~
17 any twelve-month period for that purpose, the commissioner may apply
18 for an order as described in RCW 48.31B.045(1).

19 (d) The commissioner, in reviewing transactions under (b) of this
20 subsection, ~~((shall))~~ must consider whether the transactions comply
21 with the standards set forth in (a) of this subsection and whether they
22 may adversely affect the interests of policyholders.

23 (e) The commissioner ~~((shall))~~ must be notified within thirty days
24 of an investment of the domestic insurer in any one corporation if the
25 total investment in the corporation by the insurance holding company
26 system exceeds ten percent of the corporation's voting securities.

27 (2)(a) ~~((No))~~ A domestic insurer may not pay an extraordinary
28 dividend or make any other extraordinary distribution to its
29 shareholders until~~((+---(i)))~~ thirty days after the commissioner
30 declares that he or she has received sufficient notice of the
31 declaration thereof and has not within that period disapproved the
32 payment~~((+))~~, or ~~((+i))~~ until the commissioner has approved the
33 payment within the thirty-day period.

34 (b) For purposes of this section, an extraordinary dividend or
35 distribution is ~~((a))~~ any dividend or distribution of cash or other
36 property, whose fair market value~~((r))~~ together with that of other
37 dividends or distributions made within the ~~((period of))~~ preceding

1 twelve (~~consecutive~~) months (~~ending on the date on which the~~
2 ~~proposed dividend is scheduled for payment or distribution,~~) exceeds
3 the greater of:

4 (i) Ten percent of the (~~company's~~) insurer's surplus as regards
5 policyholders or net worth as of (~~the 31st day of the previous~~)
6 December next preceding; or

7 (ii) The net gain from operations of the (~~company~~) insurer, if
8 the (~~company~~) insurer is a life insurance company, or the net income
9 if the company is not a life insurance company, for the twelve month
10 period ending (~~the 31st day of the previous~~) December next preceding,
11 but does not include pro rata distributions of any class of the
12 (~~company's~~) insurer's own securities.

13 (c) Notwithstanding any other provision of law, an insurer may
14 declare an extraordinary dividend or distribution that is conditional
15 upon the commissioner's approval. The declaration confers no rights
16 upon shareholders until: (i) The commissioner has approved the payment
17 of the dividend or distribution; or (ii) the commissioner has not
18 disapproved the payment within the thirty-day period referred to in (a)
19 of this subsection.

20 (3) For purposes of this chapter, in determining whether an
21 insurer's surplus as regards policyholders is reasonable in relation to
22 the insurer's outstanding liabilities and adequate to its financial
23 needs, the following factors, among others, (~~may~~) must be considered:

24 (a) The size of the insurer as measured by its assets, capital and
25 surplus, reserves, premium writings, insurance in force, and other
26 appropriate criteria;

27 (b) The extent to which the insurer's business is diversified among
28 (~~the~~) several lines of insurance;

29 (c) The number and size of risks insured in each line of business;

30 (d) The extent of the geographical dispersion of the insurer's
31 insured risks;

32 (e) The nature and extent of the insurer's reinsurance program;

33 (f) The quality, diversification, and liquidity of the insurer's
34 investment portfolio;

35 (g) The recent past and projected future trend in the size of the
36 insurer's surplus as regards policyholders;

37 (h) The surplus as regards policyholders maintained by other
38 comparable insurers;

1 (i) The adequacy of the insurer's reserves;

2 (j) The quality and liquidity of investments in affiliates. The
3 commissioner may (~~discount~~) treat any such investment (~~or may treat~~
4 ~~any such investment~~) as a disallowed asset for purposes of determining
5 the adequacy of surplus as regards policyholders whenever in (~~his or~~
6 ~~her~~) the judgment of the commissioner the investment so warrants; and

7 (k) The quality of the insurer's earnings and the extent to which
8 the reported earnings include extraordinary items.

9 (4)(a) Notwithstanding the control of a domestic insurer by any
10 person, the officers and directors of the insurer are not thereby
11 relieved of any obligation or liability to which they would otherwise
12 be subject by law, and the insurer must be managed so as to assure its
13 separate operating identity consistent with this title.

14 (b) This section does not preclude a domestic insurer from having
15 or sharing a common management or cooperative or joint use of
16 personnel, property, or services with one or more other persons under
17 arrangements meeting the standards of subsection (1)(a) of this
18 section.

19 (c) At least one-third of a domestic insurer's directors and at
20 least one-third of the members of each committee of the insurer's board
21 of directors must be persons who are not: (i) Officers or employees of
22 the insurer or of any entity that controls, is controlled by, or is
23 under common control with the insurer; or (ii) beneficial owners of a
24 controlling interest in the voting securities of the insurer or of an
25 entity that controls, is controlled by, or is under common control with
26 the insurer. A quorum for transacting business at a meeting of the
27 insurer's board of directors or any committee of the board of directors
28 must include at least one person with the qualifications described in
29 (a) of this subsection.

30 (d)(i) For a for-profit person, the board of directors of a
31 domestic insurer shall establish one or more committees comprised
32 solely of directors who are not officers or employees of the insurer or
33 of any entity controlling, controlled by, or under common control with
34 the insurer and who are not beneficial owners of a controlling interest
35 in the voting stock of the insurer or any such entity. The committee
36 or committees have responsibility for nominating candidates for
37 director for election by shareholders or policyholders, evaluating the

1 performance of officers deemed to be principal officers of the insurer,
2 and recommending to the board of directors the selection and
3 compensation of the principal officers.

4 (ii) For a nonprofit person, the board of directors of a domestic
5 insurer shall establish one or more committees comprised solely of
6 directors who are not officers or employees of the insurer or of any
7 entity controlling, controlled by, or under common control with the
8 insurer. The committee or committees have responsibility for
9 nominating candidates for director for election, evaluating the
10 performance of officers deemed to be principal officers of the insurer,
11 and recommending to the board of directors the selection and
12 compensation of the principal officers.

13 (e) The provisions of (c) and (d) of this subsection do not apply
14 to a domestic insurer if the person controlling the insurer has a board
15 of directors and committees thereof that meet the requirements of (c)
16 and (d) of this subsection with respect to such controlling entity.

17 (f) An insurer may make application to the commissioner for a
18 waiver from the requirements of this subsection, if the insurer's
19 annual direct written and assumed premium, excluding premiums reinsured
20 with the federal crop insurance corporation and federal flood program,
21 is less than three hundred million dollars. An insurer may also make
22 application to the commissioner for a waiver from the requirements of
23 this subsection based upon unique circumstances. The commissioner may
24 consider various factors including, but not limited to, the type of
25 business entity, volume of business written, availability of qualified
26 board members, or the ownership or organizational structure of the
27 entity.

28 **Sec. 7.** RCW 48.31B.035 and 1993 c 462 s 8 are each amended to read
29 as follows:

30 (1) Subject to the limitation contained in this section and in
31 addition to the powers that the commissioner has under chapter 48.03
32 RCW relating to the examination of insurers, the commissioner (~~also~~
33 ~~may order an insurer registered under RCW 48.31B.025 to produce such~~
34 ~~records, books, or other information papers in the possession of the~~
35 ~~insurer or its affiliates as are reasonably necessary to ascertain the~~
36 ~~financial condition of the insurer or to determine compliance with this~~
37 ~~title. If the insurer fails to comply with the order, the commissioner~~

1 ~~may examine the affiliates to obtain the information~~) has the power to
2 examine any insurer registered under RCW 48.31B.025 and its affiliates
3 to ascertain the financial condition of the insurer, including the
4 enterprise risk to the insurer by the ultimate controlling party, or by
5 any entity or combination of entities within the insurance holding
6 company system, or by the insurance holding company system on a
7 consolidated basis.

8 (2)(a) The commissioner may order any insurer registered under RCW
9 48.31B.025 to produce such records, books, or other information papers
10 in the possession of the insurer or its affiliates as are reasonably
11 necessary to determine compliance with this title.

12 (b) To determine compliance with this title, the commissioner may
13 order any insurer registered under RCW 48.31B.025 to produce
14 information not in the possession of the insurer if the insurer can
15 obtain access to such information pursuant to contractual
16 relationships, statutory obligations, or other method. In the event
17 the insurer cannot obtain the information requested by the
18 commissioner, the insurer shall provide the commissioner a detailed
19 explanation of the reason that the insurer cannot obtain the
20 information and the identity of the holder of information. Whenever it
21 appears to the commissioner that the detailed explanation is without
22 merit, the commissioner may require, after notice and hearing, the
23 insurer to pay a fine of ten thousand dollars for each day's delay, or
24 may suspend or revoke the insurer's license. The commissioner shall
25 transfer the fine collected under this section to the state treasurer
26 for deposit into the general fund.

27 (3) The commissioner may retain at the registered insurer's expense
28 such attorneys, actuaries, accountants, and other experts not otherwise
29 a part of the commissioner's staff as are reasonably necessary to
30 assist in the conduct of the examination under subsection (1) of this
31 section. Any persons so retained are under the direction and control
32 of the commissioner and shall act in a purely advisory capacity.

33 ~~((+3))~~ (4) Notwithstanding the provisions under RCW 48.03.060,
34 each registered insurer producing for examination records, books, and
35 papers under subsection (1) of this section ~~((are))~~ is liable for and
36 ~~((shall))~~ must pay the expense of the examination ~~((in accordance with~~
37 RCW 48.03.060)).

1 (5) In the event the insurer fails to comply with an order, the
2 commissioner has the power to examine the affiliates to obtain the
3 information. The commissioner also has the power to issue subpoenas,
4 to administer oaths, and to examine under oath any person for purposes
5 of determining compliance with this section. Upon the failure or
6 refusal of any person to obey a subpoena, the commissioner may petition
7 a court of competent jurisdiction, and upon proper showing, the court
8 may enter an order compelling the witness to appear and testify or
9 produce documentary evidence. Failure to obey the court order is
10 punishable as contempt of court. Every person is required to attend as
11 a witness at the place specified in the subpoena, when subpoenaed,
12 anywhere within the state. Every person is entitled to the same fees
13 and mileage, if claimed, as a witness as provided in RCW 48.03.070.

14 NEW SECTION. Sec. 8. A new section is added to chapter 48.31B RCW
15 to read as follows:

16 (1) With respect to any insurer registered under RCW 48.31B.025,
17 and in accordance with subsection (3) of this section, the commissioner
18 has the power to participate in a supervisory college for any domestic
19 insurer that is part of an insurance holding company system with
20 international operations in order to determine compliance by the
21 insurer with this title. The powers of the commissioner with respect
22 to supervisory colleges include, but are not limited to, the following:

23 (a) Initiating the establishment of a supervisory college;

24 (b) Clarifying the membership and participation of other
25 supervisors in the supervisory college;

26 (c) Clarifying the functions of the supervisory college and the
27 role of other regulators, including the establishment of a group-wide
28 supervisor;

29 (d) Coordinating the ongoing activities of the supervisory college,
30 including planning meetings, supervisory activities, and processes for
31 information sharing; and

32 (e) Establishing a crisis management plan.

33 (2) Each registered insurer subject to this section is liable for
34 and must pay the reasonable expenses of the commissioner's
35 participation in a supervisory college in accordance with subsection
36 (3) of this section, including reasonable travel expenses. For
37 purposes of this section, a supervisory college may be convened as

1 either a temporary or permanent forum for communication and cooperation
2 between the regulators charged with the supervision of the insurer or
3 its affiliates, and the commissioner may establish a regular assessment
4 to the insurer for the payment of these expenses.

5 (3) In order to assess the business strategy, financial position,
6 legal and regulatory position, risk exposure, risk management, and
7 governance processes, and as part of the examination of individual
8 insurers in accordance with RCW 48.31B.035, the commissioner may
9 participate in a supervisory college with other regulators charged with
10 supervision of the insurer or its affiliates, including other state,
11 federal, and international regulatory agencies. The commissioner may
12 enter into agreements in accordance with section 9(3) of this act
13 providing the basis for cooperation between the commissioner and the
14 other regulatory agencies, and the activities of the supervisory
15 college. This section does not delegate to the supervisory college the
16 authority of the commissioner to regulate or supervise the insurer or
17 its affiliates within its jurisdiction.

18 NEW SECTION. **Sec. 9.** A new section is added to chapter 48.31B RCW
19 to read as follows:

20 (1) Documents, materials, or other information in the possession or
21 control of the commissioner that are obtained by or disclosed to the
22 commissioner or any other person in the course of an examination or
23 investigation made pursuant to RCW 48.31B.035 and all information
24 reported pursuant to RCW 48.31B.015(2) (l) and (m), 48.31B.025,
25 48.31B.030, and section 8 of this act are confidential by law and
26 privileged, are not subject to chapter 42.56 RCW, are not subject to
27 subpoena, and are not subject to discovery or admissible in evidence in
28 any private civil action. However, the commissioner is authorized to
29 use the documents, materials, or other information in the furtherance
30 of any regulatory or legal action brought as a part of the
31 commissioner's official duties. The commissioner shall not otherwise
32 make the documents, materials, or other information public without the
33 prior written consent of the insurer to which it pertains. The
34 commissioner may publish all or any part of such information in such
35 manner as is deemed appropriate if: (a) The commissioner, after giving
36 the insurer and its affiliates who would be affected thereby notice and

1 opportunity to be heard, determines that the interest of policyholders,
2 shareholders, or the public is served by the publication thereof, and
3 (b) the information is not protected under RCW 48.02.065.

4 (2) Neither the commissioner nor any person who received documents,
5 materials, or other information while acting under the authority of the
6 commissioner or with whom such documents, materials, or other
7 information are shared pursuant to this chapter is permitted or may be
8 required to testify in any private civil action concerning any
9 confidential documents, materials, or information subject to subsection
10 (1) of this section.

11 (3) In order to assist in the performance of the commissioner's
12 duties, the commissioner:

13 (a) May share documents, materials, or other information, including
14 the confidential and privileged documents, materials, or information
15 subject to subsection (1) of this section, with other state, federal,
16 and international regulatory agencies, with the national association of
17 insurance commissioners and its affiliates and subsidiaries, with the
18 international association of insurance supervisors and the bank for
19 international settlements and its affiliates and subsidiaries, and with
20 state, federal, and international law enforcement authorities,
21 including members of any supervisory college described in section 8 of
22 this act, provided the recipient agrees in writing to maintain the
23 confidentiality and privileged status of the document, material, or
24 other information, and has verified in writing the legal authority to
25 maintain confidentiality;

26 (b) Notwithstanding (a) of this subsection, may only share
27 confidential and privileged documents, material, or information
28 reported pursuant to RCW 48.31B.025(12) with commissioners of states
29 having statutes or rules substantially similar to subsection (1) of
30 this section and who have agreed in writing not to disclose such
31 information;

32 (c) May receive documents, materials, or information, including
33 otherwise confidential and privileged documents, materials, or
34 information from the national association of insurance commissioners
35 and its affiliates and subsidiaries, the international association of
36 insurance supervisors and the bank for international settlements and
37 its affiliates and subsidiaries, and from regulatory and law
38 enforcement officials of other foreign or domestic jurisdictions, and

1 shall maintain as confidential or privileged any document, material, or
2 information received with notice or the understanding that it is
3 confidential or privileged under the laws of the jurisdiction that is
4 the source of the document, material, or information; and

5 (d) Shall enter into written agreements with the national
6 association of insurance commissioners governing sharing and use of
7 information provided pursuant to this chapter consistent with this
8 subsection that shall:

9 (i) Specify procedures and protocols regarding the confidentiality
10 and security of information shared with the national association of
11 insurance commissioners and its affiliates and subsidiaries pursuant to
12 this chapter, including procedures and protocols for sharing by the
13 national association of insurance commissioners with other state,
14 federal, or international regulators including the international
15 association of insurance supervisors and the bank for international
16 settlements and its affiliates and subsidiaries;

17 (ii) Specify that ownership of information shared with the national
18 association of insurance commissioners and its affiliates and
19 subsidiaries pursuant to this chapter remains with the commissioner and
20 the national association of insurance commissioners' use of the
21 information is subject to the direction of the commissioner;

22 (iii) Require prompt notice to be given to an insurer whose
23 confidential information in the possession of the national association
24 of insurance commissioners pursuant to this chapter is subject to a
25 request or subpoena to the national association of insurance
26 commissioners for disclosure or production; and

27 (iv) Require the national association of insurance commissioners
28 and its affiliates and subsidiaries to consent to intervention by an
29 insurer in any judicial or administrative action in which the national
30 association of insurance commissioners and its affiliates and
31 subsidiaries may be required to disclose confidential information about
32 the insurer shared with the national association of insurance
33 commissioners and its affiliates and subsidiaries pursuant to this
34 chapter.

35 (4) The sharing of information by the commissioner pursuant to this
36 chapter does not constitute a delegation of regulatory authority or
37 rule making, and the commissioner is solely responsible for the
38 administration, execution, and enforcement of this chapter.

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

5 (6) Documents, materials, or other information in the possession or
6 control of the national association of insurance commissioners pursuant
7 to this chapter are confidential by law and privileged, are not subject
8 to chapter 42.56 RCW, are not subject to subpoena, and are not subject
9 to discovery or admissible in evidence in any private civil action.

10 **Sec. 10.** RCW 48.31B.040 and 1993 c 462 s 9 are each amended to
11 read as follows:

12 The commissioner may, (~~upon notice and opportunity for all~~
13 ~~interested persons to be heard, adopt rules and issue orders that are~~
14 ~~necessary to carry out~~) in accordance with the administrative
15 procedure act, chapter 34.05 RCW, adopt rules interpreting and
16 implementing this chapter.

17 **Sec. 11.** RCW 48.31B.050 and 1993 c 462 s 11 are each amended to
18 read as follows:

19 (1) The commissioner shall require, after notice and hearing, an
20 insurer failing, without just cause, to file a registration statement
21 as required in this chapter, to pay a penalty of not more than ten
22 thousand dollars per day. The maximum penalty under this section is
23 one million dollars. The commissioner may reduce the penalty if the
24 insurer demonstrates to the commissioner that the imposition of the
25 penalty would constitute a financial hardship to the insurer. The
26 commissioner shall pay a fine collected under this section to the state
27 treasurer for the account of the general fund.

28 (2) Every director or officer of an insurance holding company
29 system who knowingly violates this chapter, or participates in, or
30 assents to, or who knowingly permits an officer or agent of the insurer
31 to engage in transactions or make investments that have not been
32 properly reported or submitted under RCW 48.31B.025(1) or
33 48.31B.030(1)(b) or (2), or that violate this chapter, shall pay, in
34 their individual capacity, a civil forfeiture of not more than ten
35 thousand dollars per violation, after notice and hearing before the
36 commissioner. In determining the amount of the civil forfeiture, the

1 commissioner shall take into account the appropriateness of the
2 forfeiture with respect to the gravity of the violation, the history of
3 previous violations, and such other matters as justice may require.

4 (3) Whenever it appears to the commissioner that an insurer subject
5 to this chapter or a director, officer, employee, or agent of the
6 insurer has engaged in a transaction or entered into a contract that is
7 subject to RCW 48.31B.030 and that would not have been approved had
8 approval been requested, the commissioner may order the insurer to
9 cease and desist immediately any further activity under that
10 transaction or contract. After notice and hearing the commissioner may
11 also order the insurer to void any such contracts and restore the
12 status quo if that action is in the best interest of the policyholders,
13 creditors, or the public.

14 (4) Whenever it appears to the commissioner that an insurer or a
15 director, officer, employee, or agent of the insurer has committed a
16 willful violation of this chapter, the commissioner may refer the
17 matter to the prosecuting attorney of Thurston county or the county in
18 which the principal office of the insurer is located. An insurer that
19 willfully violates this chapter may be fined not more than one million
20 dollars. Any individual who willfully violates this chapter may be
21 fined in his or her individual capacity not more than ten thousand
22 dollars, or be imprisoned for not more than three years, or both.

23 (5) An officer, director, or employee of an insurance holding
24 company system who willfully and knowingly subscribes to or makes or
25 causes to be made a false statement or false report or false filing
26 with the intent to deceive the commissioner in the performance of his
27 or her duties under this chapter, upon conviction thereof, shall be
28 imprisoned for not more than three years or fined not more than ten
29 thousand dollars or both. The officer, director, or employee upon whom
30 the fine is imposed shall pay the fine in his or her individual
31 capacity.

32 (6) Whenever it appears to the commissioner that any person has
33 committed a violation of RCW 48.31B.015 and which prevents the full
34 understanding of the enterprise risk to the insurer by affiliates or by
35 the insurance holding company system, the violation may serve as an
36 independent basis for disapproving dividends or distributions and for
37 placing the insurer under an order of supervision in accordance with
38 RCW 48.31.400.

1 **Sec. 12.** RCW 48.31B.070 and 1993 c 462 s 15 are each amended to
2 read as follows:

3 (1) A person aggrieved by an act, determination, rule, order, or
4 any other action of the commissioner under this chapter may proceed in
5 accordance with the administrative procedure act, chapter 34.05 RCW.

6 (2) A person aggrieved by a failure of the commissioner to act or
7 make a determination required by this chapter may petition the
8 commissioner under the procedure described in (~~RCW 34.05.330~~) the
9 administrative procedure act, chapter 34.05 RCW.

10 **Sec. 13.** RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are
11 each reenacted and amended to read as follows:

12 The following information relating to insurance and financial
13 institutions is exempt from disclosure under this chapter:

14 (1) Records maintained by the board of industrial insurance appeals
15 that are related to appeals of crime victims' compensation claims filed
16 with the board under RCW 7.68.110;

17 (2) Information obtained and exempted or withheld from public
18 inspection by the health care authority under RCW 41.05.026, whether
19 retained by the authority, transferred to another state purchased
20 health care program by the authority, or transferred by the authority
21 to a technical review committee created to facilitate the development,
22 acquisition, or implementation of state purchased health care under
23 chapter 41.05 RCW;

24 (3) The names and individual identification data of either all
25 owners or all insureds, or both, received by the insurance commissioner
26 under chapter 48.102 RCW;

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

28 (5) Information provided under RCW 48.05.510 through 48.05.535,
29 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
30 through 48.46.625;

31 (6) Examination reports and information obtained by the department
32 of financial institutions from banks under RCW 30.04.075, from savings
33 banks under RCW 32.04.220, from savings and loan associations under RCW
34 33.04.110, from credit unions under RCW 31.12.565, from check cashers
35 and sellers under RCW 31.45.030(3), and from securities brokers and
36 investment advisers under RCW 21.20.100, all of which is confidential
37 and privileged information;

1 (7) Information provided to the insurance commissioner under RCW
2 48.110.040(3);

3 (8) Documents, materials, or information obtained by the insurance
4 commissioner under RCW 48.02.065, all of which are confidential and
5 privileged;

6 (9) (~~Confidential proprietary and trade secret information~~
7 ~~provided to the commissioner under RCW 48.31C.020 through 48.31C.050~~
8 ~~and 48.31C.070~~) Documents, materials, or information obtained by the
9 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,
10 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
11 confidential and privileged;

12 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
13 7.70.140 that, alone or in combination with any other data, may reveal
14 the identity of a claimant, health care provider, health care facility,
15 insuring entity, or self-insurer involved in a particular claim or a
16 collection of claims. For the purposes of this subsection:

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

18 (b) "Health care facility" has the same meaning as in RCW
19 48.140.010(6).

20 (c) "Health care provider" has the same meaning as in RCW
21 48.140.010(7).

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

23 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

24 (11) Documents, materials, or information obtained by the insurance
25 commissioner under RCW 48.135.060;

26 (12) Documents, materials, or information obtained by the insurance
27 commissioner under RCW 48.37.060;

28 (13) Confidential and privileged documents obtained or produced by
29 the insurance commissioner and identified in RCW 48.37.080;

30 (14) Documents, materials, or information obtained by the insurance
31 commissioner under RCW 48.37.140;

32 (15) Documents, materials, or information obtained by the insurance
33 commissioner under RCW 48.17.595;

34 (16) Documents, materials, or information obtained by the insurance
35 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

36 (17) Documents, materials, or information obtained by the insurance
37 commissioner in the commissioner's capacity as receiver under RCW
38 48.31.025 and 48.99.017, which are records under the jurisdiction and

1 control of the receivership court. The commissioner is not required to
2 search for, log, produce, or otherwise comply with the public records
3 act for any records that the commissioner obtains under chapters 48.31
4 and 48.99 RCW in the commissioner's capacity as a receiver, except as
5 directed by the receivership court;

6 (18) Documents, materials, or information obtained by the insurance
7 commissioner under RCW 48.13.151;

8 (19) Data, information, and documents provided by a carrier
9 pursuant to section 1, chapter 172, Laws of 2010;

10 (20) Information in a filing of usage-based insurance about the
11 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

12 (21) Data, information, and documents, other than those described
13 in RCW 48.02.210(2), that are submitted to the office of the insurance
14 commissioner by an entity providing health care coverage pursuant to
15 RCW 28A.400.275 and 48.02.210; (~~and~~)

16 (22) Data, information, and documents obtained by the insurance
17 commissioner under RCW 48.29.017; and

18 (23) Information not subject to public inspection or public
19 disclosure under RCW 48.43.730(5).

20 **Sec. 14.** RCW 42.56.400 and 2013 c 65 s 5 are each amended to read
21 as follows:

22 The following information relating to insurance and financial
23 institutions is exempt from disclosure under this chapter:

24 (1) Records maintained by the board of industrial insurance appeals
25 that are related to appeals of crime victims' compensation claims filed
26 with the board under RCW 7.68.110;

27 (2) Information obtained and exempted or withheld from public
28 inspection by the health care authority under RCW 41.05.026, whether
29 retained by the authority, transferred to another state purchased
30 health care program by the authority, or transferred by the authority
31 to a technical review committee created to facilitate the development,
32 acquisition, or implementation of state purchased health care under
33 chapter 41.05 RCW;

34 (3) The names and individual identification data of either all
35 owners or all insureds, or both, received by the insurance commissioner
36 under chapter 48.102 RCW;

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

1 (5) Information provided under RCW 48.05.510 through 48.05.535,
2 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
3 through 48.46.625;

4 (6) Examination reports and information obtained by the department
5 of financial institutions from banks under RCW 30.04.075, from savings
6 banks under RCW 32.04.220, from savings and loan associations under RCW
7 33.04.110, from credit unions under RCW 31.12.565, from check cashers
8 and sellers under RCW 31.45.030(3), and from securities brokers and
9 investment advisers under RCW 21.20.100, all of which is confidential
10 and privileged information;

11 (7) Information provided to the insurance commissioner under RCW
12 48.110.040(3);

13 (8) Documents, materials, or information obtained by the insurance
14 commissioner under RCW 48.02.065, all of which are confidential and
15 privileged;

16 (9) (~~Confidential proprietary and trade secret information~~
17 ~~provided to the commissioner under RCW 48.31C.020 through 48.31C.050~~
18 ~~and 48.31C.070)) Documents, materials, or information obtained by the
19 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,
20 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
21 confidential and privileged;~~

22 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
23 7.70.140 that, alone or in combination with any other data, may reveal
24 the identity of a claimant, health care provider, health care facility,
25 insuring entity, or self-insurer involved in a particular claim or a
26 collection of claims. For the purposes of this subsection:

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

28 (b) "Health care facility" has the same meaning as in RCW
29 48.140.010(6).

30 (c) "Health care provider" has the same meaning as in RCW
31 48.140.010(7).

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

33 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

34 (11) Documents, materials, or information obtained by the insurance
35 commissioner under RCW 48.135.060;

36 (12) Documents, materials, or information obtained by the insurance
37 commissioner under RCW 48.37.060;

1 (13) Confidential and privileged documents obtained or produced by
2 the insurance commissioner and identified in RCW 48.37.080;

3 (14) Documents, materials, or information obtained by the insurance
4 commissioner under RCW 48.37.140;

5 (15) Documents, materials, or information obtained by the insurance
6 commissioner under RCW 48.17.595;

7 (16) Documents, materials, or information obtained by the insurance
8 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

9 (17) Documents, materials, or information obtained by the insurance
10 commissioner in the commissioner's capacity as receiver under RCW
11 48.31.025 and 48.99.017, which are records under the jurisdiction and
12 control of the receivership court. The commissioner is not required to
13 search for, log, produce, or otherwise comply with the public records
14 act for any records that the commissioner obtains under chapters 48.31
15 and 48.99 RCW in the commissioner's capacity as a receiver, except as
16 directed by the receivership court;

17 (18) Documents, materials, or information obtained by the insurance
18 commissioner under RCW 48.13.151;

19 (19) Data, information, and documents provided by a carrier
20 pursuant to section 1, chapter 172, Laws of 2010;

21 (20) Information in a filing of usage-based insurance about the
22 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

23 (21) Data, information, and documents, other than those described
24 in RCW 48.02.210(2), that are submitted to the office of the insurance
25 commissioner by an entity providing health care coverage pursuant to
26 RCW 28A.400.275 and 48.02.210; and

27 (22) Data, information, and documents obtained by the insurance
28 commissioner under RCW 48.29.017.

29 **Sec. 15.** RCW 48.02.065 and 2007 c 126 s 1 are each amended to read
30 as follows:

31 (1) Documents, materials, or other information as described in
32 either subsection (5) or (6), or both, of this section are confidential
33 by law and privileged, are not subject to public disclosure under
34 chapter 42.56 RCW, and are not subject to subpoena directed to the
35 commissioner or any person who received documents, materials, or other
36 information while acting under the authority of the commissioner. The
37 commissioner is authorized to use such documents, materials, or other

1 information in the furtherance of any regulatory or legal action
2 brought as a part of the commissioner's official duties. The
3 confidentiality and privilege created by this section and RCW
4 42.56.400(~~(+9)~~) (8) applies only to the commissioner, any person
5 acting under the authority of the commissioner, the national
6 association of insurance commissioners and its affiliates and
7 subsidiaries, regulatory and law enforcement officials of other states
8 and nations, the federal government, and international authorities.

9 (2) Neither the commissioner nor any person who received documents,
10 materials, or other information while acting under the authority of the
11 commissioner is permitted or required to testify in any private civil
12 action concerning any confidential and privileged documents, materials,
13 or information subject to subsection (1) of this section.

14 (3) The commissioner:

15 (a) May share documents, materials, or other information, including
16 the confidential and privileged documents, materials, or information
17 subject to subsection (1) of this section, with (i) the national
18 association of insurance commissioners and its affiliates and
19 subsidiaries, and (ii) regulatory and law enforcement officials of
20 other states and nations, the federal government, and international
21 authorities, if the recipient agrees to maintain the confidentiality
22 and privileged status of the document, material, or other information;

23 (b) May receive documents, materials, or information, including
24 otherwise either confidential or privileged, or both, documents,
25 materials, or information, from (i) the national association of
26 insurance commissioners and its affiliates and subsidiaries, and (ii)
27 regulatory and law enforcement officials of other states and nations,
28 the federal government, and international authorities and shall
29 maintain as confidential and privileged any document, material, or
30 information received that is either confidential or privileged, or
31 both, under the laws of the jurisdiction that is the source of the
32 document, material, or information; and

33 (c) May enter into agreements governing the sharing and use of
34 information consistent with this subsection.

35 (4) No waiver of an existing privilege or claim of confidentiality
36 in the documents, materials, or information may occur as a result of
37 disclosure to the commissioner under this section or as a result of
38 sharing as authorized in subsection (3) of this section.

1 (5) Documents, materials, or information, which is either
2 confidential or privileged, or both, which has been provided to the
3 commissioner by (a) the national association of insurance commissioners
4 and its affiliates and subsidiaries, (b) regulatory or law enforcement
5 officials of other states and nations, the federal government, or
6 international authorities, or (c) agencies of this state, is
7 confidential and privileged only if the documents, materials, or
8 information is protected from disclosure by the applicable laws of the
9 jurisdiction that is the source of the document, material, or
10 information.

11 (6) Working papers, documents, materials, or information produced
12 by, obtained by, or disclosed to the commissioner or any other person
13 in the course of a financial ~~((or))~~ examination under RCW 48.03.010, a
14 market conduct examination under RCW 48.37.060, a financial examination
15 or investigation under RCW 48.31B.035, or in the course of financial
16 analysis or market conduct analysis or desk audit, or submitted under
17 RCW 48.31B.025(12) or an agreement submitted by an insurer in
18 conjunction with a filing under RCW 48.31B.030(1)(b) are not required
19 to be disclosed by the commissioner unless cited by the commissioner in
20 connection with an agency action as defined in RCW 34.05.010(3). The
21 commissioner shall notify a party that produced the documents,
22 materials, or information five business days before disclosure in
23 connection with an agency action. The notified party may seek
24 injunctive relief in any Washington state superior court to prevent
25 disclosure of any documents, materials, or information it believes is
26 confidential or privileged. In civil actions between private parties
27 or in criminal actions, disclosure to the commissioner under this
28 section does not create any privilege or claim of confidentiality or
29 waive any existing privilege or claim of confidentiality.

30 (7)(a) After receipt of a public disclosure request, the
31 commissioner shall disclose the documents, materials, or information
32 under subsection (6) of this section that relate to a financial or
33 market conduct examination undertaken as a result of a proposed change
34 of control of a nonprofit or mutual health insurer governed in whole or
35 in part by chapter 48.31B ~~((or 48.31C))~~ RCW.

36 (b) The commissioner is not required to disclose the documents,
37 materials, or information in (a) of this subsection if:

1 (i) The documents, materials, or information are otherwise
2 privileged or exempted from public disclosure; or

3 (ii) The commissioner finds that the public interest in disclosure
4 of the documents, materials, or information is outweighed by the public
5 interest in nondisclosure in that particular instance.

6 (8) Any person may petition a Washington state superior court to
7 allow inspection of information exempt from public disclosure under
8 subsection (6) of this section when the information is connected to
9 allegations of negligence or malfeasance by the commissioner related to
10 a financial or market conduct examination. The court shall conduct an
11 in-camera review after notifying the commissioner and every party that
12 produced the information. The court may order the commissioner to
13 allow the petitioner to have access to the information provided the
14 petitioner maintains the confidentiality of the information. The
15 petitioner must not disclose the information to any other person,
16 except upon further order of the court. After conducting a regular
17 hearing, the court may order that the information can be disclosed
18 publicly if the court finds that there is a public interest in the
19 disclosure of the information and the exemption of the information from
20 public disclosure is clearly unnecessary to protect any individual's
21 right of privacy or any vital governmental function.

22 **Sec. 16.** RCW 48.13.061 and 2011 c 188 s 7 are each amended to read
23 as follows:

24 The following classes of investments may be counted for the
25 purposes specified in RCW 48.13.101, whether they are made directly or
26 as a participant in a partnership, joint venture, or limited liability
27 company. Investments in partnerships, joint ventures, and limited
28 liability companies are authorized investments only pursuant to
29 subsection (12) of this section:

30 (1) Cash in the direct possession of the insurer or on deposit with
31 a financial institution regulated by any federal or state agency of the
32 United States;

33 (2) Bonds, debt-like preferred stock, and other evidences of
34 indebtedness of governmental units in the United States or Canada, or
35 the instrumentalities of the governmental units, or private business
36 entities domiciled in the United States or Canada, including asset-
37 backed securities and securities valuation office listed mutual funds;

1 (3) Loans secured by first mortgages, first trust deeds, or other
2 first security interests in real property located in the United States
3 or Canada or secured by insurance against default issued by a
4 government insurance corporation of the United States or Canada or by
5 an insurer authorized to do business in this state;

6 (4) Common stock or equity-like preferred stock or equity interests
7 in any United States or Canadian business entity, or shares of mutual
8 funds registered with the securities and exchange commission of the
9 United States under the investment company act of 1940, other than
10 securities valuation office listed mutual funds, and, subsidiaries, as
11 defined in RCW 48.31B.005 (~~or 48.31C.010~~), engaged exclusively in the
12 following businesses:

13 (a) Acting as an insurance producer, surplus line broker, or title
14 insurance agent for its parent or for any of its parent's insurer
15 subsidiaries or affiliates;

16 (b) Investing, reinvesting, or trading in securities or acting as
17 a securities broker or dealer for its own account, that of its parent,
18 any subsidiary of its parent, or any affiliate or subsidiary;

19 (c) Rendering management, sales, or other related services to any
20 investment company subject to the federal investment company act of
21 1940, as amended;

22 (d) Rendering investment advice;

23 (e) Rendering services related to the functions involved in the
24 operation of an insurance business including, but not limited to,
25 actuarial, loss prevention, safety engineering, data processing,
26 accounting, claims appraisal, and collection services;

27 (f) Acting as administrator of employee welfare benefit and pension
28 plans for governments, government agencies, corporations, or other
29 organizations or groups;

30 (g) Ownership and management of assets which the parent could
31 itself own and manage: PROVIDED, that the aggregate investment by the
32 insurer and its subsidiaries acquired pursuant to this subsection
33 (4)(g) shall not exceed the limitations otherwise applicable to such
34 investments by the parent;

35 (h) Acting as administrative agent for a government instrumentality
36 which is performing an insurance function or is responsible for a
37 health or welfare program;

38 (i) Financing of insurance premiums;

- 1 (j) Any other business activity reasonably ancillary to an
2 insurance business;
- 3 (k) Owning one or more subsidiary;
- 4 (i) Insurers, health care service contractors, or health
5 maintenance organizations to the extent permitted by this chapter;
- 6 (ii) Businesses specified in (a) through (k) of this subsection
7 inclusive; or
- 8 (iii) Any combination of such insurers and businesses;
- 9 (5) Real property necessary for the convenient transaction of the
10 insurer's business;
- 11 (6) Real property, together with the fixtures, furniture,
12 furnishings, and equipment pertaining thereto in the United States or
13 Canada, which produces or after suitable improvement can reasonably be
14 expected to produce income;
- 15 (7) Loans, securities, or other investments of the types described
16 in subsections (1) through (6) of this section in national association
17 of insurance commissioners securities valuation office 1 debt rated
18 countries other than the United States and Canada;
- 19 (8) Bonds or other evidences of indebtedness of international
20 development organizations of which the United States is a member;
- 21 (9) Loans upon the security of the insurer's own policies in
22 amounts that are adequately secured by the policies and that in no case
23 exceed the surrender values of the policies;
- 24 (10) Tangible personal property under contract of sale or lease
25 under which contractual payments may reasonably be expected to return
26 the principal of and provide earnings on the investment within its
27 anticipated useful life;
- 28 (11) Other investments the commissioner authorizes by rule; and
- 29 (12) Investments not otherwise permitted by this section, and not
30 specifically prohibited by statute, to the extent of not more than five
31 percent of the first five hundred million dollars of the insurer's
32 admitted assets plus ten percent of the insurer's admitted assets
33 exceeding five hundred million dollars.

34 **Sec. 17.** RCW 48.97.005 and 2008 c 217 s 75 are each amended to
35 read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Accredited state" means a state in which the insurance
2 department or regulatory agency has qualified as meeting the minimum
3 financial regulatory standards promulgated and established from time to
4 time by the National Association of Insurance Commissioners.

5 (2) "Control" or "controlled by" has the meaning ascribed in RCW
6 48.31B.005(~~((2))~~) (3).

7 (3) "Controlled insurer" means a licensed insurer that is
8 controlled, directly or indirectly, by a broker.

9 (4) "Controlling producer" means a producer who, directly or
10 indirectly, controls an insurer.

11 (5) "Licensed insurer" or "insurer" means a person, firm,
12 association, or corporation licensed to transact property and casualty
13 insurance business in this state. The following, among others, are not
14 licensed insurers for purposes of this chapter:

15 (a) ~~((Risk retention groups as defined in the Superfund Amendments
16 Reauthorization Act of 1986, P.L. 99-499, 100 Stat. 1613 (1986), the
17 Risk Retention Act, 15 U.S.C. Sec. 3901 et seq. (1982 Supp. 1986), and
18 chapter 48.92 RCW;~~

19 ~~(b))~~ All residual market pools and joint underwriting
20 associations; and

21 ~~((c) Captive insurers. For the purposes of this chapter,)~~ (b)
22 captive insurers other than risk retention groups as defined in 15
23 U.S.C. Sec. 3901 et seq. and 42 U.S.C. Sec. 9671 are insurance
24 companies owned by another organization(~~((7))~~) whose exclusive purpose is
25 to insure risks of the parent organization and affiliated companies or,
26 in the case of groups and associations, insurance organizations owned
27 by the insureds whose exclusive purpose is to insure risks to member
28 organizations or group members, or both, and their affiliates.

29 (6) "Producer" means an insurance broker or brokers or any other
30 person, firm, association, or corporation when, for compensation,
31 commission, or other thing of value, the person, firm, association, or
32 corporation acts or aids in any manner in soliciting, negotiating, or
33 procuring the making of an insurance contract on behalf of an insured
34 other than the person, firm, association, or corporation.

35 **Sec. 18.** RCW 48.125.140 and 2004 c 260 s 16 are each amended to
36 read as follows:

1 (1) The commissioner may make an examination of the operations of
2 any self-funded multiple employer welfare arrangement as often as he or
3 she deems necessary in order to carry out the purposes of this chapter.

4 (2) Every self-funded multiple employer welfare arrangement shall
5 submit its books and records relating to its operation for financial
6 condition and market conduct examinations and in every way facilitate
7 them. For the purpose of examinations, the commissioner may issue
8 subpoenas, administer oaths, and examine the officers and principals of
9 the (~~{self-funded}~~) self-funded multiple employer welfare
10 arrangement.

11 (3) The commissioner may elect to accept and rely on audit reports
12 made by an independent certified public accountant for the self-funded
13 multiple employer welfare arrangement in the course of that part of the
14 commissioner's examination covering the same general subject matter as
15 the audit. The commissioner may incorporate the audit report in his or
16 her report of the examination.

17 (4)(a) The commissioner may also examine any affiliate of the self-
18 funded multiple employer welfare arrangement. An examination of an
19 affiliate is limited to the activities or operations of the affiliate
20 that may impact the financial position of the arrangement.

21 (b) For the purposes of this section, "affiliate" has the same
22 meaning as defined in RCW (~~(48.31C.010)~~) 48.31B.005.

23 (5) Whenever an examination is made, all of the provisions of
24 chapter 48.03 RCW not inconsistent with this chapter shall be
25 applicable. In lieu of making an examination himself or herself, the
26 commissioner may, in the case of a foreign self-funded multiple
27 employer welfare arrangement, accept an examination report of the
28 applicant by the regulatory official in its state of domicile. In the
29 case of a domestic self-funded multiple employer welfare arrangement,
30 the commissioner may accept an examination report of the applicant by
31 the regulatory official of a state that has already licensed the
32 arrangement.

33 **Sec. 19.** RCW 48.155.010 and 2010 c 27 s 4 are each amended to read
34 as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

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

4 (2) "Commissioner" means the Washington state insurance
5 commissioner.

6 (3)(a) "Control" or "controlled by" or "under common control with"
7 means the possession, direct or indirect, of the power to direct or
8 cause the direction of the management and policies of a person, whether
9 through the ownership of voting securities, by contract other than a
10 commercial contract for goods or nonmanagement services, or otherwise,
11 unless the power is the result of an official position with or
12 corporate office held by the person.

13 (b) Control exists when any person, directly or indirectly, owns,
14 controls, holds with the power to vote, or holds proxies representing
15 ten percent or more of the voting securities of any other person. A
16 presumption of control may be rebutted by a showing made in the manner
17 provided by RCW 48.31B.005(~~((2))~~) (3) and 48.31B.025(11) that control
18 does not exist in fact. The commissioner may determine, after
19 furnishing all persons in interest notice and opportunity to be heard
20 and making specific findings of fact to support the determination, that
21 control exists in fact, notwithstanding the absence of a presumption to
22 that effect.

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

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

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

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

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

32 or

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

35 (5)(a) "Discount plan organization" means a person that, in
36 exchange for fees, dues, charges, or other consideration, provides or
37 purports to provide access to discounts to its members on charges by
38 providers for health care services. "Discount plan organization" also

1 means a person or organization that contracts with providers, provider
2 networks, or other discount plan organizations to offer discounts on
3 health care services to its members. This term also includes all
4 persons that determine the charge to or other consideration paid by
5 members.

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

7 (i) Pharmacy benefit managers;

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

11 (iii) Marketers who market the discount plans of discount plan
12 organizations which are licensed under this chapter as long as all
13 written communications of the marketer in connection with a discount
14 plan clearly identify the licensed discount plan organization as the
15 responsible entity; or

16 (iv) Health carriers, if the discount on health care services is
17 offered by a health carrier authorized under chapter 48.20, 48.21,
18 48.44, or 48.46 RCW.

19 (6) "Health care facility" or "facility" has the same meaning as in
20 RCW 48.43.005(~~(+15)~~) (22).

21 (7) "Health care provider" or "provider" has the same meaning as in
22 RCW 48.43.005(~~(+16)~~) (23).

23 (8) "Health care provider network," "provider network," or
24 "network" means any network of health care providers, including any
25 person or entity that negotiates directly or indirectly with a discount
26 plan organization on behalf of more than one provider to provide health
27 care services to members.

28 (9) "Health care services" has the same meaning as in RCW
29 48.43.005(~~(+17)~~) (24).

30 (10) "Health carrier" or "carrier" has the same meaning as in RCW
31 48.43.005(~~(+18)~~) (25).

32 (11) "Marketer" means a person or entity that markets, promotes,
33 sells, or distributes a discount plan, including a contracted marketing
34 organization and a private label entity that places its name on and
35 markets or distributes a discount plan pursuant to a marketing
36 agreement with a discount plan organization.

37 (12) "Medicare prescription drug plan" means a plan that provides

1 a medicare part D prescription drug benefit in accordance with the
2 requirements of the federal medicare prescription drug improvement and
3 modernization act of 2003.

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

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

13 (15) "Person" means an individual, a corporation, a governmental
14 entity, a partnership, an association, a joint venture, a joint stock
15 company, a trust, an unincorporated organization, any similar entity,
16 or any combination of the persons listed in this subsection.

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

19 (b) For purposes of this subsection, a "covered entity" means an
20 insurer, a health care service contractor, a health maintenance
21 organization, or a multiple employer welfare arrangement licensed,
22 certified, or registered under the provisions of this title. "Covered
23 entity" also means a health program administered by the state as a
24 provider of health coverage, a single employer that provides health
25 coverage to its employees, or a labor union that provides health
26 coverage to its members as part of a collective bargaining agreement.

27 **Sec. 20.** RCW 48.155.015 and 2009 c 175 s 4 are each amended to
28 read as follows:

29 (1) This chapter applies to all discount plans and all discount
30 plan organizations doing business in or from this state or that affect
31 subjects located wholly or in part or to be performed within this
32 state, and all persons having to do with this business.

33 (2) A discount plan organization that is a health carrier, as
34 defined under RCW 48.43.005, with a license, certificate of authority,
35 or registration (~~(under RCW 48.05.030 or chapter 48.31C RCW)~~):

36 (a) Is not required to obtain a license under RCW 48.155.020,

1 except that any of its affiliates that operate as a discount plan
2 organization in this state must obtain a license under RCW 48.155.020
3 and comply with all other provisions of this chapter;

4 (b) Is required to comply with RCW 48.155.060 through 48.155.090
5 and report, in the form and manner as the commissioner may require, any
6 of the information described in RCW 48.155.110(2) (b), (c), or (d) that
7 is not otherwise already reported; and

8 (c) Is subject to RCW 48.155.130 and 48.155.140.

9 NEW SECTION. **Sec. 21.** The following acts or parts of acts are
10 each repealed:

11 (1) RCW 48.31C.010 (Definitions) and 2001 c 179 s 1;

12 (2) RCW 48.31C.020 (Acquisition of a foreign health carrier--
13 Preacquisition notification--Review) and 2001 c 179 s 2;

14 (3) RCW 48.31C.030 (Acquisition of a domestic health carrier--
15 Filing--Review--Jurisdiction of courts) and 2001 c 179 s 3;

16 (4) RCW 48.31C.040 (Registration with commissioner--Information
17 required--Rule making--Disclaimer of affiliation--Failure to file) and
18 2001 c 179 s 4;

19 (5) RCW 48.31C.050 (Health carrier subject to registration--
20 Standards for transactions within a holding company system--Notice to
21 commissioner--Review) and 2001 c 179 s 5;

22 (6) RCW 48.31C.060 (Extraordinary dividends or distributions--
23 Restrictions--Definition of distribution) and 2001 c 179 s 6;

24 (7) RCW 48.31C.070 (Examination of health carriers--Commissioner
25 may order production of information--Failure to comply--Costs) and 2001
26 c 179 s 7;

27 (8) RCW 48.31C.080 (Violations of chapter--Commissioner may seek
28 superior court order) and 2001 c 179 s 8;

29 (9) RCW 48.31C.090 (Violations of chapter--Penalties--Civil
30 forfeitures--Orders--Referral to prosecuting attorney--Imprisonment)
31 and 2001 c 179 s 9;

32 (10) RCW 48.31C.100 (Violations of chapter--Impairment of financial
33 condition) and 2001 c 179 s 10;

34 (11) RCW 48.31C.110 (Order for liquidation or rehabilitation--
35 Recovery of distributions or payments--Liability--Maximum amount
36 recoverable) and 2001 c 179 s 11;

1 (12) RCW 48.31C.120 (Violations of chapter--Contrary to interests
2 of subscribers or the public) and 2001 c 179 s 12;

3 (13) RCW 48.31C.130 (Confidential proprietary and trade secret
4 information--Exempt from public disclosure--Exceptions) and 2001 c 179
5 s 13;

6 (14) RCW 48.31C.140 (Person aggrieved by actions of commissioner)
7 and 2001 c 179 s 15;

8 (15) RCW 48.31C.150 (Rule making) and 2001 c 179 s 16;

9 (16) RCW 48.31C.160 (Dual holding company system membership) and
10 2001 c 179 s 17;

11 (17) RCW 48.31C.900 (Severability--2001 c 179) and 2001 c 179 s 18;
12 and

13 (18) RCW 48.31C.901 (Effective date--2001 c 179) and 2001 c 179 s
14 19.

15 NEW SECTION. **Sec. 22.** PURPOSE AND SCOPE. (1) The purpose of this
16 chapter is to provide the requirements for maintaining a risk
17 management framework and completing an own risk and solvency assessment
18 and provide guidance and instructions for filing an ORSA summary report
19 with the insurance commissioner of this state.

20 (2) The requirements of this chapter apply to all insurers
21 domiciled in this state unless exempt pursuant to section 27 of this
22 act.

23 (3) The legislature finds and declares that the ORSA summary report
24 contains confidential and sensitive information related to an insurer
25 or insurance group's identification of risks material and relevant to
26 the insurer or insurance group filing the report. This information
27 includes proprietary and trade secret information that has the
28 potential for harm and competitive disadvantage to the insurer or
29 insurance group if the information is made public. It is the intent of
30 this legislature that the ORSA summary report is a confidential
31 document filed with the commissioner, that the ORSA summary report may
32 be shared only as stated in this chapter and to assist the commissioner
33 in the performance of his or her duties, and that in no event may the
34 ORSA summary report be subject to public disclosure.

35 NEW SECTION. **Sec. 23.** DEFINITIONS. The definitions in this

1 section apply throughout this chapter unless the context clearly
2 requires otherwise.

3 (1) "Insurance group" means, for the purposes of conducting an
4 ORSA, those insurers and affiliates included within an insurance
5 holding company system as defined in RCW 48.31B.005.

6 (2) "Insurer" includes an insurer authorized under chapter 48.05
7 RCW, a fraternal mutual insurer or society holding a license under RCW
8 48.36A.290, a health care service contractor registered under chapter
9 48.44 RCW, a health maintenance organization registered under chapter
10 48.46 RCW, and a self-funded multiple employer welfare arrangement
11 under chapter 48.125 RCW, as well as all persons engaged as, or
12 purporting to be engaged as insurers, fraternal benefit societies,
13 health care service contractors, health maintenance organizations, or
14 self-funded multiple employer welfare arrangements in this state, and
15 to persons in process of organization to become insurers, fraternal
16 benefit societies, health care service contractors, health maintenance
17 organizations, or self-funded multiple employer welfare arrangements,
18 except that it does not include agencies, authorities, or
19 instrumentalities of the United States, its possessions and
20 territories, the Commonwealth of Puerto Rico, the District of Columbia,
21 or a state or political subdivision of a state.

22 (3) "Own risk and solvency assessment" or "ORSA" means a
23 confidential internal assessment, appropriate to the nature, scale, and
24 complexity of an insurer or insurance group, conducted by that insurer
25 or insurance group of the material and relevant risks associated with
26 the insurer or insurance group's current business plan, and the
27 sufficiency of capital resources to support those risks.

28 (4) "ORSA guidance manual" means the own risk and solvency
29 assessment guidance manual developed and adopted by the national
30 association of insurance commissioners.

31 (5) "ORSA summary report" means a confidential high-level ORSA
32 summary of an insurer or insurance group.

33 NEW SECTION. **Sec. 24.** RISK MANAGEMENT FRAMEWORK. An insurer
34 shall maintain a risk management framework to assist the insurer with
35 identifying, assessing, monitoring, managing, and reporting on its
36 material and relevant risks. This requirement is satisfied if the

1 insurance group of which the insurer is a member maintains a risk
2 management framework applicable to the operations of the insurer.

3 NEW SECTION. **Sec. 25.** ORSA REQUIREMENT. Subject to section 27 of
4 this act, an insurer, or the insurance group of which the insurer is a
5 member, shall regularly conduct an ORSA consistent with a process
6 comparable to the ORSA guidance manual. The ORSA must be conducted
7 annually but also at any time when there are significant changes to the
8 risk profile of the insurer or the insurance group of which the insurer
9 is a member.

10 NEW SECTION. **Sec. 26.** ORSA SUMMARY REPORT. (1) Upon the
11 commissioner's request, and no more than once each year, an insurer
12 shall submit to the commissioner an ORSA summary report or any
13 combination of reports that together contain the information described
14 in the ORSA guidance manual, applicable to the insurer or the insurance
15 group of which it is a member. Notwithstanding any request from the
16 commissioner, if the insurer is a member of an insurance group, the
17 insurer shall submit the report or set of reports required by this
18 subsection if the commissioner is the lead state commissioner of the
19 insurance group as determined by the procedures within the financial
20 analysis handbook adopted by the national association of insurance
21 commissioners.

22 (2) The report shall include a signature of the insurer or
23 insurance group's chief risk officer or other executive having
24 responsibility for the oversight of the insurer's enterprise risk
25 management process attesting to the best of his or her belief and
26 knowledge that the insurer applies the enterprise risk management
27 process described in the ORSA summary report and that a copy of the
28 report has been provided to the insurer's board of directors or the
29 appropriate governing committee.

30 (3) An insurer may comply with subsection (1) of this section by
31 providing the most recent and substantially similar report or reports
32 provided by the insurer or another member of an insurance group of
33 which the insurer is a member to the commissioner of another state or
34 to a supervisor or regulator of a foreign jurisdiction, if that report
35 provides information that is comparable to the information described in

1 the ORSA guidance manual. Any such report in a language other than
2 English must be accompanied by a translation of that report into the
3 English language.

4 NEW SECTION. **Sec. 27.** EXEMPTIONS. (1) An insurer is exempt from
5 the requirements of this chapter, if:

6 (a) The insurer has annual direct written and unaffiliated assumed
7 premium including international direct and assumed premium, but
8 excluding premium reinsured with the federal crop insurance corporation
9 and federal flood program, less than five hundred million dollars; and

10 (b) The insurance group of which the insurer is a member has annual
11 direct written and unaffiliated assumed premium including international
12 direct and assumed premium, but excluding premium reinsured with the
13 federal crop insurance corporation and federal flood program, less than
14 one billion dollars.

15 (2) If an insurer qualifies for exemption pursuant to subsection
16 (1)(a) of this section, but the insurance group of which the insurer is
17 a member does not qualify for exemption pursuant to subsection (1)(b)
18 of this section, then the ORSA summary report that may be required
19 pursuant to section 26 of this act must include every insurer within
20 the insurance group. This requirement is satisfied by the submission
21 of more than one ORSA summary report for any combination of insurers,
22 provided any combination of reports includes every insurer within the
23 insurance group.

24 (3) If an insurer does not qualify for exemption pursuant to
25 subsection (1)(a) of this section, but the insurance group of which the
26 insurer is a member does qualify for exemption pursuant to subsection
27 (1)(b) of this section, then the only ORSA summary report that may be
28 required pursuant to section 26 of this act is the report applicable to
29 that insurer.

30 (4) If an insurer does not qualify for exemption pursuant to
31 subsection (1)(a) of this section, the insurer may apply to the
32 commissioner for a waiver from the requirements of this chapter based
33 upon unique circumstances. In deciding whether to grant the insurer's
34 request for waiver, the commissioner may consider the type and volume
35 of business written, ownership and organizational structure, and any
36 other factor the commissioner considers relevant to the insurer or
37 insurance group of which the insurer is a member. If the insurer is a

1 part of an insurance group with insurers domiciled in more than one
2 state, the commissioner shall coordinate with the lead state
3 commissioner and with the other domiciliary commissioners in
4 considering whether to grant the insurer's request for a waiver.

5 (5) Notwithstanding the exemptions stated in this section, the
6 commissioner may require that an insurer maintain a risk management
7 framework, conduct an ORSA, and file an ORSA summary report (a) based
8 on unique circumstances including, but not limited to, the type and
9 volume of business written, ownership and organizational structure,
10 federal agency requests, and international supervisor requests; and (b)
11 if the insurer has risk-based capital at the company action level event
12 as set forth in RCW 48.05.440 or 48.43.310, meets one or more of the
13 standards of an insurer deemed to be in hazardous financial condition
14 as defined in WAC 284-16-310, or otherwise exhibits qualities of a
15 troubled insurer as determined by the commissioner.

16 (6) If an insurer that qualifies for exemption pursuant to
17 subsection (1)(a) of this section subsequently no longer qualifies for
18 that exemption due to changes in premium reflected in the insurer's
19 most recent annual statement or in the most recent annual statements of
20 the insurers within the insurance group of which the insurer is a
21 member, the insurer has one year following the year the threshold is
22 exceeded to comply with the requirement of this chapter.

23 NEW SECTION. **Sec. 28.** CONTENTS OF ORSA SUMMARY REPORT. (1) The
24 ORSA summary report shall be prepared consistent with the ORSA guidance
25 manual, subject to the requirements of subsection (2) of this section.
26 Documentation and supporting information must be maintained and made
27 available upon examination or upon the request of the commissioner.

28 (2) The review of the ORSA summary report, and any additional
29 requests for information, must be made using similar procedures
30 currently used in the analysis and examination of multistate or global
31 insurers and insurance groups.

32 NEW SECTION. **Sec. 29.** CONFIDENTIAL TREATMENT. (1) Documents,
33 materials, or other information, including the ORSA summary report, in
34 the possession or control of the commissioner that are obtained by,
35 created by, or disclosed to the commissioner or any other person under
36 this chapter, is recognized by this state as being proprietary and to

1 contain trade secrets. All such documents, materials, or other
2 information is confidential by law and privileged, is not subject to
3 chapter 42.56 RCW, is not subject to subpoena, and is not subject to
4 discovery or admissible in evidence in any private civil action.
5 However, the commissioner is authorized to use the documents,
6 materials, or other information in the furtherance of any regulatory or
7 legal action brought as a part of the commissioner's official duties.
8 The commissioner may not otherwise make the documents, materials, or
9 other information public without the prior written consent of the
10 insurer.

11 (2) Neither the commissioner nor any person who received documents,
12 materials, or other ORSA-related information, through examination or
13 otherwise, while acting under the authority of the commissioner or with
14 whom such documents, materials, or other information are shared
15 pursuant to this chapter, is permitted or required to testify in any
16 private civil action concerning any confidential documents, materials,
17 or information subject to subsection (1) of this section.

18 (3) In order to assist in the performance of the commissioner's
19 regulatory duties, the commissioner:

20 (a) May share documents, materials, or other ORSA-related
21 information, including the confidential and privileged documents,
22 materials, or information subject to subsection (1) of this section,
23 including proprietary and trade secret documents and materials with
24 other state, federal, and international regulatory agencies, including
25 members of any supervisory college under section 8(3) of this act, with
26 the national association of insurance commissioners, with the
27 international association of insurance supervisors and the bank for
28 international settlements, and with any third-party consultants
29 designated by the commissioner, provided that the recipient agrees in
30 writing to maintain the confidentiality and privileged status of the
31 ORSA-related documents, materials, or other information and has
32 verified in writing the legal authority to maintain confidentiality;

33 (b) May receive documents, materials, or ORSA-related information,
34 including otherwise confidential and privileged documents, materials,
35 or information, including proprietary and trade secret information or
36 documents, from regulatory officials of other foreign or domestic
37 jurisdictions, including members of any supervisory college under
38 section 8(3) of this act, from the national association of insurance

1 commissioners, the international association of insurance supervisors
2 and the bank for international settlements, and must maintain as
3 confidential or privileged any document, material, or information
4 received with notice or the understanding that it is confidential or
5 privileged under the laws of the jurisdiction that is the source of the
6 document, material, or information;

7 (c) Shall enter into written agreements with the national
8 association of insurance commissioners or a third-party consultant
9 governing sharing and use of information provided pursuant to this
10 chapter, consistent with this subsection that specifies procedures and
11 protocols regarding the confidentiality and security of information
12 shared with the national association of insurance commissioners or
13 third-party consultant pursuant to this chapter, including procedures
14 and protocols for sharing by the national association of insurance
15 commissioners with other state regulators from states in which the
16 insurance group has domiciled insurers. The agreement must provide
17 that the recipient agrees in writing to maintain the confidentiality
18 and privileged status of the ORSA-related documents, materials, or
19 other information and has verified in writing the legal authority to
20 maintain confidentiality;

21 (d) Shall specify that ownership of information shared with the
22 national association of insurance commissioners or third-party
23 consultants pursuant to this chapter remains with the commissioner and
24 the national association of insurance commissioners' or a third-party
25 consultant's use of the information is subject to the direction of the
26 commissioner;

27 (e) Shall prohibit the national association of insurance
28 commissioners or third-party consultant from storing the information
29 shared pursuant to this chapter in a permanent database after the
30 underlying analysis is completed;

31 (f) Shall require prompt notice to be given to an insurer whose
32 confidential information in the possession of the national association
33 of insurance commissioners or a third-party consultant pursuant to this
34 chapter is subject to a request or subpoena to the national association
35 of insurance commissioners for disclosure or production;

36 (g) Shall require the national association of insurance
37 commissioners and its affiliates and subsidiaries to consent to
38 intervention by an insurer in any judicial or administrative action in

1 which the national association of insurance commissioners and its
2 affiliates and subsidiaries may be required to disclose confidential
3 information about the insurer shared with the national association of
4 insurance commissioners and its affiliates and subsidiaries pursuant to
5 this chapter; and

6 (h) In the case of an agreement involving a third-party consultant,
7 shall provide the insurer's written consent.

8 (4) The sharing of information by the commissioner pursuant to this
9 chapter shall not constitute a delegation of regulatory authority or
10 rule making, and the commissioner is solely responsible for the
11 administration, execution, and enforcement of the provisions of this
12 chapter.

13 (5) A waiver of any applicable privilege or claim of
14 confidentiality in the documents, materials, or information shall not
15 occur as a result of disclosure to the commissioner under this section
16 or as a result of sharing as authorized in this chapter.

17 (6) Documents, materials, or other information in the possession or
18 control of the national association of insurance commissioners pursuant
19 to this chapter are confidential by law and privileged, are not
20 subject to chapter 42.56 RCW, are not subject to subpoena, and are not
21 subject to discovery or admissible in evidence in any private civil
22 action.

23 NEW SECTION. **Sec. 30.** SANCTIONS. The commissioner shall require
24 any insurer failing, without just cause, to file the ORSA summary
25 report as required in this chapter, after notice and hearing, to pay a
26 fine of five hundred dollars for each day's delay, to be recovered by
27 the commissioner and the fine collected shall be transferred to the
28 treasurer for deposit into the state general fund. The maximum fine
29 under this section is one hundred thousand dollars. The commissioner
30 may reduce the fine if the insurer demonstrates to the commissioner
31 that the imposition of the fine would constitute a financial hardship
32 to the insurer.

33 **Sec. 31.** RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are
34 each reenacted and amended to read as follows:

35 The following information relating to insurance and financial
36 institutions is exempt from disclosure under this chapter:

1 (1) Records maintained by the board of industrial insurance appeals
2 that are related to appeals of crime victims' compensation claims filed
3 with the board under RCW 7.68.110;

4 (2) Information obtained and exempted or withheld from public
5 inspection by the health care authority under RCW 41.05.026, whether
6 retained by the authority, transferred to another state purchased
7 health care program by the authority, or transferred by the authority
8 to a technical review committee created to facilitate the development,
9 acquisition, or implementation of state purchased health care under
10 chapter 41.05 RCW;

11 (3) The names and individual identification data of either all
12 owners or all insureds, or both, received by the insurance commissioner
13 under chapter 48.102 RCW;

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

15 (5) Information provided under RCW 48.05.510 through 48.05.535,
16 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
17 through 48.46.625;

18 (6) Examination reports and information obtained by the department
19 of financial institutions from banks under RCW 30.04.075, from savings
20 banks under RCW 32.04.220, from savings and loan associations under RCW
21 33.04.110, from credit unions under RCW 31.12.565, from check cashers
22 and sellers under RCW 31.45.030(3), and from securities brokers and
23 investment advisers under RCW 21.20.100, all of which is confidential
24 and privileged information;

25 (7) Information provided to the insurance commissioner under RCW
26 48.110.040(3);

27 (8) Documents, materials, or information obtained by the insurance
28 commissioner under RCW 48.02.065, all of which are confidential and
29 privileged;

30 (~~Confidential proprietary and trade secret information~~
31 ~~provided to the commissioner under RCW 48.31C.020 through 48.31C.050~~
32 ~~and 48.31C.070~~) Documents, materials, or information obtained by the
33 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,
34 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
35 confidential and privileged;

36 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
37 7.70.140 that, alone or in combination with any other data, may reveal

1 the identity of a claimant, health care provider, health care facility,
2 insuring entity, or self-insurer involved in a particular claim or a
3 collection of claims. For the purposes of this subsection:

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

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

7 (c) "Health care provider" has the same meaning as in RCW
8 48.140.010(7).

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

10 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

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

13 (12) Documents, materials, or information obtained by the insurance
14 commissioner under RCW 48.37.060;

15 (13) Confidential and privileged documents obtained or produced by
16 the insurance commissioner and identified in RCW 48.37.080;

17 (14) Documents, materials, or information obtained by the insurance
18 commissioner under RCW 48.37.140;

19 (15) Documents, materials, or information obtained by the insurance
20 commissioner under RCW 48.17.595;

21 (16) Documents, materials, or information obtained by the insurance
22 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

23 (17) Documents, materials, or information obtained by the insurance
24 commissioner in the commissioner's capacity as receiver under RCW
25 48.31.025 and 48.99.017, which are records under the jurisdiction and
26 control of the receivership court. The commissioner is not required to
27 search for, log, produce, or otherwise comply with the public records
28 act for any records that the commissioner obtains under chapters 48.31
29 and 48.99 RCW in the commissioner's capacity as a receiver, except as
30 directed by the receivership court;

31 (18) Documents, materials, or information obtained by the insurance
32 commissioner under RCW 48.13.151;

33 (19) Data, information, and documents provided by a carrier
34 pursuant to section 1, chapter 172, Laws of 2010;

35 (20) Information in a filing of usage-based insurance about the
36 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

37 (21) Data, information, and documents, other than those described

1 in RCW 48.02.210(2), that are submitted to the office of the insurance
2 commissioner by an entity providing health care coverage pursuant to
3 RCW 28A.400.275 and 48.02.210; (~~and~~)

4 (22) Data, information, and documents obtained by the insurance
5 commissioner under RCW 48.29.017; (~~and~~)

6 (23) Information not subject to public inspection or public
7 disclosure under RCW 48.43.730(5); and

8 (24) Documents, materials, or information obtained by the insurance
9 commissioner under chapter 48.-- RCW (the new chapter created in
10 section 36 of this act).

11 **Sec. 32.** RCW 42.56.400 and 2013 c 65 s 5 are each amended to read
12 as follows:

13 The following information relating to insurance and financial
14 institutions is exempt from disclosure under this chapter:

15 (1) Records maintained by the board of industrial insurance appeals
16 that are related to appeals of crime victims' compensation claims filed
17 with the board under RCW 7.68.110;

18 (2) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW;

25 (3) The names and individual identification data of either all
26 owners or all insureds, or both, received by the insurance commissioner
27 under chapter 48.102 RCW;

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

29 (5) Information provided under RCW 48.05.510 through 48.05.535,
30 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
31 through 48.46.625;

32 (6) Examination reports and information obtained by the department
33 of financial institutions from banks under RCW 30.04.075, from savings
34 banks under RCW 32.04.220, from savings and loan associations under RCW
35 33.04.110, from credit unions under RCW 31.12.565, from check cashers
36 and sellers under RCW 31.45.030(3), and from securities brokers and

1 investment advisers under RCW 21.20.100, all of which is confidential
2 and privileged information;

3 (7) Information provided to the insurance commissioner under RCW
4 48.110.040(3);

5 (8) Documents, materials, or information obtained by the insurance
6 commissioner under RCW 48.02.065, all of which are confidential and
7 privileged;

8 (~~Confidential proprietary and trade secret information~~
9 ~~provided to the commissioner under RCW 48.31C.020 through 48.31C.050~~
10 ~~and 48.31C.070~~) Documents, materials, or information obtained by the
11 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,
12 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
13 confidential and privileged;

14 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
15 7.70.140 that, alone or in combination with any other data, may reveal
16 the identity of a claimant, health care provider, health care facility,
17 insuring entity, or self-insurer involved in a particular claim or a
18 collection of claims. For the purposes of this subsection:

19 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
20 (b) "Health care facility" has the same meaning as in RCW
21 48.140.010(6).
22 (c) "Health care provider" has the same meaning as in RCW
23 48.140.010(7).
24 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
25 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

26 (11) Documents, materials, or information obtained by the insurance
27 commissioner under RCW 48.135.060;

28 (12) Documents, materials, or information obtained by the insurance
29 commissioner under RCW 48.37.060;

30 (13) Confidential and privileged documents obtained or produced by
31 the insurance commissioner and identified in RCW 48.37.080;

32 (14) Documents, materials, or information obtained by the insurance
33 commissioner under RCW 48.37.140;

34 (15) Documents, materials, or information obtained by the insurance
35 commissioner under RCW 48.17.595;

36 (16) Documents, materials, or information obtained by the insurance
37 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

1 (17) Documents, materials, or information obtained by the insurance
2 commissioner in the commissioner's capacity as receiver under RCW
3 48.31.025 and 48.99.017, which are records under the jurisdiction and
4 control of the receivership court. The commissioner is not required to
5 search for, log, produce, or otherwise comply with the public records
6 act for any records that the commissioner obtains under chapters 48.31
7 and 48.99 RCW in the commissioner's capacity as a receiver, except as
8 directed by the receivership court;

9 (18) Documents, materials, or information obtained by the insurance
10 commissioner under RCW 48.13.151;

11 (19) Data, information, and documents provided by a carrier
12 pursuant to section 1, chapter 172, Laws of 2010;

13 (20) Information in a filing of usage-based insurance about the
14 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

15 (21) Data, information, and documents, other than those described
16 in RCW 48.02.210(2), that are submitted to the office of the insurance
17 commissioner by an entity providing health care coverage pursuant to
18 RCW 28A.400.275 and 48.02.210; (~~and~~)

19 (22) Data, information, and documents obtained by the insurance
20 commissioner under RCW 48.29.017; and

21 (23) Documents, materials, or information obtained by the insurance
22 commissioner under chapter 48.-- RCW (the new chapter created in
23 section 36 of this act).

24 **Sec. 33.** RCW 48.15.050 and 1947 c 79 s .15.05 are each amended to
25 read as follows:

26 Every insurance contract procured and delivered as a surplus line
27 coverage pursuant to this chapter (~~shall~~) must have stamped upon it
28 and be initialed by or bear the name of the surplus line broker who
29 procured it, the following:

30 "This contract is registered and delivered as a surplus line
31 coverage under the insurance code of the state of Washington, (~~enacted~~
32 ~~in 1947~~) Title 48 RCW."

33 **Sec. 34.** RCW 48.15.120 and 2011 c 31 s 8 are each amended to read
34 as follows:

35 (1) On or before the first day of March of each year each surplus
36 line broker must remit to the state treasurer through the commissioner

1 a tax on the premiums, exclusive of sums collected to cover federal and
2 state taxes and examination fees, on surplus line insurance subject to
3 tax transacted by him or her during the preceding calendar year as
4 shown by his or her annual statement filed with the commissioner, and
5 at the same rate as is applicable to the premiums of authorized foreign
6 insurers under this code. The tax when collected must be credited to
7 the general fund.

8 (2) For property and casualty insurance other than industrial
9 insurance under Title 51 RCW, ((if)) when this state is the insured's
10 home state:

11 (a) If the surplus line insurance covers risks or exposures located
12 inside the United States, its territories, or both, the tax so payable
13 must be computed upon the entire premium under subsection (1) of this
14 section, without regard to whether the policy covers risks or exposures
15 that are located in this state; and

16 (b) If the surplus line insurance covers risks or exposures located
17 outside of the United States and its territories, no tax under
18 subsection (1) of this section is due or payable for the premium
19 properly allocable to the risks and exposures located outside the
20 United States and its territories.

21 (3) For all other lines of insurance, if a surplus line policy
22 covers risks or exposures only partially in this state, the tax so
23 payable must be computed upon the proportion of the premium that is
24 properly allocable to the risks or exposures located in this state.

25 NEW SECTION. Sec. 35. SEVERABILITY. If any provision of this act
26 or its application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. Sec. 36. Sections 22 through 30 and 37 of this act
30 constitute a new chapter in Title 48 RCW.

31 NEW SECTION. Sec. 37. SHORT TITLE. This chapter may be known and
32 cited as the risk management and solvency assessment act.

33 NEW SECTION. Sec. 38. EFFECTIVE DATE. Except for sections 14 and

1 32 of this act, which take effect July 1, 2017, this act takes effect
2 January 1, 2015.

3 NEW SECTION. **Sec. 39.** Sections 13 and 31 of this act expire July
4 1, 2017."

SHB 2461 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

NOT ADOPTED 03/07/2014

5 On page 1, line 1 of the title, after "companies;" strike the
6 remainder of the title and insert "amending RCW 48.31B.005, 48.31B.010,
7 48.31B.015, 48.31B.020, 48.31B.025, 48.31B.030, 48.31B.035, 48.31B.040,
8 48.31B.050, 48.31B.070, 42.56.400, 48.02.065, 48.13.061, 48.97.005,
9 48.125.140, 48.155.010, 48.155.015, 42.56.400, 48.15.050, and
10 48.15.120; reenacting and amending RCW 42.56.400 and 42.56.400; adding
11 new sections to chapter 48.31B RCW; adding a new chapter to Title 48
12 RCW; repealing RCW 48.31C.010, 48.31C.020, 48.31C.030, 48.31C.040,
13 48.31C.050, 48.31C.060, 48.31C.070, 48.31C.080, 48.31C.090, 48.31C.100,
14 48.31C.110, 48.31C.120, 48.31C.130, 48.31C.140, 48.31C.150, 48.31C.160,
15 48.31C.900, and 48.31C.901; prescribing penalties; providing effective
16 dates; and providing an expiration date."

EFFECT: Ensures that a confidential and privileged record receives the same confidentiality treatment under the insurance code and public records act regardless of the statutory mechanism used by the Office of the Insurance Commissioner to request or receive such information.

--- END ---