
SUBSTITUTE SENATE BILL 6391

State of Washington

63rd Legislature

2014 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Fain and Mullet; by request of Insurance Commissioner)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to the financial solvency of insurance companies;
2 amending RCW 48.31B.005, 48.31B.010, 48.31B.015, 48.31B.020,
3 48.31B.025, 48.31B.030, 48.31B.035, 48.31B.040, 48.31B.050, 48.31B.070,
4 42.56.400, 48.02.065, 48.13.061, 48.97.005, 48.125.140, 48.155.010,
5 48.155.015, and 42.56.400; reenacting and amending RCW 42.56.400 and
6 42.56.400; adding new sections to chapter 48.31B RCW; adding a new
7 chapter to Title 48 RCW; repealing RCW 48.31C.010, 48.31C.020,
8 48.31C.030, 48.31C.040, 48.31C.050, 48.31C.060, 48.31C.070, 48.31C.080,
9 48.31C.090, 48.31C.100, 48.31C.110, 48.31C.120, 48.31C.130, 48.31C.140,
10 48.31C.150, 48.31C.160, 48.31C.900, and 48.31C.901; prescribing
11 penalties; providing effective dates; and providing an expiration date.

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

13 **Sec. 1.** RCW 48.31B.005 and 1993 c 462 s 2 are each amended to read
14 as follows:

15 (~~As used in this chapter, the following terms have the meanings~~
16 ~~set forth in this section, unless the context requires otherwise.)) The
17 definitions in this section apply throughout this chapter unless the
18 context clearly requires otherwise.~~

1 (1) (~~An~~) "Affiliate" means an affiliate of, or person
2 (~~is~~) affiliated(~~is~~) with, a specific person, (~~is~~) and includes a
3 person (~~who~~) that directly, or indirectly through one or more
4 intermediaries, controls, or is controlled by, or is under common
5 control with, the person specified.

6 (2) (~~The term~~) "Commissioner" means the insurance commissioner,
7 the commissioner's deputies, or the office of the insurance
8 commissioner, as appropriate.

9 (3) "Control" means as follow:

10 (a) For a for-profit person, "control," including the terms "con-
11 trolling," "controlled by," and "under common control with," means the
12 possession, direct or indirect, of the power to direct or cause the
13 direction of the management and policies of a person, whether through
14 the ownership of voting securities, by contract other than a commercial
15 contract for goods or nonmanagement services, or otherwise, unless the
16 power is the result of an official position with or corporate office
17 held by the person. Control is presumed to exist if (~~a~~) any person,
18 directly or indirectly, owns, controls, holds with the power to vote,
19 or holds proxies representing, ten percent or more of the voting
20 securities of any other person. This presumption may be rebutted by a
21 showing made in a manner similar to that provided by RCW 48.31B.025(11)
22 that control does not exist in fact. The commissioner may determine,
23 after furnishing all persons in interest notice and opportunity to be
24 heard and making specific findings of fact to support such
25 determination, that control exists in fact, notwithstanding the absence
26 of a presumption to that effect.

27 (~~(3) An~~) (b) For a nonprofit corporation organized under chapters
28 24.03 and 24.06 RCW, control exists if a person, directly or
29 indirectly, owns, controls, holds with the power to vote, or holds
30 proxies representing a majority of voting rights of the person or the
31 power to elect or appoint a majority of the board of directors,
32 trustees, or other governing body of the person, unless the power is
33 the result of an official position of, or corporate office held by, the
34 person; and

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

36 (4) "Enterprise risk" means any activity, circumstance, event, or
37 series of events involving one or more affiliates of an insurer that,
38 if not remedied promptly, is likely to have a material adverse effect

1 upon the financial condition or liquidity of the insurer or its
2 insurance holding company system as a whole including, but not limited
3 to, anything that would cause the insurer's risk-based capital to fall
4 into company action level as set forth in RCW 48.05.440 or 48.43.310 or
5 would cause the insurer to be in hazardous financial condition as
6 defined in WAC 284-16-310.

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

9 ~~((4) The term)~~ (6) "Insurer" ~~((has the same meaning as set forth~~
10 ~~in RCW 48.01.050;))~~ includes an insurer authorized under chapter 48.05
11 RCW, a fraternal mutual insurer or society holding a license under RCW
12 48.36A.290, a health care service contractor registered under chapter
13 48.44 RCW, a health maintenance organization registered under chapter
14 48.46 RCW, and a self-funded multiple employer welfare arrangement
15 under chapter 48.125 RCW, as well as all persons engaged as, or
16 purporting to be engaged as insurers, fraternal benefit societies,
17 health care service contractors, health maintenance organizations, or
18 self-funded multiple employer welfare arrangements in this state, and
19 to persons in process of organization to become insurers, fraternal
20 benefit societies, health care service contractors, health maintenance
21 organizations, or self-funded multiple employer welfare arrangements,
22 except it does not include agencies, authorities, or instrumentalities
23 of the United States, its possessions and territories, the commonwealth
24 of Puerto Rico, the District of Columbia, or a state or political
25 subdivision of a state.

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

32 ~~((6) A)~~ (8) "Securityholder" means a securityholder of a
33 specified person ((is one)) who owns ((a)) any security of that person,
34 including common stock, preferred stock, debt obligations, and any
35 other security convertible into or evidencing the right to acquire any
36 of the foregoing.

37 ~~((7) A)~~ (9) "Subsidiary" means a subsidiary of a specified person

1 who is an affiliate controlled by that person directly or indirectly
2 through one or more intermediaries.

3 ~~((8) The term)~~ (10) "Supervisory colleges" means a forum for
4 cooperation and communication among involved regulators and
5 international supervisors facilitating the effectiveness of supervision
6 of entities which belong to an insurance group and supervision of the
7 group as a whole on a group-wide basis and improving the legal entity
8 supervision of the entities within the insurance group.

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

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

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

18 (2) If an insurer ceases to control a subsidiary, it shall dispose
19 of any investment in the subsidiary within three years from the time of
20 the cessation of control or within such further time as the
21 commissioner may prescribe, unless at any time after the investment
22 ((has been)) was made, the investment ((meets)) met the requirements
23 for investment under any other section of this title, and the insurer
24 has notified the commissioner thereof.

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

27 (1)(a) No person other than the issuer may make a tender offer for
28 or a request or invitation for tenders of, or enter into an agreement
29 to exchange securities of, seek to acquire, or acquire, in the open
30 market or otherwise, voting security of a domestic insurer if, after
31 the consummation thereof, the person would, directly or indirectly, or
32 by conversion or by exercise of a right to acquire, be in control of
33 the insurer((-)) and no person may enter into an agreement to merge
34 with or otherwise to acquire control of a domestic insurer or any
35 person controlling a domestic insurer unless, at the time the offer,
36 request, or invitation is made or the agreement is entered into, or

1 ((before)) prior to the acquisition of the securities if no offer or
2 agreement is involved, the person has filed with the commissioner and
3 has sent to the insurer, a statement containing the information
4 required by this section and the offer, request, invitation, agreement,
5 or acquisition has been approved by the commissioner as prescribed in
6 this ((section)) chapter.

7 (b) For purposes of this section, any controlling person of a
8 domestic insurer seeking to divest its controlling interest in the
9 domestic insurer, in any manner, must file with the commissioner, with
10 a copy to the insurer, notice of its proposed divestiture at least
11 thirty days prior to the cessation of control. If the statement
12 referred to in (a) of this subsection is otherwise filed, this
13 subsection does not apply.

14 (c) With respect to a transaction subject to this section, the
15 acquiring person must also file a preacquisition notification with the
16 commissioner, which must contain the information set forth in RCW
17 48.31B.020(3)(a). A failure to file the notification may be subject to
18 penalties specified in RCW 48.31B.020(5)(c).

19 (d) For purposes of this section a domestic insurer includes a
20 person controlling a domestic insurer unless the person, as determined
21 by the commissioner, is either directly or through its affiliates
22 primarily engaged in business other than the business of insurance.
23 ~~((However, the person shall file a preacquisition notification with the~~
24 ~~commissioner containing the information set forth in RCW~~
25 ~~48.31B.020(3)(a) sixty days before the proposed effective date of the~~
26 ~~acquisition. Persons who fail to file the required preacquisition~~
27 ~~notification with the commissioner are subject to the penalties in RCW~~
28 ~~48.31B.020(5)(c).))~~ For the purposes of this section, "person" does
29 not include ((a)) any securities broker holding, in usual and customary
30 broker's function, less than twenty percent of the voting securities of
31 an insurance company or of ((a)) any person who controls an insurance
32 company.

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

36 (a) The name and address of each person by whom or on whose behalf
37 the merger or other acquisition of control referred to in subsection

1 (1) of this section is to be effected, (~~hereinafter called~~) and
2 referred to in this section as the acquiring party(~~(-))~~) and:

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

7 (ii) If that person is not an individual, a report of the nature of
8 its business operations during the past five years or for such lesser
9 period as the person and any predecessors have been in existence; an
10 informative description of the business intended to be done by the
11 person and the person's subsidiaries; any convictions of crimes during
12 the past ten years; and a list of all individuals who are or who have
13 been selected to become directors or executive officers of the person,
14 or who perform or will perform functions appropriate to those
15 positions. The list must include for each such individual the
16 information required by (a)(i) of this subsection(~~(-))~~);

17 (b) The source, nature, and amount of the consideration used or to
18 be used in effecting the merger or other acquisition of control, a
19 description of any transaction (~~in which~~) where funds were or are to
20 be obtained for any such purpose, including (~~(a))~~ any pledge of the
21 insurer's stock(~~(-))~~) or the stock of any of its subsidiaries or
22 controlling affiliates, and the identity of persons furnishing (~~(the))~~
23 consideration. However, (~~where~~) when a source of (~~(the))~~
24 consideration is a loan made in the lender's ordinary course of
25 business, the identity of the lender must remain confidential, if the
26 person filing the statement so requests(~~(-))~~);

27 (c) Fully audited financial information as to the earnings and
28 financial condition of each acquiring party for the preceding five
29 fiscal years of each acquiring party, or for such lesser period as the
30 acquiring party and any predecessors have been in existence, and
31 similar unaudited information as of a date not earlier than ninety days
32 (~~(before))~~ prior to the filing of the statement(~~(-))~~);

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

37 (e) The number of shares of any security referred to in subsection
38 (1) of this section (~~(that))~~ which each acquiring party proposes to

1 acquire, the terms of the offer, request, invitation, agreement, or
2 acquisition referred to in subsection (1) of this section, and a
3 statement as to the method by which the fairness of the proposal was
4 arrived at(~~(-)~~);

5 (f) The amount of each class of any security referred to in
6 subsection (1) of this section that is beneficially owned or concerning
7 which there is a right to acquire beneficial ownership by each
8 acquiring party(~~(-)~~);

9 (g) A full description of any contracts, arrangements, or
10 understandings with respect to any security referred to in subsection
11 (1) of this section in which an acquiring party is involved, including
12 but not limited to transfer of any of the securities, joint ventures,
13 loan or option arrangements, puts or calls, guarantees of loans,
14 guarantees against loss or guarantees of profits, division of losses or
15 profits, or the giving or withholding of proxies. The description must
16 identify the persons with whom the contracts, arrangements, or
17 understandings have been entered into(~~(-)~~);

18 (h) A description of the purchase of any security referred to in
19 subsection (1) of this section during the twelve calendar months
20 (~~(before)~~) preceding the filing of the statement, by an acquiring
21 party, including the dates of purchase, names of the purchasers, and
22 consideration paid or agreed to be paid (~~(for the security.)~~);

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

28 (j) Copies of all tender offers for, requests or invitations for
29 tenders of, exchange offers for, and agreements to acquire or exchange
30 any securities referred to in subsection (1) of this section, and, if
31 distributed, of additional soliciting material relating to (~~(the~~
32 ~~securities.)~~) them;

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

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

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

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

13 (o) If the person required to file the statement referred to in
14 subsection (1) of this section is a partnership, limited partnership,
15 syndicate, or other group, the commissioner may require that the
16 information called for by (a) through (~~(+)~~) (n) of this subsection
17 shall be given with respect to each partner of the partnership or
18 limited partnership, each member of the syndicate or group, and each
19 person who controls a partner or member. If (~~(a)~~) any partner, member,
20 or person is a corporation(~~(-)~~) or the person required to file the
21 statement referred to in subsection (1) of this section is a
22 corporation, the commissioner may require that the information called
23 for by (a) through (~~(+)~~) (n) of this subsection (~~(shall)~~) be given
24 with respect to the corporation, each officer and director of the
25 corporation, and each person who is directly or indirectly the
26 beneficial owner of more than ten percent of the outstanding voting
27 securities of the corporation(~~(-)~~);

28 (p) If (~~(a)~~) any material change occurs in the facts set forth in
29 the statement filed with the commissioner and sent to the insurer under
30 this section, an amendment setting forth the change, together with
31 copies of all documents and other material relevant to the change, must
32 be filed with the commissioner and sent to the insurer within two
33 business days after the person learns of the change.

34 (3) If (~~(an)~~) any offer, request, invitation, agreement, or
35 acquisition referred to in subsection (1) of this section is proposed
36 to be made by means of a registration statement under the securities
37 act of 1933 or in circumstances requiring the disclosure of similar
38 information under the securities exchange act of 1934, or under a state

1 law requiring similar registration or disclosure, the person required
2 to file the statement referred to in subsection (1) of this section may
3 (~~use those~~) utilize the documents in furnishing the information
4 called for by that statement.

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

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

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

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

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

22 (C) The commissioner may condition the approval of the merger or
23 other acquisition on the removal of the basis of disapproval within a
24 specified period of time;

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

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

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

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

1 (b) The commissioner shall approve an exchange or other acquisition
2 of control referred to in this section within sixty days after he or
3 she declares the statement filed under this section to be complete and
4 after holding a public hearing. At the hearing, the person filing the
5 statement, the insurer, and any person whose significant interest is
6 determined by the commissioner to be affected may present evidence,
7 examine and cross-examine witnesses, and offer oral and written
8 arguments and in connection therewith may conduct discovery proceedings
9 in the same manner as is allowed in the superior court of this state.
10 All discovery proceedings must be concluded not later than three days
11 before the commencement of the public hearing.

12 (c) If the proposed acquisition of control will require the
13 approval of more than one commissioner, the public hearing referred to
14 in (b) of this subsection may be held on a consolidated basis upon
15 request of the person filing the statement referred to in subsection
16 (1) of this section. Such person shall file the statement referred to
17 in subsection (1) of this section with the national association of
18 insurance commissioners within five days of making the request for a
19 public hearing. A commissioner may opt out of a consolidated hearing,
20 and shall provide notice to the applicant of the opt out within ten
21 days of the receipt of the statement referred to in subsection (1) of
22 this section. A hearing conducted on a consolidated basis shall be
23 public and shall be held within the United States before the
24 commissioners of the states in which the insurers are domiciled. Such
25 commissioners shall hear and receive evidence. A commissioner may
26 attend such hearing, in person, or by telecommunication.

27 (d) In connection with a change of control of a domestic insurer,
28 any determination by the commissioner that the person acquiring control
29 of the insurer shall be required to maintain or restore the capital of
30 the insurer to the level required by the laws and rules of this state
31 shall be made not later than sixty days after the date of notification
32 of the change in control submitted pursuant to subsection (1)(a) of
33 this section.

34 (e) The commissioner may retain at the acquiring person's expense
35 any attorneys, actuaries, accountants, and other experts not otherwise
36 a part of the commissioner's staff as may be reasonably necessary to
37 assist the commissioner in reviewing the proposed acquisition of
38 control. All reasonable costs of a hearing held under this section, as

1 determined by the commissioner, including costs associated with the
2 commissioner's use of investigatory, professional, and other necessary
3 personnel, mailing of required notices and other information, and use
4 of equipment or facilities, must be paid before issuance of the
5 commissioner's order by the acquiring person.

6 (5) This section does not apply to:

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

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

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

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

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

21 (7) The courts of this state ~~((have))~~ are hereby vested with
22 jurisdiction over every person not resident, domiciled, or authorized
23 to do business in this state who files a statement with the
24 commissioner under this section, and over all actions involving that
25 person arising out of violations of this section, and each such person
26 is deemed to have performed acts equivalent to and constituting an
27 appointment by that person of the commissioner to be the person's true
28 and lawful attorney upon whom may be served all lawful process in an
29 action, suit, or proceeding arising out of violations of this section.
30 Copies of all ~~((such))~~ lawful process ~~((shall))~~ must be served on the
31 commissioner and transmitted by registered or certified mail by the
32 commissioner to such person at the person's last known address.

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

35 (1) The following definitions ~~((in this subsection))~~ apply ~~((only))~~
36 for the purposes of this section~~((-))~~ only:

1 (a) "Acquisition" means ~~((an))~~ any agreement, arrangement, or
2 activity~~((r))~~ the consummation of which results in a person acquiring
3 directly or indirectly the control of another person, and includes but
4 is not limited to the acquisition of voting securities, the acquisition
5 of assets, bulk reinsurance, and mergers.

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

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

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

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

15 ~~((ii)))~~ A purchase of securities solely for investment purposes so
16 long as the securities are not used by voting or otherwise to cause or
17 attempt to cause the substantial lessening of competition in any
18 insurance market in this state. If a purchase of securities results in
19 a presumption of control under RCW 48.31B.005~~((+2))~~ (3), it is not
20 solely for investment purposes unless the commissioner of the insurer's
21 state of domicile accepts a disclaimer of control or affirmatively
22 finds that control does not exist and the disclaimer action or
23 affirmative finding is communicated by the domiciliary commissioner to
24 the commissioner of this state;

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

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

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

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

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

1 (C) In no market would the:

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

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

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

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

13 ~~((+vii))~~ (vi) An acquisition of an insurer whose domiciliary
14 commissioner affirmatively finds~~((+))~~ that the insurer is in failing
15 condition~~((+))~~ and there is a lack of feasible alternative to improving
16 such condition~~((+))~~ and the public benefits of improving the insurer's
17 condition through the acquisition exceed the public benefits that would
18 arise from not lessening competition; and the findings are communicated
19 by the domiciliary commissioner to the commissioner of this state.

20 (3) An acquisition covered by subsection (2) of this section may be
21 subject to an order under subsection (5) of this section unless the
22 acquiring person files a preacquisition notification and the waiting
23 period has expired. The acquired person may file a preacquisition
24 notification.

25 (a) The preacquisition notification must be in such form and
26 contain such information as prescribed by the national association of
27 insurance commissioners relating to those markets that, under
28 subsection (2)(b)~~((+v))~~ (iv) of this section, cause the acquisition
29 not to be exempted from this section. The commissioner may require
30 such additional material and information as he or she deems necessary
31 to determine whether the proposed acquisition, if consummated, would
32 violate the competitive standard of subsection (4) of this section.
33 The required information may include an opinion of an economist as to
34 the competitive impact of the acquisition in this state accompanied by
35 a summary of the education and experience of the person indicating his
36 or her ability to render an informed opinion.

37 (b) The waiting period required begins on the date the commissioner
38 declares the preacquisition notification to be complete and ends on the

1 earlier of the sixtieth day after the date of the declaration or the
 2 termination of the waiting period by the commissioner. ((Before))
 3 Prior to the end of the waiting period, the commissioner on a one-time
 4 basis may require the submission of additional needed information
 5 relevant to the proposed acquisition(~~(. If additional information is~~
 6 ~~required))~~, in which event the waiting period ends on the earlier of
 7 the sixtieth day after ~~((the commissioner declares he or she has~~
 8 ~~received))~~ receipt of the additional information by the commissioner or
 9 the termination of the waiting period by the commissioner.

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

16 (b) In determining whether a proposed acquisition would violate the
 17 competitive standard of (a) of this subsection, the commissioner shall
 18 consider the following:

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

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

24	Insurer A	Insurer B
25	4%	4% or more
26	10%	2% or more
27	15%	1% or more; or

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

30	Insurer A	Insurer B
31	5%	5% or more
32	10%	4% or more

1	15%	3% or more
2	19%	1% or more

3 A highly concentrated market is one in which the share of the four
4 largest insurers is seventy-five percent or more of the market.
5 Percentages not shown in the tables are interpolated proportionately to
6 the percentages that are shown. If more than two insurers are
7 involved, exceeding the total of the two columns in the table is prima
8 facie evidence of violation of the competitive standard in (a) of this
9 subsection. For the purpose of this subsection (4)(b)(i) (~~of this~~
10 ~~subsection~~)), the insurer with the largest share of the market is
11 Insurer A.

12 (ii) There is a significant trend toward increased concentration
13 when the aggregate market share of a grouping of the largest insurers
14 in the market, from the two largest to the eight largest, has increased
15 by seven percent or more of the market over a period of time extending
16 from a base year five to ten years before the acquisition up to the
17 time of the acquisition. An acquisition or merger covered under
18 subsection (2) of this section involving two or more insurers competing
19 in the same market is prima facie evidence of violation of the
20 competitive standard in (a) of this subsection if:

21 (A) There is a significant trend toward increased concentration in
22 the market;

23 (B) One of the insurers involved is one of the insurers in a
24 grouping of such large insurers showing the requisite increase in the
25 market share; and

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

27 (iii) For the purposes of this subsection (4)(b) (~~of this~~
28 ~~subsection~~):

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

31 (B) (~~The term~~) "Market" means the relevant product and
32 geographical markets. In determining the relevant product and
33 geographical markets, the commissioner shall give due consideration to,
34 among other things, the definitions or guidelines, if any, adopted by
35 the National Association of Insurance Commissioners and to information,
36 if any, submitted by parties to the acquisition. In the absence of
37 sufficient information to the contrary, the relevant product market is

1 assumed to be the direct written insurance premium for a line of
2 business, such line being that used in the annual statement required to
3 be filed by insurers doing business in this state, and the relevant
4 geographical market is assumed to be this state;

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

7 (iv) Even though an acquisition is not prima facie violative of the
8 competitive standard under (b)(i) and (ii) of this subsection, the
9 commissioner may establish the requisite anticompetitive effect based
10 upon other substantial evidence. Even though an acquisition is prima
11 facie violative of the competitive standard under (b)(i) and (ii) of
12 this subsection, a party may establish the absence of the requisite
13 anticompetitive effect based upon other substantial evidence. Relevant
14 factors in making a determination under (~~(b)(iv) of~~) this subsection
15 include, but are not limited to, the following: Market shares,
16 volatility of ranking of market leaders, number of competitors,
17 concentration, trend of concentration in the industry, and ease of
18 entry and exit into the market.

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

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

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

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

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

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

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

37 (A) There is a hearing;

1 (B) Notice of the hearing is issued (~~before~~) prior to the end of
2 the waiting period and not less than fifteen days (~~before~~) prior to
3 the hearing; and

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

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

10 (~~(iii)~~) (iv) An order entered under this subsection (5)(a) (~~of~~
11 ~~this subsection~~) may not become final earlier than thirty days after
12 it is issued, during which time the involved insurer may submit a plan
13 to remedy the anticompetitive impact of the acquisition within a
14 reasonable time. Based upon the plan or other information, the
15 commissioner shall specify the conditions, if any, under the time
16 period during which the aspects of the acquisition causing a violation
17 of the standards of this section would be remedied and the order
18 vacated or modified.

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

21 (b) (~~(A)~~) Any person who violates a cease and desist order of the
22 commissioner under (a) of this subsection and while the order is in
23 effect, may, after notice and hearing and upon order of the
24 commissioner, be subject at the discretion of the commissioner to one
25 or more of the following:

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

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

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

30 (c) (~~(A)~~) Any insurer or other person who fails to make a filing
31 required by this section, and who also fails to demonstrate a good
32 faith effort to comply with the filing requirement, is subject to a
33 civil penalty of not more than fifty thousand dollars.

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

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

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

7 (a) This section;

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

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

14 (~~An~~) Any insurer which is subject to registration under this
15 section shall register within fifteen days after it becomes subject to
16 registration, and annually thereafter by (~~May 15th~~) April 30th of
17 each year for the previous calendar year, unless the commissioner for
18 good cause shown extends the time for registration, and then within the
19 extended time. The commissioner may require (~~an~~) any insurer
20 authorized to do business in the state that is a member of a holding
21 company system, (~~but that~~) and which is not subject to registration
22 under this section, to furnish a copy of the registration statement,
23 the summary specified in subsection (3) of this section, or other
24 information filed by the insurance company with the insurance
25 regulatory authority of its domiciliary jurisdiction.

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

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

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

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

37 (i) Loans, other investments, or purchases, sales, or exchanges of

1 securities of the affiliates by the insurer or of the insurer by its
2 affiliates;

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

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

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

9 (v) All management agreements, service contracts, and cost-sharing
10 arrangements;

11 (vi) Reinsurance agreements;

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

13 (viii) Consolidated tax allocation agreements;

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

17 (e) If requested by the commissioner, the insurer must include
18 financial statements of or within an insurance holding company system,
19 including all affiliates. Financial statements may include but are not
20 limited to annual audited financial statements filed with the United
21 States securities and exchange commission pursuant to the securities
22 act of 1933, as amended, or the securities exchange act of 1934, as
23 amended. An insurer required to file financial statements pursuant to
24 this subsection (2)(e) may satisfy the request by providing the
25 commissioner with the most recently filed parent corporation financial
26 statements that have been filed with the United States securities and
27 exchange commission;

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

31 (g) Statements that the insurer's board of directors oversees
32 corporate governance and internal controls and that the insurer's
33 officers or senior management have approved, implemented, and continue
34 to maintain and monitor corporate governance and internal control
35 procedures; and

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

37 (3) All registration statements must contain a summary outlining

1 all items in the current registration statement representing changes
2 from the prior registration statement.

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

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

16 (b) If the commissioner determines that a registered insurer's
17 surplus as regards policyholders is not reasonable in relation to the
18 insurer's outstanding liabilities and adequate to its financial needs,
19 the commissioner may order the registered insurance company to limit or
20 discontinue the payment of stockholder dividends until such time as the
21 surplus is adequate.

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

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

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

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

37 (10) This section does not apply to an insurer, information, or

1 transaction if and to the extent that the commissioner by rule or order
2 exempts the insurer, information, or transaction from this section.

3 (11) ((A)) Any person may file with the commissioner a disclaimer
4 of affiliation with ((an)) any authorized insurer, or ((an)) any
5 insurer or ((a)) any member of ((an)) any insurance holding company
6 system may file the disclaimer. The person making such a filing with
7 the commissioner shall at the same time deliver a complete copy of the
8 filing to each domestic insurer which is the subject of such filing.
9 The disclaimer must fully disclose all material relationships and bases
10 for affiliation between the person and the insurer as well as the basis
11 for disclaiming the affiliation. ~~((After a disclaimer has been filed,~~
12 ~~the insurer is relieved of any duty to register or report under this~~
13 ~~section that may arise out of the insurer's relationship with the~~
14 ~~person unless and until the commissioner disallows the disclaimer. The~~
15 ~~commissioner shall disallow the disclaimer only after furnishing all~~
16 ~~parties in interest with notice and opportunity to be heard and after~~
17 ~~making specific findings of fact to support the disallowance.~~

18 ~~((12))~~ A disclaimer of affiliation is deemed to have been granted
19 unless the commissioner, within thirty days following receipt of a
20 complete disclaimer, notifies the filing party the disclaimer is
21 disallowed. In the event of disallowance, the disclaiming party may
22 request an administrative hearing, which shall be granted. The
23 disclaiming party is relieved of its duty to register under this
24 section if approval of the disclaimer has been granted by the
25 commissioner, or if the disclaimer is deemed to have been approved.

26 (12) The ultimate controlling person of every insurer subject to
27 registration shall also file an annual enterprise risk report. The
28 report must, to the best of the ultimate controlling person's knowledge
29 and belief, identify the material risks within the insurance holding
30 company system that could pose enterprise risk to the insurer. The
31 report must be filed with the lead state commissioner of the insurance
32 holding company system as determined by the procedures within the
33 financial analysis handbook adopted by the national association of
34 insurance commissioners.

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

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

3 (1)(a) Transactions within ~~((a))~~ an insurance holding company
4 system to which an insurer subject to registration is a party are
5 subject to the following standards:

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

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

9 (iii) Charges or fees for services performed must be fair and
10 reasonable;

11 ~~((+iii))~~ (iv) Expenses incurred and payment received must be
12 allocated to the insurer in conformity with customary insurance
13 accounting practices consistently applied;

14 ~~((+iv))~~ (v) The books, accounts, and records of each party to all
15 such transactions must be so maintained as to clearly and accurately
16 disclose the nature and details of the transactions~~((r))~~ including such
17 accounting information as is necessary to support the reasonableness of
18 the charges or fees to the respective parties; and

19 ~~((+v))~~ (vi) The insurer's surplus regarding policyholders
20 ~~((after))~~ following any dividends or distributions to shareholders or
21 affiliates must be reasonable in relation to the insurer's outstanding
22 liabilities and adequate to its financial needs.

23 (b) The following transactions involving a domestic insurer and a
24 person in its insurance holding company system, including amendments or
25 modifications of affiliate agreements previously filed pursuant to this
26 section, which are subject to the materiality standards contained in
27 this subsection, may not be entered into unless the insurer has
28 notified the commissioner in writing of its intention to enter into the
29 transaction and the commissioner declares the notice to be sufficient
30 at least sixty days before, or such shorter period as the commissioner
31 may permit, and the commissioner has not disapproved it within that
32 period. The notice for amendments or modifications must include the
33 reasons for the change and the financial impact on the domestic
34 insurer. Informal notice must be reported, within thirty days after a
35 termination of a previously filed agreement, to the commissioner for
36 determination of the type of filing required, if any:

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

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

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

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

12 (ii) Loans or extensions of credit to any person who is not an
13 affiliate, where the insurer makes the loans or extensions of credit
14 with the agreement or understanding that the proceeds of the
15 transactions, in whole or in substantial part, are to be used to make
16 loans or extensions of credit to, to purchase assets of, or to make
17 investments in, an affiliate of the insurer making the loans or
18 extensions of credit 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 (iii) Reinsurance agreements or modifications (~~(to them)~~) thereto,
31 including:

32 (A) All reinsurance pooling agreements;

33 (B) Agreements in which the reinsurance premium or a change in the
34 insurer's liabilities, or the projected reinsurance premium or a change
35 in the insurer's liabilities in any of the next three years, equals or
36 exceeds five percent of the insurer's surplus as regards policyholders,
37 as of (~~(the 31st day of the previous)~~) December 31st next preceding,
38 including those agreements that may require as consideration the

1 transfer of assets from an insurer to a nonaffiliate, if an agreement
2 or understanding exists between the insurer and nonaffiliate that any
3 portion of the assets will be transferred to one or more affiliates of
4 the insurer;

5 (iv) All management agreements, service contracts, tax allocation
6 agreements, guarantees, and all cost-sharing arrangements; ((and))

7 (v) Guarantees when made by a domestic insurer. However, a
8 guarantee which is quantifiable as to amount is not subject to the
9 notice requirements of this subsection (1)(b)(v) unless it exceeds the
10 lesser of one-half of one percent of the insurer's admitted assets or
11 ten percent of surplus as regards policyholders as of December 31st
12 next preceding. Further, all guarantees which are not quantifiable as
13 to amount are subject to the notice requirements of this subsection
14 (1)(b)(v);

15 (vi) Direct or indirect acquisitions or investments in a person
16 that controls the insurer or in an affiliate of the insurer in an
17 amount which, together with its present holdings in such investments,
18 exceeds two and one-half percent of the insurer's surplus to
19 policyholders. Direct or indirect acquisitions or investments in
20 subsidiaries acquired or authorized pursuant to chapter 48.13 RCW, or
21 in nonsubsidiary insurance affiliates that are subject to this chapter,
22 are exempt from this requirement; and

23 (vii) Any material transactions, specified by rule, ((that)) which
24 the commissioner determines may adversely affect the interests of the
25 insurer's policyholders.

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

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

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

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

9 (2)(a) ~~((No))~~ A domestic insurer may not pay an extraordinary
10 dividend or make any other extraordinary distribution to its
11 shareholders until~~((+---(i)))~~ thirty days after the commissioner
12 declares that he or she has received sufficient notice of the
13 declaration thereof and has not within that period disapproved the
14 payment~~((+))~~, or ~~((+ii))~~ until the commissioner has approved the
15 payment within the thirty-day period.

16 (b) For purposes of this section, an extraordinary dividend or
17 distribution is ~~((a))~~ any dividend or distribution of cash or other
18 property, whose fair market value~~((r))~~ together with that of other
19 dividends or distributions made within the ~~((period of))~~ preceding
20 twelve ~~((consecutive))~~ months ~~((ending on the date on which the~~
21 ~~proposed dividend is scheduled for payment or distribution,))~~ exceeds
22 the greater of:

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

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

32 (c) Notwithstanding any other provision of law, an insurer may
33 declare an extraordinary dividend or distribution that is conditional
34 upon the commissioner's approval. The declaration confers no rights
35 upon shareholders until: (i) The commissioner has approved the payment
36 of the dividend or distribution; or (ii) the commissioner has not
37 disapproved the payment within the thirty-day period referred to in (a)
38 of this subsection.

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

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

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

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

11 (d) The extent of the geographical dispersion of the insurer's
12 insured risks;

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

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

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

18 (h) The surplus as regards policyholders maintained by other
19 comparable insurers;

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

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

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

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

33 (b) This section does not preclude a domestic insurer from having
34 or sharing a common management or cooperative or joint use of
35 personnel, property, or services with one or more other persons under
36 arrangements meeting the standards of subsection (1)(a) of this
37 section.

1 (c) At least one-third of a domestic insurer's directors and at
2 least one-third of the members of each committee of the insurer's board
3 of directors must be persons who are not: (i) Officers or employees of
4 the insurer or of any entity that controls, is controlled by, or is
5 under common control with the insurer; or (ii) beneficial owners of a
6 controlling interest in the voting securities of the insurer or of an
7 entity that controls, is controlled by, or is under common control with
8 the insurer. A quorum for transacting business at a meeting of the
9 insurer's board of directors or any committee of the board of directors
10 must include at least one person with the qualifications described in
11 (a) of this subsection.

12 (d)(i) For a for-profit person, the board of directors of a
13 domestic insurer shall establish one or more committees comprised
14 solely of directors who are not officers or employees of the insurer or
15 of any entity controlling, controlled by, or under common control with
16 the insurer and who are not beneficial owners of a controlling interest
17 in the voting stock of the insurer or any such entity. The committee
18 or committees have responsibility for nominating candidates for
19 director for election by shareholders or policyholders, evaluating the
20 performance of officers deemed to be principal officers of the insurer,
21 and recommending to the board of directors the selection and
22 compensation of the principal officers.

23 (ii) For a nonprofit person, the board of directors of a domestic
24 insurer shall establish one or more committees comprised solely of
25 directors who are not officers or employees of the insurer or of any
26 entity controlling, controlled by, or under common control with the
27 insurer. The committee or committees have responsibility for
28 nominating candidates for director for election, evaluating the
29 performance of officers deemed to be principal officers of the insurer,
30 and recommending to the board of directors the selection and
31 compensation of the principal officers.

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

36 (f) An insurer may make application to the commissioner for a
37 waiver from the requirements of this subsection, if the insurer's
38 annual direct written and assumed premium, excluding premiums reinsured

1 with the federal crop insurance corporation and federal flood program,
2 is less than three hundred million dollars. An insurer may also make
3 application to the commissioner for a waiver from the requirements of
4 this subsection based upon unique circumstances. The commissioner may
5 consider various factors including, but not limited to, the type of
6 business entity, volume of business written, availability of qualified
7 board members, or the ownership or organizational structure of the
8 entity.

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

11 (1) Subject to the limitation contained in this section and in
12 addition to the powers that the commissioner has under chapter 48.03
13 RCW relating to the examination of insurers, the commissioner (~~also~~
14 ~~may order an insurer registered under RCW 48.31B.025 to produce such~~
15 ~~records, books, or other information papers in the possession of the~~
16 ~~insurer or its affiliates as are reasonably necessary to ascertain the~~
17 ~~financial condition of the insurer or to determine compliance with this~~
18 ~~title. If the insurer fails to comply with the order, the commissioner~~
19 ~~may examine the affiliates to obtain the information~~) has the power to
20 examine any insurer registered under RCW 48.31B.025 and its affiliates
21 to ascertain the financial condition of the insurer, including the
22 enterprise risk to the insurer by the ultimate controlling party, or by
23 any entity or combination of entities within the insurance holding
24 company system, or by the insurance holding company system on a
25 consolidated basis.

26 (2)(a) The commissioner may order any insurer registered under RCW
27 48.31B.025 to produce such records, books, or other information papers
28 in the possession of the insurer or its affiliates as are reasonably
29 necessary to determine compliance with this title.

30 (b) To determine compliance with this title, the commissioner may
31 order any insurer registered under RCW 48.31B.025 to produce
32 information not in the possession of the insurer if the insurer can
33 obtain access to such information pursuant to contractual
34 relationships, statutory obligations, or other method. In the event
35 the insurer cannot obtain the information requested by the
36 commissioner, the insurer shall provide the commissioner a detailed
37 explanation of the reason that the insurer cannot obtain the

1 information and the identity of the holder of information. Whenever it
2 appears to the commissioner that the detailed explanation is without
3 merit, the commissioner may require, after notice and hearing, the
4 insurer to pay a fine of ten thousand dollars for each day's delay, or
5 may suspend or revoke the insurer's license. The commissioner shall
6 transfer the fine collected under this section to the state treasurer
7 for deposit into the general fund.

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

14 ~~((+3))~~ (4) Notwithstanding the provisions under RCW 48.03.060,
15 each registered insurer producing for examination records, books, and
16 papers under subsection (1) of this section ~~((are))~~ is liable for and
17 ~~((shall))~~ must pay the expense of the examination ~~((in accordance with~~
18 RCW 48.03.060)).

19 (5) In the event the insurer fails to comply with an order, the
20 commissioner has the power to examine the affiliates to obtain the
21 information. The commissioner also has the power to issue subpoenas,
22 to administer oaths, and to examine under oath any person for purposes
23 of determining compliance with this section. Upon the failure or
24 refusal of any person to obey a subpoena, the commissioner may petition
25 a court of competent jurisdiction, and upon proper showing, the court
26 may enter an order compelling the witness to appear and testify or
27 produce documentary evidence. Failure to obey the court order is
28 punishable as contempt of court. Every person is required to attend as
29 a witness at the place specified in the subpoena, when subpoenaed,
30 anywhere within the state. Every person is entitled to the same fees
31 and mileage, if claimed, as a witness as provided in RCW 48.03.070.

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

34 (1) With respect to any insurer registered under RCW 48.31B.025,
35 and in accordance with subsection (3) of this section, the commissioner
36 has the power to participate in a supervisory college for any domestic
37 insurer that is part of an insurance holding company system with

1 international operations in order to determine compliance by the
2 insurer with this title. The powers of the commissioner with respect
3 to supervisory colleges include, but are not limited to, the following:

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

5 (b) Clarifying the membership and participation of other
6 supervisors in the supervisory college;

7 (c) Clarifying the functions of the supervisory college and the
8 role of other regulators, including the establishment of a group-wide
9 supervisor;

10 (d) Coordinating the ongoing activities of the supervisory college,
11 including planning meetings, supervisory activities, and processes for
12 information sharing; and

13 (e) Establishing a crisis management plan.

14 (2) Each registered insurer subject to this section is liable for
15 and must pay the reasonable expenses of the commissioner's
16 participation in a supervisory college in accordance with subsection
17 (3) of this section, including reasonable travel expenses. For
18 purposes of this section, a supervisory college may be convened as
19 either a temporary or permanent forum for communication and cooperation
20 between the regulators charged with the supervision of the insurer or
21 its affiliates, and the commissioner may establish a regular assessment
22 to the insurer for the payment of these expenses.

23 (3) In order to assess the business strategy, financial position,
24 legal and regulatory position, risk exposure, risk management, and
25 governance processes, and as part of the examination of individual
26 insurers in accordance with RCW 48.31B.035, the commissioner may
27 participate in a supervisory college with other regulators charged with
28 supervision of the insurer or its affiliates, including other state,
29 federal, and international regulatory agencies. The commissioner may
30 enter into agreements in accordance with section 9(3) of this act
31 providing the basis for cooperation between the commissioner and the
32 other regulatory agencies, and the activities of the supervisory
33 college. This section does not delegate to the supervisory college the
34 authority of the commissioner to regulate or supervise the insurer or
35 its affiliates within its jurisdiction.

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

1 (1) Documents, materials, or other information in the possession or
2 control of the commissioner that are obtained by or disclosed to the
3 commissioner or any other person in the course of an examination or
4 investigation made pursuant to RCW 48.31B.035 and all information
5 reported pursuant to RCW 48.31B.015(2) (l) and (m), 48.31B.025,
6 48.31B.030, and section 8 of this act are confidential by law and
7 privileged, are not subject to chapter 42.56 RCW, are not subject to
8 subpoena, and are not subject to discovery or admissible in evidence in
9 any private civil action. However, the commissioner is authorized to
10 use the documents, materials, or other information in the furtherance
11 of any regulatory or legal action brought as a part of the
12 commissioner's official duties. The commissioner shall not otherwise
13 make the documents, materials, or other information public without the
14 prior written consent of the insurer to which it pertains unless the
15 commissioner, after giving the insurer and its affiliates who would be
16 affected thereby, notice and opportunity to be heard, determines that
17 the interest of policyholders, shareholders, or the public is served by
18 the publication thereof, in which event the commissioner may publish
19 all or any part in such manner as may be deemed appropriate.

20 (2) Neither the commissioner nor any person who received documents,
21 materials, or other information while acting under the authority of the
22 commissioner or with whom such documents, materials, or other
23 information are shared pursuant to this chapter is permitted or may be
24 required to testify in any private civil action concerning any
25 confidential documents, materials, or information subject to subsection
26 (1) of this section.

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

29 (a) May share documents, materials, or other information, including
30 the confidential and privileged documents, materials, or information
31 subject to subsection (1) of this section, with other state, federal,
32 and international regulatory agencies, with the national association of
33 insurance commissioners and its affiliates and subsidiaries, with the
34 international association of insurance supervisors and the bank for
35 international settlements and its affiliates and subsidiaries, and with
36 state, federal, and international law enforcement authorities,
37 including members of any supervisory college described in section 8 of
38 this act, provided the recipient agrees in writing to maintain the

1 confidentiality and privileged status of the document, material, or
2 other information, and has verified in writing the legal authority to
3 maintain confidentiality;

4 (b) Notwithstanding (a) of this subsection, may only share
5 confidential and privileged documents, material, or information
6 reported pursuant to RCW 48.31B.025(12) with commissioners of states
7 having statutes or rules substantially similar to subsection (1) of
8 this section and who have agreed in writing not to disclose such
9 information;

10 (c) May receive documents, materials, or information, including
11 otherwise confidential and privileged documents, materials, or
12 information from the national association of insurance commissioners
13 and its affiliates and subsidiaries, the international association of
14 insurance supervisors and the bank for international settlements and
15 its affiliates and subsidiaries, and from regulatory and law
16 enforcement officials of other foreign or domestic jurisdictions, and
17 shall maintain as confidential or privileged any document, material, or
18 information received with notice or the understanding that it is
19 confidential or privileged under the laws of the jurisdiction that is
20 the source of the document, material, or information; and

21 (d) Shall enter into written agreements with the national
22 association of insurance commissioners governing sharing and use of
23 information provided pursuant to this chapter consistent with this
24 subsection that shall:

25 (i) Specify procedures and protocols regarding the confidentiality
26 and security of information shared with the national association of
27 insurance commissioners and its affiliates and subsidiaries pursuant to
28 this chapter, including procedures and protocols for sharing by the
29 national association of insurance commissioners with other state,
30 federal, or international regulators including the international
31 association of insurance supervisors and the bank for international
32 settlements and its affiliates and subsidiaries;

33 (ii) Specify that ownership of information shared with the national
34 association of insurance commissioners and its affiliates and
35 subsidiaries pursuant to this chapter remains with the commissioner and
36 the national association of insurance commissioners' use of the
37 information is subject to the direction of the commissioner;

1 (iii) Require prompt notice to be given to an insurer whose
2 confidential information in the possession of the national association
3 of insurance commissioners pursuant to this chapter is subject to a
4 request or subpoena to the national association of insurance
5 commissioners for disclosure or production; and

6 (iv) Require the national association of insurance commissioners
7 and its affiliates and subsidiaries to consent to intervention by an
8 insurer in any judicial or administrative action in which the national
9 association of insurance commissioners and its affiliates and
10 subsidiaries may be required to disclose confidential information about
11 the insurer shared with the national association of insurance
12 commissioners and its affiliates and subsidiaries pursuant to this
13 chapter.

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

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

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

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

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

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

36 (1) The commissioner shall require, after notice and hearing, an

1 insurer failing, without just cause, to file a registration statement
2 as required in this chapter, to pay a penalty of not more than ten
3 thousand dollars per day. The maximum penalty under this section is
4 one million dollars. The commissioner may reduce the penalty if the
5 insurer demonstrates to the commissioner that the imposition of the
6 penalty would constitute a financial hardship to the insurer. The
7 commissioner shall pay a fine collected under this section to the state
8 treasurer for the account of the general fund.

9 (2) Every director or officer of an insurance holding company
10 system who knowingly violates this chapter, or participates in, or
11 assents to, or who knowingly permits an officer or agent of the insurer
12 to engage in transactions or make investments that have not been
13 properly reported or submitted under RCW 48.31B.025(1) or
14 48.31B.030(1)(b) or (2), or that violate this chapter, shall pay, in
15 their individual capacity, a civil forfeiture of not more than ten
16 thousand dollars per violation, after notice and hearing before the
17 commissioner. In determining the amount of the civil forfeiture, the
18 commissioner shall take into account the appropriateness of the
19 forfeiture with respect to the gravity of the violation, the history of
20 previous violations, and such other matters as justice may require.

21 (3) Whenever it appears to the commissioner that an insurer subject
22 to this chapter or a director, officer, employee, or agent of the
23 insurer has engaged in a transaction or entered into a contract that is
24 subject to RCW 48.31B.030 and that would not have been approved had
25 approval been requested, the commissioner may order the insurer to
26 cease and desist immediately any further activity under that
27 transaction or contract. After notice and hearing the commissioner may
28 also order the insurer to void any such contracts and restore the
29 status quo if that action is in the best interest of the policyholders,
30 creditors, or the public.

31 (4) Whenever it appears to the commissioner that an insurer or a
32 director, officer, employee, or agent of the insurer has committed a
33 willful violation of this chapter, the commissioner may refer the
34 matter to the prosecuting attorney of Thurston county or the county in
35 which the principal office of the insurer is located. An insurer that
36 willfully violates this chapter may be fined not more than one million
37 dollars. Any individual who willfully violates this chapter may be

1 fined in his or her individual capacity not more than ten thousand
2 dollars, or be imprisoned for not more than three years, or both.

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

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

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

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

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

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

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

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

35 (2) Information obtained and exempted or withheld from public
36 inspection by the health care authority under RCW 41.05.026, whether

1 retained by the authority, transferred to another state purchased
2 health care program by the authority, or transferred by the authority
3 to a technical review committee created to facilitate the development,
4 acquisition, or implementation of state purchased health care under
5 chapter 41.05 RCW;

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

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

10 (5) Information provided under RCW 48.05.510 through 48.05.535,
11 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
12 through 48.46.625;

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

20 (7) Information provided to the insurance commissioner under RCW
21 48.110.040(3);

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

25 (9) (~~Confidential proprietary and trade secret information~~
26 ~~provided to the commissioner under RCW 48.31C.020 through 48.31C.050~~
27 ~~and 48.31C.070)) Documents, materials, or information obtained by the
28 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,
29 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
30 confidential and privileged;~~

31 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
32 7.70.140 that, alone or in combination with any other data, may reveal
33 the identity of a claimant, health care provider, health care facility,
34 insuring entity, or self-insurer involved in a particular claim or a
35 collection of claims. For the purposes of this subsection:

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

37 (b) "Health care facility" has the same meaning as in RCW
38 48.140.010(6).

1 (c) "Health care provider" has the same meaning as in RCW
2 48.140.010(7).

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

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

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

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

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

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

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

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

17 (17) Documents, materials, or information obtained by the insurance
18 commissioner in the commissioner's capacity as receiver under RCW
19 48.31.025 and 48.99.017, which are records under the jurisdiction and
20 control of the receivership court. The commissioner is not required to
21 search for, log, produce, or otherwise comply with the public records
22 act for any records that the commissioner obtains under chapters 48.31
23 and 48.99 RCW in the commissioner's capacity as a receiver, except as
24 directed by the receivership court;

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

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

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

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

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

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

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

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

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

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

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

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

19 (5) Information provided under RCW 48.05.510 through 48.05.535,
20 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
21 through 48.46.625;

22 (6) Examination reports and information obtained by the department
23 of financial institutions from banks under RCW 30.04.075, from savings
24 banks under RCW 32.04.220, from savings and loan associations under RCW
25 33.04.110, from credit unions under RCW 31.12.565, from check cashers
26 and sellers under RCW 31.45.030(3), and from securities brokers and
27 investment advisers under RCW 21.20.100, all of which is confidential
28 and privileged information;

29 (7) Information provided to the insurance commissioner under RCW
30 48.110.040(3);

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

34 (9) ~~((Confidential proprietary and trade secret information
35 provided to the commissioner under RCW 48.31C.020 through 48.31C.050
36 and 48.31C.070))~~ Documents, materials, or information obtained by the
37 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,

1 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
2 confidential and privileged;

3 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
4 7.70.140 that, alone or in combination with any other data, may reveal
5 the identity of a claimant, health care provider, health care facility,
6 insuring entity, or self-insurer involved in a particular claim or a
7 collection of claims. For the purposes of this subsection:

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

9 (b) "Health care facility" has the same meaning as in RCW
10 48.140.010(6).

11 (c) "Health care provider" has the same meaning as in RCW
12 48.140.010(7).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (1) Documents, materials, or other information as described in
12 either subsection (5) or (6), or both, of this section are confidential
13 by law and privileged, are not subject to public disclosure under
14 chapter 42.56 RCW, and are not subject to subpoena directed to the
15 commissioner or any person who received documents, materials, or other
16 information while acting under the authority of the commissioner. The
17 commissioner is authorized to use such documents, materials, or other
18 information in the furtherance of any regulatory or legal action
19 brought as a part of the commissioner's official duties. The
20 confidentiality and privilege created by this section and RCW
21 42.56.400(~~(+9)~~) (8) applies only to the commissioner, any person
22 acting under the authority of the commissioner, the national
23 association of insurance commissioners and its affiliates and
24 subsidiaries, regulatory and law enforcement officials of other states
25 and nations, the federal government, and international authorities.

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

31 (3) The commissioner:

32 (a) May share documents, materials, or other information, including
33 the confidential and privileged documents, materials, or information
34 subject to subsection (1) of this section, with (i) the national
35 association of insurance commissioners and its affiliates and
36 subsidiaries, and (ii) regulatory and law enforcement officials of

1 other states and nations, the federal government, and international
2 authorities, if the recipient agrees to maintain the confidentiality
3 and privileged status of the document, material, or other information;

4 (b) May receive documents, materials, or information, including
5 otherwise either confidential or privileged, or both, documents,
6 materials, or information, from (i) the national association of
7 insurance commissioners and its affiliates and subsidiaries, and (ii)
8 regulatory and law enforcement officials of other states and nations,
9 the federal government, and international authorities and shall
10 maintain as confidential and privileged any document, material, or
11 information received that is either confidential or privileged, or
12 both, under the laws of the jurisdiction that is the source of the
13 document, material, or information; and

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

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

20 (5) Documents, materials, or information, which is either
21 confidential or privileged, or both, which has been provided to the
22 commissioner by (a) the national association of insurance commissioners
23 and its affiliates and subsidiaries, (b) regulatory or law enforcement
24 officials of other states and nations, the federal government, or
25 international authorities, or (c) agencies of this state, is
26 confidential and privileged only if the documents, materials, or
27 information is protected from disclosure by the applicable laws of the
28 jurisdiction that is the source of the document, material, or
29 information.

30 (6) Working papers, documents, materials, or information produced
31 by, obtained by, or disclosed to the commissioner or any other person
32 in the course of a financial or market conduct examination, or in the
33 course of financial analysis or market conduct desk audit, are not
34 required to be disclosed by the commissioner unless cited by the
35 commissioner in connection with an agency action as defined in RCW
36 34.05.010(3). The commissioner shall notify a party that produced the
37 documents, materials, or information five business days before
38 disclosure in connection with an agency action. The notified party may

1 seek injunctive relief in any Washington state superior court to
2 prevent disclosure of any documents, materials, or information it
3 believes is confidential or privileged. In civil actions between
4 private parties or in criminal actions, disclosure to the commissioner
5 under this section does not create any privilege or claim of
6 confidentiality or waive any existing privilege or claim of
7 confidentiality.

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

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

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

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

21 (8) Any person may petition a Washington state superior court to
22 allow inspection of information exempt from public disclosure under
23 subsection (6) of this section when the information is connected to
24 allegations of negligence or malfeasance by the commissioner related to
25 a financial or market conduct examination. The court shall conduct an
26 in-camera review after notifying the commissioner and every party that
27 produced the information. The court may order the commissioner to
28 allow the petitioner to have access to the information provided the
29 petitioner maintains the confidentiality of the information. The
30 petitioner must not disclose the information to any other person,
31 except upon further order of the court. After conducting a regular
32 hearing, the court may order that the information can be disclosed
33 publicly if the court finds that there is a public interest in the
34 disclosure of the information and the exemption of the information from
35 public disclosure is clearly unnecessary to protect any individual's
36 right of privacy or any vital governmental function.

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

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

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

12 (2) Bonds, debt-like preferred stock, and other evidences of
13 indebtedness of governmental units in the United States or Canada, or
14 the instrumentalities of the governmental units, or private business
15 entities domiciled in the United States or Canada, including asset-
16 backed securities and securities valuation office listed mutual funds;

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

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

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

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

35 (c) Rendering management, sales, or other related services to any
36 investment company subject to the federal investment company act of
37 1940, as amended;

38 (d) Rendering investment advice;

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

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

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

13 (h) Acting as administrative agent for a government instrumentality
14 which is performing an insurance function or is responsible for a
15 health or welfare program;

16 (i) Financing of insurance premiums;

17 (j) Any other business activity reasonably ancillary to an
18 insurance business;

19 (k) Owning one or more subsidiary;

20 (i) Insurers, health care service contractors, or health
21 maintenance organizations to the extent permitted by this chapter;

22 (ii) Businesses specified in (a) through (k) of this subsection
23 inclusive; or

24 (iii) Any combination of such insurers and businesses;

25 (5) Real property necessary for the convenient transaction of the
26 insurer's business;

27 (6) Real property, together with the fixtures, furniture,
28 furnishings, and equipment pertaining thereto in the United States or
29 Canada, which produces or after suitable improvement can reasonably be
30 expected to produce income;

31 (7) Loans, securities, or other investments of the types described
32 in subsections (1) through (6) of this section in national association
33 of insurance commissioners securities valuation office 1 debt rated
34 countries other than the United States and Canada;

35 (8) Bonds or other evidences of indebtedness of international
36 development organizations of which the United States is a member;

37 (9) Loans upon the security of the insurer's own policies in

1 amounts that are adequately secured by the policies and that in no case
2 exceed the surrender values of the policies;

3 (10) Tangible personal property under contract of sale or lease
4 under which contractual payments may reasonably be expected to return
5 the principal of and provide earnings on the investment within its
6 anticipated useful life;

7 (11) Other investments the commissioner authorizes by rule; and

8 (12) Investments not otherwise permitted by this section, and not
9 specifically prohibited by statute, to the extent of not more than five
10 percent of the first five hundred million dollars of the insurer's
11 admitted assets plus ten percent of the insurer's admitted assets
12 exceeding five hundred million dollars.

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

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

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

21 (2) "Control" or "controlled by" has the meaning ascribed in RCW
22 48.31B.005(~~(+2)~~) (3).

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

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

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

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

35 ~~(b))~~ All residual market pools and joint underwriting
36 associations; and

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

9 (6) "Producer" means an insurance broker or brokers or any other
10 person, firm, association, or corporation when, for compensation,
11 commission, or other thing of value, the person, firm, association, or
12 corporation acts or aids in any manner in soliciting, negotiating, or
13 procuring the making of an insurance contract on behalf of an insured
14 other than the person, firm, association, or corporation.

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

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

20 (2) Every self-funded multiple employer welfare arrangement shall
21 submit its books and records relating to its operation for financial
22 condition and market conduct examinations and in every way facilitate
23 them. For the purpose of examinations, the commissioner may issue
24 subpoenas, administer oaths, and examine the officers and principals of
25 the (~~{self-funded}~~) self-funded multiple employer welfare
26 arrangement.

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

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

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

3 (5) Whenever an examination is made, all of the provisions of
4 chapter 48.03 RCW not inconsistent with this chapter shall be
5 applicable. In lieu of making an examination himself or herself, the
6 commissioner may, in the case of a foreign self-funded multiple
7 employer welfare arrangement, accept an examination report of the
8 applicant by the regulatory official in its state of domicile. In the
9 case of a domestic self-funded multiple employer welfare arrangement,
10 the commissioner may accept an examination report of the applicant by
11 the regulatory official of a state that has already licensed the
12 arrangement.

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

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

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

20 (2) "Commissioner" means the Washington state insurance
21 commissioner.

22 (3)(a) "Control" or "controlled by" or "under common control with"
23 means the possession, direct or indirect, of the power to direct or
24 cause the direction of the management and policies of a person, whether
25 through the ownership of voting securities, by contract other than a
26 commercial contract for goods or nonmanagement services, or otherwise,
27 unless the power is the result of an official position with or
28 corporate office held by the person.

29 (b) Control exists when any person, directly or indirectly, owns,
30 controls, holds with the power to vote, or holds proxies representing
31 ten percent or more of the voting securities of any other person. A
32 presumption of control may be rebutted by a showing made in the manner
33 provided by RCW 48.31B.005(~~((+2))~~) (3) and 48.31B.025(11) that control
34 does not exist in fact. The commissioner may determine, after
35 furnishing all persons in interest notice and opportunity to be heard
36 and making specific findings of fact to support the determination, that

1 control exists in fact, notwithstanding the absence of a presumption to
2 that effect.

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

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

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

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

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

12 or

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

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

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

25 (i) Pharmacy benefit managers;

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

29 (iii) Marketers who market the discount plans of discount plan
30 organizations which are licensed under this chapter as long as all
31 written communications of the marketer in connection with a discount
32 plan clearly identify the licensed discount plan organization as the
33 responsible entity; or

34 (iv) Health carriers, if the discount on health care services is
35 offered by a health carrier authorized under chapter 48.20, 48.21,
36 48.44, or 48.46 RCW.

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

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

3 (8) "Health care provider network," "provider network," or
4 "network" means any network of health care providers, including any
5 person or entity that negotiates directly or indirectly with a discount
6 plan organization on behalf of more than one provider to provide health
7 care services to members.

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

10 (10) "Health carrier" or "carrier" has the same meaning as in RCW
11 48.43.005(~~(+18+)~~) (25).

12 (11) "Marketer" means a person or entity that markets, promotes,
13 sells, or distributes a discount plan, including a contracted marketing
14 organization and a private label entity that places its name on and
15 markets or distributes a discount plan pursuant to a marketing
16 agreement with a discount plan organization.

17 (12) "Medicare prescription drug plan" means a plan that provides
18 a medicare part D prescription drug benefit in accordance with the
19 requirements of the federal medicare prescription drug improvement and
20 modernization act of 2003.

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

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

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

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

36 (b) For purposes of this subsection, a "covered entity" means an
37 insurer, a health care service contractor, a health maintenance
38 organization, or a multiple employer welfare arrangement licensed,

1 certified, or registered under the provisions of this title. "Covered
2 entity" also means a health program administered by the state as a
3 provider of health coverage, a single employer that provides health
4 coverage to its employees, or a labor union that provides health
5 coverage to its members as part of a collective bargaining agreement.

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

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

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

15 (a) Is not required to obtain a license under RCW 48.155.020,
16 except that any of its affiliates that operate as a discount plan
17 organization in this state must obtain a license under RCW 48.155.020
18 and comply with all other provisions of this chapter;

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

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

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

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

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

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

31 (4) RCW 48.31C.040 (Registration with commissioner--Information
32 required--Rule making--Disclaimer of affiliation--Failure to file) and
33 2001 c 179 s 4;

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

- 1 (6) RCW 48.31C.060 (Extraordinary dividends or distributions--
2 Restrictions--Definition of distribution) and 2001 c 179 s 6;
- 3 (7) RCW 48.31C.070 (Examination of health carriers--Commissioner
4 may order production of information--Failure to comply--Costs) and 2001
5 c 179 s 7;
- 6 (8) RCW 48.31C.080 (Violations of chapter--Commissioner may seek
7 superior court order) and 2001 c 179 s 8;
- 8 (9) RCW 48.31C.090 (Violations of chapter--Penalties--Civil
9 forfeitures--Orders--Referral to prosecuting attorney--Imprisonment)
10 and 2001 c 179 s 9;
- 11 (10) RCW 48.31C.100 (Violations of chapter--Impairment of financial
12 condition) and 2001 c 179 s 10;
- 13 (11) RCW 48.31C.110 (Order for liquidation or rehabilitation--
14 Recovery of distributions or payments--Liability--Maximum amount
15 recoverable) and 2001 c 179 s 11;
- 16 (12) RCW 48.31C.120 (Violations of chapter--Contrary to interests
17 of subscribers or the public) and 2001 c 179 s 12;
- 18 (13) RCW 48.31C.130 (Confidential proprietary and trade secret
19 information--Exempt from public disclosure--Exceptions) and 2001 c 179
20 s 13;
- 21 (14) RCW 48.31C.140 (Person aggrieved by actions of commissioner)
22 and 2001 c 179 s 15;
- 23 (15) RCW 48.31C.150 (Rule making) and 2001 c 179 s 16;
- 24 (16) RCW 48.31C.160 (Dual holding company system membership) and
25 2001 c 179 s 17;
- 26 (17) RCW 48.31C.900 (Severability--2001 c 179) and 2001 c 179 s 18;
27 and
- 28 (18) RCW 48.31C.901 (Effective date--2001 c 179) and 2001 c 179 s
29 19.

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

35 (2) The requirements of this chapter apply to all insurers
36 domiciled in this state unless exempt pursuant to section 27 of this
37 act.

1 (3) The legislature finds and declares that the ORSA summary report
2 contains confidential and sensitive information related to an insurer
3 or insurance group's identification of risks material and relevant to
4 the insurer or insurance group filing the report. This information
5 includes proprietary and trade secret information that has the
6 potential for harm and competitive disadvantage to the insurer or
7 insurance group if the information is made public. It is the intent of
8 this legislature that the ORSA summary report is a confidential
9 document filed with the commissioner, that the ORSA summary report may
10 be shared only as stated in this chapter and to assist the commissioner
11 in the performance of his or her duties, and that in no event may the
12 ORSA summary report be subject to public disclosure.

13 NEW SECTION. **Sec. 23.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

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

19 (2) "Insurer" includes an insurer authorized under chapter 48.05
20 RCW, a fraternal mutual insurer or society holding a license under RCW
21 48.36A.290, a health care service contractor registered under chapter
22 48.44 RCW, a health maintenance organization registered under chapter
23 48.46 RCW, and a self-funded multiple employer welfare arrangement
24 under chapter 48.125 RCW, as well as all persons engaged as, or
25 purporting to be engaged as insurers, fraternal benefit societies,
26 health care service contractors, health maintenance organizations, or
27 self-funded multiple employer welfare arrangements in this state, and
28 to persons in process of organization to become insurers, fraternal
29 benefit societies, health care service contractors, health maintenance
30 organizations, or self-funded multiple employer welfare arrangements,
31 except that it does not include agencies, authorities, or
32 instrumentalities of the United States, its possessions and
33 territories, the Commonwealth of Puerto Rico, the District of Columbia,
34 or a state or political subdivision of a state.

35 (3) "Own risk and solvency assessment" or "ORSA" means a
36 confidential internal assessment, appropriate to the nature, scale, and
37 complexity of an insurer or insurance group, conducted by that insurer

1 or insurance group of the material and relevant risks associated with
2 the insurer or insurance group's current business plan, and the
3 sufficiency of capital resources to support those risks.

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

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

9 NEW SECTION. **Sec. 24.** RISK MANAGEMENT FRAMEWORK. An insurer
10 shall maintain a risk management framework to assist the insurer with
11 identifying, assessing, monitoring, managing, and reporting on its
12 material and relevant risks. This requirement is satisfied if the
13 insurance group of which the insurer is a member maintains a risk
14 management framework applicable to the operations of the insurer.

15 NEW SECTION. **Sec. 25.** ORSA REQUIREMENT. Subject to section 27 of
16 this act, an insurer, or the insurance group of which the insurer is a
17 member, shall regularly conduct an ORSA consistent with a process
18 comparable to the ORSA guidance manual. The ORSA must be conducted
19 annually but also at any time when there are significant changes to the
20 risk profile of the insurer or the insurance group of which the insurer
21 is a member.

22 NEW SECTION. **Sec. 26.** ORSA SUMMARY REPORT. (1) Upon the
23 commissioner's request, and no more than once each year, an insurer
24 shall submit to the commissioner an ORSA summary report or any
25 combination of reports that together contain the information described
26 in the ORSA guidance manual, applicable to the insurer or the insurance
27 group of which it is a member. Notwithstanding any request from the
28 commissioner, if the insurer is a member of an insurance group, the
29 insurer shall submit the report or set of reports required by this
30 subsection if the commissioner is the lead state commissioner of the
31 insurance group as determined by the procedures within the financial
32 analysis handbook adopted by the national association of insurance
33 commissioners.

34 (2) The report shall include a signature of the insurer or
35 insurance group's chief risk officer or other executive having

1 responsibility for the oversight of the insurer's enterprise risk
2 management process attesting to the best of his or her belief and
3 knowledge that the insurer applies the enterprise risk management
4 process described in the ORSA summary report and that a copy of the
5 report has been provided to the insurer's board of directors or the
6 appropriate governing committee.

7 (3) An insurer may comply with subsection (1) of this section by
8 providing the most recent and substantially similar report or reports
9 provided by the insurer or another member of an insurance group of
10 which the insurer is a member to the commissioner of another state or
11 to a supervisor or regulator of a foreign jurisdiction, if that report
12 provides information that is comparable to the information described in
13 the ORSA guidance manual. Any such report in a language other than
14 English must be accompanied by a translation of that report into the
15 English language.

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

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

22 (b) The insurance group of which the insurer is a member has annual
23 direct written and unaffiliated assumed premium including international
24 direct and assumed premium, but excluding premium reinsured with the
25 federal crop insurance corporation and federal flood program, less than
26 one billion dollars.

27 (2) If an insurer qualifies for exemption pursuant to subsection
28 (1)(a) of this section, but the insurance group of which the insurer is
29 a member does not qualify for exemption pursuant to subsection (1)(b)
30 of this section, then the ORSA summary report that may be required
31 pursuant to section 26 of this act must include every insurer within
32 the insurance group. This requirement is satisfied by the submission
33 of more than one ORSA summary report for any combination of insurers,
34 provided any combination of reports includes every insurer within the
35 insurance group.

36 (3) If an insurer does not qualify for exemption pursuant to
37 subsection (1)(a) of this section, but the insurance group of which the

1 insurer is a member does qualify for exemption pursuant to subsection
2 (1)(b) of this section, then the only ORSA summary report that may be
3 required pursuant to section 26 of this act is the report applicable to
4 that insurer.

5 (4) If an insurer does not qualify for exemption pursuant to
6 subsection (1)(a) of this section, the insurer may apply to the
7 commissioner for a waiver from the requirements of this chapter based
8 upon unique circumstances. In deciding whether to grant the insurer's
9 request for waiver, the commissioner may consider the type and volume
10 of business written, ownership and organizational structure, and any
11 other factor the commissioner considers relevant to the insurer or
12 insurance group of which the insurer is a member. If the insurer is a
13 part of an insurance group with insurers domiciled in more than one
14 state, the commissioner shall coordinate with the lead state
15 commissioner and with the other domiciliary commissioners in
16 considering whether to grant the insurer's request for a waiver.

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

28 (6) If an insurer that qualifies for exemption pursuant to
29 subsection (1)(a) of this section subsequently no longer qualifies for
30 that exemption due to changes in premium reflected in the insurer's
31 most recent annual statement or in the most recent annual statements of
32 the insurers within the insurance group of which the insurer is a
33 member, the insurer has one year following the year the threshold is
34 exceeded to comply with the requirement of this chapter.

35 NEW SECTION. **Sec. 28.** CONTENTS OF ORSA SUMMARY REPORT. (1) The
36 ORSA summary report shall be prepared consistent with the ORSA guidance

1 manual, subject to the requirements of subsection (2) of this section.
2 Documentation and supporting information must be maintained and made
3 available upon examination or upon the request of the commissioner.

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

8 NEW SECTION. **Sec. 29.** CONFIDENTIAL TREATMENT. (1) Documents,
9 materials, or other information, including the ORSA summary report, in
10 the possession or control of the commissioner that are obtained by,
11 created by, or disclosed to the commissioner or any other person under
12 this chapter, is recognized by this state as being proprietary and to
13 contain trade secrets. All such documents, materials, or other
14 information is confidential by law and privileged, is not subject to
15 chapter 42.56 RCW, is not subject to subpoena, and is not subject to
16 discovery or admissible in evidence in any private civil action.
17 However, the commissioner is authorized to use the documents,
18 materials, or other information in the furtherance of any regulatory or
19 legal action brought as a part of the commissioner's official duties.
20 The commissioner may not otherwise make the documents, materials, or
21 other information public without the prior written consent of the
22 insurer.

23 (2) Neither the commissioner nor any person who received documents,
24 materials, or other ORSA-related information, through examination or
25 otherwise, while acting under the authority of the commissioner or with
26 whom such documents, materials, or other information are shared
27 pursuant to this chapter, is permitted or required to testify in any
28 private civil action concerning any confidential documents, materials,
29 or information subject to subsection (1) of this section.

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

32 (a) May share documents, materials, or other ORSA-related
33 information, including the confidential and privileged documents,
34 materials, or information subject to subsection (1) of this section,
35 including proprietary and trade secret documents and materials with
36 other state, federal, and international regulatory agencies, including
37 members of any supervisory college under section 8(3) of this act, with

1 the national association of insurance commissioners, with the
2 international association of insurance supervisors and the bank for
3 international settlements, and with any third-party consultants
4 designated by the commissioner, provided that the recipient agrees in
5 writing to maintain the confidentiality and privileged status of the
6 ORSA-related documents, materials, or other information and has
7 verified in writing the legal authority to maintain confidentiality;

8 (b) May receive documents, materials, or ORSA-related information,
9 including otherwise confidential and privileged documents, materials,
10 or information, including proprietary and trade secret information or
11 documents, from regulatory officials of other foreign or domestic
12 jurisdictions, including members of any supervisory college under
13 section 8(3) of this act, from the national association of insurance
14 commissioners, the international association of insurance supervisors
15 and the bank for international settlements, and must maintain as
16 confidential or privileged any document, material, or information
17 received with notice or the understanding that it is confidential or
18 privileged under the laws of the jurisdiction that is the source of the
19 document, material, or information;

20 (c) Shall enter into written agreements with the national
21 association of insurance commissioners or a third-party consultant
22 governing sharing and use of information provided pursuant to this
23 chapter, consistent with this subsection that specifies procedures and
24 protocols regarding the confidentiality and security of information
25 shared with the national association of insurance commissioners or
26 third-party consultant pursuant to this chapter, including procedures
27 and protocols for sharing by the national association of insurance
28 commissioners with other state regulators from states in which the
29 insurance group has domiciled insurers. The agreement must provide
30 that the recipient agrees in writing to maintain the confidentiality
31 and privileged status of the ORSA-related documents, materials, or
32 other information and has verified in writing the legal authority to
33 maintain confidentiality;

34 (d) Shall specify that ownership of information shared with the
35 national association of insurance commissioners or third-party
36 consultants pursuant to this chapter remains with the commissioner and
37 the national association of insurance commissioners' or a third-party

1 consultant's use of the information is subject to the direction of the
2 commissioner;

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

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

12 (g) Shall require the national association of insurance
13 commissioners and its affiliates and subsidiaries to consent to
14 intervention by an insurer in any judicial or administrative action in
15 which the national association of insurance commissioners and its
16 affiliates and subsidiaries may be required to disclose confidential
17 information about the insurer shared with the national association of
18 insurance commissioners and its affiliates and subsidiaries pursuant to
19 this chapter; and

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

22 (4) The sharing of information by the commissioner pursuant to this
23 chapter shall not constitute a delegation of regulatory authority or
24 rule making, and the commissioner is solely responsible for the
25 administration, execution, and enforcement of the provisions of this
26 chapter.

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

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

1 NEW SECTION. **Sec. 30.** SANCTIONS. The commissioner shall require
2 any insurer failing, without just cause, to file the ORSA summary
3 report as required in this chapter, after notice and hearing, to pay a
4 fine of five hundred dollars for each day's delay, to be recovered by
5 the commissioner and the fine collected shall be transferred to the
6 treasurer for deposit into the state general fund. The maximum fine
7 under this section is one hundred thousand dollars. The commissioner
8 may reduce the fine if the insurer demonstrates to the commissioner
9 that the imposition of the fine would constitute a financial hardship
10 to the insurer.

11 **Sec. 31.** RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are
12 each reenacted and amended to read 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) Information not subject to public inspection or public
22 disclosure under RCW 48.43.730(5); and

23 (24) Documents, materials, or information obtained by the insurance
24 commissioner under chapter 48.-- RCW (the new chapter created in
25 section 34 of this act).

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

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

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

33 (2) Information obtained and exempted or withheld from public
34 inspection by the health care authority under RCW 41.05.026, whether
35 retained by the authority, transferred to another state purchased
36 health care program by the authority, or transferred by the authority

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

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

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

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

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

18 (7) Information provided to the insurance commissioner under RCW
19 48.110.040(3);

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

23 (9) (~~Confidential proprietary and trade secret information~~
24 ~~provided to the commissioner under RCW 48.31C.020 through 48.31C.050~~
25 ~~and 48.31C.070)) Documents, materials, or information obtained by the
26 insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025,
27 48.31B.030, 48.31B.035, and section 8 of this act, all of which are
28 confidential and privileged;~~

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

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

35 (b) "Health care facility" has the same meaning as in RCW
36 48.140.010(6).

37 (c) "Health care provider" has the same meaning as in RCW
38 48.140.010(7).

1 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
2 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
3 (11) Documents, materials, or information obtained by the insurance
4 commissioner under RCW 48.135.060;
5 (12) Documents, materials, or information obtained by the insurance
6 commissioner under RCW 48.37.060;
7 (13) Confidential and privileged documents obtained or produced by
8 the insurance commissioner and identified in RCW 48.37.080;
9 (14) Documents, materials, or information obtained by the insurance
10 commissioner under RCW 48.37.140;
11 (15) Documents, materials, or information obtained by the insurance
12 commissioner under RCW 48.17.595;
13 (16) Documents, materials, or information obtained by the insurance
14 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);
15 (17) Documents, materials, or information obtained by the insurance
16 commissioner in the commissioner's capacity as receiver under RCW
17 48.31.025 and 48.99.017, which are records under the jurisdiction and
18 control of the receivership court. The commissioner is not required to
19 search for, log, produce, or otherwise comply with the public records
20 act for any records that the commissioner obtains under chapters 48.31
21 and 48.99 RCW in the commissioner's capacity as a receiver, except as
22 directed by the receivership court;
23 (18) Documents, materials, or information obtained by the insurance
24 commissioner under RCW 48.13.151;
25 (19) Data, information, and documents provided by a carrier
26 pursuant to section 1, chapter 172, Laws of 2010;
27 (20) Information in a filing of usage-based insurance about the
28 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);
29 (21) Data, information, and documents, other than those described
30 in RCW 48.02.210(2), that are submitted to the office of the insurance
31 commissioner by an entity providing health care coverage pursuant to
32 RCW 28A.400.275 and 48.02.210; (~~and~~)
33 (22) Data, information, and documents obtained by the insurance
34 commissioner under RCW 48.29.017; and
35 (23) Documents, materials, or information obtained by the insurance
36 commissioner under chapter 48.-- RCW (the new chapter created in
37 section 34 of this act).

1 NEW SECTION. **Sec. 33.** SEVERABILITY. If any provision of this act
2 or its application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 34.** Sections 22 through 30 and 35 of this act
6 constitute a new chapter in Title 48 RCW.

7 NEW SECTION. **Sec. 35.** SHORT TITLE. This chapter may be known and
8 cited as the risk management and solvency assessment act.

9 NEW SECTION. **Sec. 36.** EFFECTIVE DATE. Except for sections 14 and
10 32 of this act, which take effect July 1, 2017, this act takes effect
11 January 1, 2015.

12 NEW SECTION. **Sec. 37.** Sections 13 and 31 of this act expire July
13 1, 2017.

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