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SENATE BILL 5042

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Berkey and Shin; by request of Insurance Commissioner

Read first time 01/08/2007.      Referred to Committee on Financial Institutions & Insurance.

1            AN ACT Relating to insurance; amending RCW 48.111.020, 48.12.010,  
2 48.21.200, 48.36A.260, 48.13.120, 48.13.265, 48.13.275, 48.24.070,  
3 48.31.045, 48.31.131, 48.31.155, and 48.43.018; reenacting and amending  
4 RCW 48.22.030; adding a new section to chapter 48.11 RCW; repealing RCW  
5 48.12.120, 48.12.130, and 48.14.050; and prescribing penalties.

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

7            **Sec. 1.** RCW 48.111.020 and 2006 c 36 s 3 are each amended to read  
8 as follows:

9            (1) A person shall not act as, or offer to act as, or hold himself  
10 or herself out to be a home heating fuel service contract provider in  
11 this state, nor may a home heating fuel service contract be sold to a  
12 consumer in this state, unless the contract provider has a valid  
13 registration as a home heating fuel service contract provider issued by  
14 the commissioner.

15            (2) Applicants to be a home heating fuel service contract provider  
16 shall make an application to the commissioner upon a form to be  
17 furnished by the commissioner. The application must include or be  
18 accompanied by the following information and documents:

1 (a) All basic organizational documents of the home heating fuel  
2 service contract provider, including any articles of incorporation,  
3 articles of association, partnership agreement, trade name certificate,  
4 trust agreement, shareholder agreement, bylaws, and other applicable  
5 documents, and all amendments to those documents;

6 (b) The identities of the contract provider's executive officer or  
7 officers directly responsible for the contract provider's home heating  
8 fuel service contract business;

9 (c) Annual financial statements or other financial reports  
10 acceptable to the commissioner for the two most recent years which  
11 prove that the applicant is solvent and any information the  
12 commissioner may require in order to review the current financial  
13 condition of the applicant;

14 (d) An application fee of one hundred dollars, which must be  
15 deposited into the general fund; and

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

17 (3) The commissioner may refuse to issue a registration if the  
18 commissioner determines that the home heating fuel service contract  
19 provider, or any individual responsible for the conduct of the affairs  
20 of the contract provider under subsection (2)(b) of this section, is  
21 not competent, trustworthy, or financially responsible.

22 (4) A registration issued under this section is valid, unless  
23 surrendered, suspended, or revoked by the commissioner, or not renewed  
24 for so long as the service contract provider continues in business in  
25 this state and remains in compliance with this chapter. A registration  
26 is subject to renewal annually on July 1st upon application of the home  
27 heating fuel service contract provider and payment of a fee of twenty-  
28 five dollars, which must be deposited into the ~~((insurance  
29 commissioner's regulatory account under RCW 48.02.190))~~ general fund.  
30 If not so renewed, the registration expires on ~~((July 31st of that  
31 year))~~ June 30th next preceding.

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

1           **Sec. 2.** RCW 48.12.010 and 1977 ex.s. c 180 s 2 are each amended to  
2 read as follows:

3           In any determination of the financial condition of any insurer  
4 there shall be allowed as assets only such assets as belong wholly and  
5 exclusively to the insurer, which are registered, recorded, or held  
6 under the insurer's name, and which consist of:

7           (1) Cash in the possession of the insurer or in transit under its  
8 control, and the true balance of any deposit of the insurer in a  
9 solvent bank or trust company;

10           (2) Investments, securities, properties, and loans acquired or held  
11 in accordance with this code, and in connection therewith the following  
12 items:

13           (a) Interest due or accrued on any bond or evidence of indebtedness  
14 which is not in default and which is not valued on a basis including  
15 accrued interest.

16           (b) Declared and unpaid dividends on stocks and shares unless such  
17 amount has otherwise been allowed as an asset.

18           (c) Interest due or accrued upon a collateral loan in an amount not  
19 to exceed one year's interest thereon.

20           (d) Interest due or accrued on deposits in solvent banks and trust  
21 companies, and interest due or accrued on other assets if such interest  
22 is in the judgment of the commissioner a collectible asset.

23           (e) Interest due or accrued on a mortgage loan, in amount not  
24 exceeding in any event the amount, if any, of the difference between  
25 the unpaid principal and the value of the property less delinquent  
26 taxes thereon; but if any interest on the loan is in default more than  
27 (~~eighteen months~~) one hundred eighty days, or if any interest on the  
28 loan is in default and any taxes or any installment thereof on the  
29 property are and have been due and unpaid for more than (~~eighteen~~  
30 ~~months~~) one hundred eighty days, no allowance shall be made for any  
31 interest on the loan.

32           (f) Rent due or accrued on real property if such rent is not in  
33 arrears for more than three months.

34           (3) Premium notes, policy loans, and other policy assets and liens  
35 on policies of life insurance, in amount not exceeding the legal  
36 reserve and other policy liabilities carried on each individual policy;

37           (4) The net amount of uncollected and deferred premiums in the case

1 of a life insurer which carries the full annual mean tabular reserve  
2 liability;

3 (5) Premiums in the course of collection, other than for life  
4 insurance, not more than ninety days past due, less commissions payable  
5 thereon. The foregoing limitation shall not apply to premiums payable  
6 directly or indirectly by the United States government or any of its  
7 instrumentalities;

8 (6) Installment premiums other than life insurance premiums, in  
9 accordance with regulations prescribed by the commissioner consistent  
10 with practice formulated or adopted by the National Association of  
11 Insurance Commissioners;

12 (7) Notes and like written obligations not past due, taken for  
13 premiums other than life insurance premiums, on policies permitted to  
14 be issued on such basis, to the extent of the unearned premium reserves  
15 carried thereon and unless otherwise required by regulation prescribed  
16 by the commissioner;

17 (8) Reinsurance recoverable subject to RCW 48.12.160;

18 (9) Amounts receivable by an assuming insurer representing funds  
19 withheld by a solvent ceding insurer under a reinsurance treaty;

20 (10) Deposits or equities recoverable from underwriting  
21 associations, syndicates and reinsurance funds, or from any suspended  
22 banking institution, to the extent deemed by the commissioner available  
23 for the payment of losses and claims and at values to be determined by  
24 him;

25 (11) Electronic and mechanical machines constituting a data  
26 processing and accounting system if the cost of such system is at least  
27 twenty-five thousand dollars, which cost shall be amortized in full  
28 over a period not to exceed ~~((ten))~~ three calendar years; and

29 (12) Other assets, not inconsistent with the foregoing provisions,  
30 deemed by the commissioner available for the payment of losses and  
31 claims, at values to be determined by him.

32 **Sec. 3.** RCW 48.21.200 and 1993 c 492 s 282 are each amended to  
33 read as follows:

34 (1) ~~((No individual or group disability insurance policy, health  
35 care service contract, or health maintenance agreement which provides  
36 benefits for hospital, medical, or surgical expenses shall be delivered  
37 or issued for delivery in this state which contains any provision~~

1 ~~whereby the insurer, contractor, or health maintenance organization may~~  
2 ~~reduce or refuse to pay such benefits otherwise payable thereunder~~  
3 ~~solely on account of the existence of similar benefits provided under~~  
4 ~~any disability insurance policy, health care service contract, or~~  
5 ~~health maintenance agreement.~~

6 ~~(2))~~ No individual or group disability insurance policy, health  
7 care service contract, or health maintenance agreement providing  
8 hospital, medical or surgical expense benefits and which contains a  
9 provision for the reduction of benefits otherwise payable or available  
10 thereunder on the basis of other existing coverages, shall provide that  
11 such reduction will operate to reduce total benefits payable below an  
12 amount equal to one hundred percent of total allowable expenses  
13 ~~((exclusive of copayments, deductibles, and other similar cost sharing~~  
14 ~~arrangements))~~.

15 ~~((3))~~ (2) The commissioner shall by rule establish guidelines for  
16 the application of this section, including:

17 (a) The procedures by which persons covered under such policies,  
18 contracts, and agreements are to be made aware of the existence of such  
19 a provision;

20 (b) The benefits which may be subject to such a provision;

21 (c) The effect of such a provision on the benefits provided;

22 (d) Establishment of the order of benefit determination;

23 (e) Exceptions necessary to preserve policy, contract, or agreement  
24 requirements for use of particular health care facilities or providers;  
25 and

26 (f) Reasonable claim administration procedures to expedite claim  
27 payments and prevent duplication of payments or benefits under such a  
28 provision.

29 **Sec. 4.** RCW 48.36A.260 and 1987 c 366 s 26 are each amended to  
30 read as follows:

31 (1) Every domestic society ~~((transacting business in this state))~~  
32 shall annually, on or before the first day of March, unless for cause  
33 shown such time has been extended by the commissioner, file with the  
34 commissioner a true statement of its financial condition, transactions,  
35 and affairs for the preceding calendar year and pay a fee of ten  
36 dollars for filing. The statement shall be in general form and context

1 as approved by the national association of insurance commissioners for  
2 fraternal benefit societies and as supplemented by additional  
3 information required by the commissioner.

4 (2) All domestic, foreign, and alien societies transacting business  
5 in this state shall annually, on or before March 1st of each year, file  
6 with the national association of insurance commissioners a copy of its  
7 annual statement convention blank in electronic form.

8 (3) As part of the required annual statement, each society shall,  
9 on or before the first day of March, file with the commissioner a  
10 valuation of its certificates in force on December 31st last preceding,  
11 provided the commissioner may, in the commissioner's discretion for  
12 cause shown, extend the time for filing the valuation for not more than  
13 two calendar months. The valuation shall be done in accordance with  
14 the standards specified in RCW 48.36A.250. The valuation and  
15 underlying data shall be certified by a qualified actuary or, at the  
16 expense of the society, verified by the actuary of the department of  
17 insurance of the state of domicile of the society.

18 ((+3)) (4) A society neglecting to file the annual statement in  
19 the form and within the time provided by this section shall forfeit one  
20 hundred dollars for each day during which the neglect continues, and,  
21 upon notice by the commissioner, its authority to do business in this  
22 state shall cease while the default continues.

23 NEW SECTION. Sec. 5. A new section is added to chapter 48.11 RCW  
24 to read as follows:

25 For the purposes of this code other than as to chapter 48.19 RCW  
26 "ocean marine and foreign trade insurances" shall include only:

27 (1) Insurances upon vessels, crafts, hulls, and of interests  
28 therein or with relation thereto;

29 (2) Insurance of marine builders' risks, marine war risks, and  
30 contracts of marine protection and indemnity insurance;

31 (3) Insurance of freights and disbursements pertaining to a subject  
32 of insurance coming within this definition;

33 (4) Insurance of personal property and interests therein, in course  
34 of exportation from or importation into any country, or in course of  
35 transportation coastwise, including transportation by land, water, or  
36 air from point of origin to final destination, in respect to,  
37 appertaining to, or in connection with, any and all risks or perils of

1 navigation, transit, or transportation, and while being prepared for  
2 and while awaiting shipment, and during any delays, storage,  
3 transshipment, or reshipment incident thereto.

4 **Sec. 6.** RCW 48.13.120 and 1993 c 92 s 7 are each amended to read  
5 as follows:

6 (1) An investment made pursuant to the provisions of RCW 48.13.110  
7 shall not exceed seventy-five percent of the fair value of the  
8 particular property at the time of investment. However, if the loan is  
9 secured by a first mortgage or other first lien upon real property  
10 improved with a single-family residential building, the terms of such  
11 loan provide for monthly payments of principal and interest sufficient  
12 to effect full repayment of the loan within the remaining useful life  
13 of the building as estimated in the appraisal for the loan, or thirty  
14 years and two months, whichever is less, the principal so loaned or the  
15 entire note or bond issue so secured, plus the amount of the liens of  
16 any public bond, assessment, or tax assessed upon the property, (~~may~~)  
17 shall not exceed eighty percent of the market value of the real  
18 property, or of the real property together with the improvements which  
19 are taken as security. This restriction shall not apply to purchase  
20 money mortgages or like securities received by an insurer upon the sale  
21 or exchange of real property acquired pursuant to RCW 48.13.160.

22 (2) The extent to which a mortgage loan made under RCW 48.13.110  
23 (3) or (4) is guaranteed or insured by the Federal Housing  
24 Administration or guaranteed by the Administrator of Veterans' Affairs  
25 may be deducted before application of the limitations contained in  
26 subsection (1) of this section.

27 **Sec. 7.** RCW 48.13.265 and 1957 c 193 s 8 are each amended to read  
28 as follows:

29 An insurer shall not invest or have invested at any one time more  
30 than sixty-five percent of its assets in investments in real estate,  
31 real estate contracts, and notes, bonds and other evidences of debt  
32 secured by mortgage on real estate, as described in RCW 48.13.110 and  
33 48.13.160. Any insurer which, on June 13, 1957, has in excess of  
34 sixty-five percent of its assets so invested shall not make any further  
35 such investments while such excess exists. All investments in  
36 mortgage-backed securities qualifying under the secondary mortgage

1 market enhancement act of 1984 (98 Stat. 1691; 15 U.S.C. Sec. 77r-1 et  
2 seq.) are included in determining if an insurer has exceeded the sixty-  
3 five percent limit.

4 **Sec. 8.** RCW 48.13.275 and 1993 c 92 s 6 are each amended to read  
5 as follows:

6 (~~Notwithstanding the provisions of RCW 48.13.050,~~) An insurer may  
7 invest its funds in obligations rated by the securities valuation  
8 office. Investments in obligations that are rated one or two by the  
9 securities valuation office shall be subject to the limitations  
10 contained in RCW 48.13.030.

11 **Sec. 9.** RCW 48.24.070 and 1973 1st ex.s. c 163 s 9 are each  
12 amended to read as follows:

13 The lives of a group of individuals may be insured under a policy  
14 issued to the trustees of a fund established by two or more employers  
15 or by two or more employer members of an employers' association, or by  
16 one or more labor unions, or by one or more employers and one or more  
17 labor unions, or by one or more employers and one or more labor unions  
18 whose members are in the same or related occupations or trades, which  
19 trustees shall be deemed the policyholder, to insure employees or  
20 members for the benefit of persons other than the employers or the  
21 unions, subject to the following requirements:

22 (1) If the policy is issued to two or more employer members of an  
23 employers' association, such policy may be issued only if (a) the  
24 association has been in existence for at least five years and was  
25 formed for purposes other than obtaining insurance and (b) the  
26 participating employers, meaning such employer members whose employees  
27 are to be insured, constitute at date of issue at least fifty percent  
28 of the total employers eligible to participate, unless the number of  
29 persons covered at date of issue exceeds six hundred, in which event  
30 such participating employers must constitute at least twenty-five  
31 percent of such total employers in either case omitting from  
32 consideration any employer whose employees are already covered for  
33 group life insurance.

34 (2) The persons eligible for insurance shall be all of the  
35 employees of the employers or all of the members of the unions, or all  
36 of any class or classes thereof determined by conditions pertaining to



1 their employment, or to membership in the unions, or to both. The  
2 policy may provide that the term "employees" shall include the  
3 individual proprietor or partners if an employer is an individual  
4 proprietor or a partnership. The policy may provide that the term  
5 "employees" shall include the trustees or their employees, or both, if  
6 their duties are connected with such trusteeship. The policy may  
7 provide that the term "employees" shall include retired employees.

8 (3) The premium for the policy shall be paid by the trustees wholly  
9 from funds contributed by the employer or employers of the insured  
10 persons, or by the union or unions, or ~~((by both, or,))~~ partly or  
11 wholly from ~~((such))~~ funds ~~((and partly from funds))~~ contributed by the  
12 insured persons, or any combination thereof. A policy on which all or  
13 part of the premium is to be derived from funds contributed by the  
14 insured persons specifically for their insurance may be placed in force  
15 ~~((only))~~ if ~~((at least seventy five percent of the then))~~ the eligible  
16 persons ~~((, excluding any as to whom evidence of insurability is not~~  
17 ~~satisfactory to the insurer,))~~ elect to make the required  
18 contributions. A policy on which no part of the premium is to be  
19 derived from funds contributed by the insured persons specifically for  
20 their insurance must insure all eligible persons, or all except any as  
21 to whom evidence of individual insurability is not satisfactory to the  
22 insurer.

23 (4) The policy must cover at least ~~((fifty))~~ twenty persons at date  
24 of issue.

25 (5) The amounts of insurance under the policy must be based upon  
26 some plan precluding individual selection either by the insured persons  
27 or by the policyholder, employers, or unions.

28 **Sec. 10.** RCW 48.31.045 and 1993 c 462 s 77 are each amended to  
29 read as follows:

30 (1) A court in this state before which an action or proceeding in  
31 which the insurer is a party, or is obligated to defend a party, is  
32 pending when a rehabilitation order against the insurer is entered  
33 shall stay the action or proceeding for ninety days and such additional  
34 time as is necessary for the rehabilitator to obtain proper  
35 representation and prepare for further proceedings. The rehabilitator  
36 shall take such action respecting the pending litigation as he or she  
37 deems necessary in the interests of justice and for the protection of

1 creditors, policyholders, and the public. The rehabilitator shall  
2 immediately consider all litigation pending outside this state and  
3 shall petition the courts having jurisdiction over that litigation for  
4 stays whenever necessary to protect the estate of the insurer.

5 (2) A statute of limitations or defense of laches does not run with  
6 respect to an action by or against an insurer between the filing of a  
7 petition for appointment of a rehabilitator for that insurer and the  
8 order granting or denying that petition. An action against the insurer  
9 that might have been commenced when the petition was filed may be  
10 commenced for at least sixty days after the order of rehabilitation is  
11 entered or the petition is denied. ~~((The rehabilitator may, upon an  
12 order for rehabilitation, within one year or such other longer time as  
13 applicable law may permit, institute an action or proceeding on behalf  
14 of the insurer upon a cause of action against which the period of  
15 limitation fixed by applicable law has not expired at the time of the  
16 filing of the petition upon which the order is entered.))~~ The  
17 rehabilitator may institute an action or proceeding pursuant to an  
18 order of rehabilitation, within the later of two years following entry  
19 of the order or two years of the date the rehabilitator discovers, or  
20 in the exercise of reasonable care should have discovered, the injury  
21 from which the action or proceeding arose and its cause. However,  
22 actions against former directors, officers, and employees brought  
23 pursuant to an order of rehabilitation for the benefit or the  
24 protection of subscribers, policy beneficiaries, or the general public  
25 is subject to the limitations period of RCW 4.16.160.

26 (3) A guaranty association or foreign guaranty association covering  
27 life or health insurance or annuities has standing to appear in a court  
28 proceeding concerning the rehabilitation of a life or health insurer if  
29 the association is or may become liable to act as a result of the  
30 rehabilitation.

31 **Sec. 11.** RCW 48.31.131 and 1993 c 462 s 63 are each amended to  
32 read as follows:

33 (1) Upon issuance of an order appointing a liquidator of a domestic  
34 insurer or of an alien insurer domiciled in this state, an action at  
35 law or equity or in arbitration may not be brought against the insurer  
36 or liquidator, whether in this state or elsewhere, nor may such an  
37 existing action be maintained or further presented after issuance of

1 the order. The courts of this state shall give full faith and credit  
2 to injunctions against the liquidator or the company when the  
3 injunctions are included in an order to liquidate an insurer issued  
4 under laws in other states corresponding to this subsection. Whenever,  
5 in the liquidator's judgment, protection of the estate of the insurer  
6 necessitates intervention in an action against the insurer that is  
7 pending outside this state, the liquidator may intervene in the action.  
8 The liquidator may defend an action in which he or she intervenes under  
9 this section at the expense of the estate of the insurer.

10 (2) The liquidator may(~~(, upon or after an order for liquidation,~~  
11 ~~within two years or such other longer time as applicable law may~~  
12 ~~permit, institute an action or proceeding on behalf of the estate of~~  
13 ~~the insurer upon a cause of action against which the period of~~  
14 ~~limitation fixed by applicable law has not expired at the time of the~~  
15 ~~filing of the petition upon which the order is entered. Where, by an~~  
16 ~~agreement, a period of limitation is fixed for instituting a suit or~~  
17 ~~proceeding upon a claim, or for filing a claim, proof of claim, proof~~  
18 ~~of loss, demand, notice, or the like, or where in a proceeding,~~  
19 ~~judicial or otherwise, a period of limitation is fixed, either in the~~  
20 ~~proceeding or by applicable law, for taking an action, filing a claim~~  
21 ~~or pleading, or doing an act, and where in such a case the period had~~  
22 ~~not expired at the date of the filing of the petition, the liquidator~~  
23 ~~may, for the benefit of the estate, take such an action or do such an~~  
24 ~~act, required of or permitted to the insurer, within a period of one~~  
25 ~~hundred eighty days after the entry of an order for liquidation, or~~  
26 ~~within such further period as is shown to the satisfaction of the court~~  
27 ~~not to be unfairly prejudicial to the other party)) institute an action  
28 or proceeding pursuant to an order of rehabilitation, within the later  
29 of two years following entry of the order or two years of the date the  
30 liquidator discovers, or in the exercise of reasonable care should have  
31 discovered, the injury from which the action or proceeding arose and  
32 its cause. However, actions against former directors, officers, and  
33 employees brought pursuant to an order of rehabilitation for the  
34 benefit or the protection of subscribers, policy beneficiaries, or the  
35 general public is subject to the limitations period of RCW 4.16.160.~~

36 (3) A statute of limitation or defense of laches does not run with  
37 respect to an action against an insurer between the filing of a  
38 petition for liquidation against an insurer and the denial of the

1 petition. An action against the insurer that might have been commenced  
2 when the petition was filed may be commenced for at least sixty days  
3 after the petition is denied.

4 (4) A guaranty association or foreign guaranty association has  
5 standing to appear in a court proceeding concerning the liquidation of  
6 an insurer if the association is or may become liable to act as a  
7 result of the liquidation.

8 **Sec. 12.** RCW 48.31.155 and 1993 c 462 s 68 are each amended to  
9 read as follows:

10 Unclaimed funds subject to distribution remaining in the  
11 liquidator's hands when he or she is ready to apply to the court for  
12 discharge, including the amount distributable to a person who is  
13 unknown or cannot be found, shall be deposited with the state  
14 (~~(treasurer)~~) department of revenue as unclaimed funds, and shall be  
15 paid without interest to the person entitled to them or his or her  
16 legal representative upon proof satisfactory to the state (~~(treasurer)~~)  
17 department of revenue of his or her right to them. An amount on  
18 deposit not claimed within six years from the discharge of the  
19 liquidator is deemed to have been abandoned and shall be escheated  
20 without formal escheat proceedings and be deposited with the state  
21 treasurer.

22 **Sec. 13.** RCW 48.43.018 and 2004 c 244 s 3 are each amended to read  
23 as follows:

24 (1) Except as provided in (a) through (~~(e)~~) (d) of this  
25 subsection, a health carrier may require any person applying for an  
26 individual health benefit plan to complete the standard health  
27 questionnaire designated under chapter 48.41 RCW.

28 (a) If a person is seeking an individual health benefit plan due to  
29 his or her change of residence from one geographic area in Washington  
30 state to another geographic area in Washington state where his or her  
31 current health plan is not offered, completion of the standard health  
32 questionnaire shall not be a condition of coverage if application for  
33 coverage is made within ninety days of relocation.

34 (b) If a person is seeking an individual health benefit plan:

35 (i) Because a health care provider with whom he or she has an  
36 established care relationship and from whom he or she has received

1 treatment within the past twelve months is no longer part of the  
2 carrier's provider network under his or her existing Washington  
3 individual health benefit plan; and

4 (ii) His or her health care provider is part of another carrier's  
5 provider network; and

6 (iii) Application for a health benefit plan under that carrier's  
7 provider network individual coverage is made within ninety days of his  
8 or her provider leaving the previous carrier's provider network; then  
9 completion of the standard health questionnaire shall not be a  
10 condition of coverage.

11 (c) If a person is seeking an individual health benefit plan due to  
12 his or her having exhausted continuation coverage provided under 29  
13 U.S.C. Sec. 1161 et seq., completion of the standard health  
14 questionnaire shall not be a condition of coverage if application for  
15 coverage is made within ninety days of exhaustion of continuation  
16 coverage. A health carrier shall accept an application without a  
17 standard health questionnaire from a person currently covered by such  
18 continuation coverage if application is made within ninety days prior  
19 to the date the continuation coverage would be exhausted and the  
20 effective date of the individual coverage applied for is the date the  
21 continuation coverage would be exhausted, or within ninety days  
22 thereafter.

23 ~~(d) ((If a person is seeking an individual health benefit plan due  
24 to his or her receiving notice that his or her coverage under a  
25 conversion contract is discontinued, completion of the standard health  
26 questionnaire shall not be a condition of coverage if application for  
27 coverage is made within ninety days of discontinuation of eligibility  
28 under the conversion contract. A health carrier shall accept an  
29 application without a standard health questionnaire from a person  
30 currently covered by such conversion contract if application is made  
31 within ninety days prior to the date eligibility under the conversion  
32 contract would be discontinued and the effective date of the individual  
33 coverage applied for is the date eligibility under the conversion  
34 contract would be discontinued, or within ninety days thereafter.~~

35 (e)) If a person is seeking an individual health benefit plan and,  
36 but for the number of persons employed by his or her employer, would  
37 have qualified for continuation coverage provided under 29 U.S.C. Sec.  
38 1161 et seq., completion of the standard health questionnaire shall not

1 be a condition of coverage if: (i) Application for coverage is made  
2 within ninety days of a qualifying event as defined in 29 U.S.C. Sec.  
3 1163; and (ii) the person had at least twenty-four months of continuous  
4 group coverage immediately prior to the qualifying event. A health  
5 carrier shall accept an application without a standard health  
6 questionnaire from a person with at least twenty-four months of  
7 continuous group coverage if application is made no more than ninety  
8 days prior to the date of a qualifying event and the effective date of  
9 the individual coverage applied for is the date of the qualifying  
10 event, or within ninety days thereafter.

11 (2) If, based upon the results of the standard health  
12 questionnaire, the person qualifies for coverage under the Washington  
13 state health insurance pool, the following shall apply:

14 (a) The carrier may decide not to accept the person's application  
15 for enrollment in its individual health benefit plan; and

16 (b) Within fifteen business days of receipt of a completed  
17 application, the carrier shall provide written notice of the decision  
18 not to accept the person's application for enrollment to both the  
19 person and the administrator of the Washington state health insurance  
20 pool. The notice to the person shall state that the person is eligible  
21 for health insurance provided by the Washington state health insurance  
22 pool, and shall include information about the Washington state health  
23 insurance pool and an application for such coverage. If the carrier  
24 does not provide or postmark such notice within fifteen business days,  
25 the application is deemed approved.

26 (3) If the person applying for an individual health benefit plan:

27 (a) Does not qualify for coverage under the Washington state health  
28 insurance pool based upon the results of the standard health  
29 questionnaire; (b) does qualify for coverage under the Washington state  
30 health insurance pool based upon the results of the standard health  
31 questionnaire and the carrier elects to accept the person for  
32 enrollment; or (c) is not required to complete the standard health  
33 questionnaire designated under this chapter under subsection (1)(a) or  
34 (b) of this section, the carrier shall accept the person for enrollment  
35 if he or she resides within the carrier's service area and provide or  
36 assure the provision of all covered services regardless of age, sex,  
37 family structure, ethnicity, race, health condition, geographic  
38 location, employment status, socioeconomic status, other condition or

1 situation, or the provisions of RCW 49.60.174(2). The commissioner may  
2 grant a temporary exemption from this subsection if, upon application  
3 by a health carrier, the commissioner finds that the clinical,  
4 financial, or administrative capacity to serve existing enrollees will  
5 be impaired if a health carrier is required to continue enrollment of  
6 additional eligible individuals.

7 **Sec. 14.** RCW 48.22.030 and 2006 c 187 s 1, 2006 c 110 s 1, and  
8 2006 c 25 s 17 are each reenacted and amended to read as follows:

9 (1) "Underinsured motor vehicle" means a motor vehicle with respect  
10 to the ownership, maintenance, or use of which either no bodily injury  
11 or property damage liability bond or insurance policy applies at the  
12 time of an accident, or with respect to which the sum of the limits of  
13 liability under all bodily injury or property damage liability bonds  
14 and insurance policies applicable to a covered person after an accident  
15 is less than the applicable damages which the covered person is legally  
16 entitled to recover.

17 (2) No new policy or renewal of an existing policy insuring against  
18 loss resulting from liability imposed by law for bodily injury, death,  
19 or property damage, suffered by any person arising out of the  
20 ownership, maintenance, or use of a motor vehicle shall be issued with  
21 respect to any motor vehicle registered or principally garaged in this  
22 state unless coverage is provided therein or supplemental thereto for  
23 the protection of persons insured thereunder who are legally entitled  
24 to recover damages from owners or operators of underinsured motor  
25 vehicles, hit-and-run motor vehicles, and phantom vehicles because of  
26 bodily injury, death, or property damage, resulting therefrom, except  
27 while operating or occupying a motorcycle or motor-driven cycle, and  
28 except while operating or occupying a motor vehicle owned or available  
29 for the regular use by the named insured or any family member, and  
30 which is not insured under the liability coverage of the policy. The  
31 coverage required to be offered under this chapter is not applicable to  
32 general liability policies, commonly known as umbrella policies, or  
33 other policies which apply only as excess to the insurance directly  
34 applicable to the vehicle insured.

35 (3) Except as to property damage, coverage required under  
36 subsection (2) of this section shall be in the same amount as the  
37 insured's third party liability coverage unless the insured rejects all

1 or part of the coverage as provided in subsection (4) of this section.  
2 Coverage for property damage need only be issued in conjunction with  
3 coverage for bodily injury or death. Property damage coverage required  
4 under subsection (2) of this section shall mean physical damage to the  
5 insured motor vehicle unless the policy specifically provides coverage  
6 for the contents thereof or other forms of property damage.

7 (4) A named insured or spouse may reject, in writing, underinsured  
8 coverage for bodily injury or death, or property damage, and the  
9 requirements of subsections (2) and (3) of this section shall not  
10 apply. If a named insured or spouse has rejected underinsured  
11 coverage, such coverage shall not be included in any supplemental or  
12 renewal policy unless a named insured or spouse subsequently requests  
13 such coverage in writing. The requirement of a written rejection under  
14 this subsection shall apply only to the original issuance of policies  
15 issued after July 24, 1983, and not to any renewal or replacement  
16 policy. When a named insured or spouse chooses a property damage  
17 coverage that is less than the insured's third party liability coverage  
18 for property damage, a written rejection is not required.

19 (5) The limit of liability under the policy coverage may be defined  
20 as the maximum limits of liability for all damages resulting from any  
21 one accident regardless of the number of covered persons, claims made,  
22 or vehicles or premiums shown on the policy, or premiums paid, or  
23 vehicles involved in an accident.

24 (6) The policy may provide that if an injured person has other  
25 similar insurance available to him under other policies, the total  
26 limits of liability of all coverages shall not exceed the higher of the  
27 applicable limits of the respective coverages.

28 (7)(a) The policy may provide for a deductible of not more than  
29 three hundred dollars for payment for property damage when the damage  
30 is caused by a hit-and-run driver or a phantom vehicle.

31 (b) In all other cases of underinsured property damage coverage,  
32 the policy may provide for a deductible of not more than one hundred  
33 dollars.

34 (8) For the purposes of this chapter, a "phantom vehicle" shall  
35 mean a motor vehicle which causes bodily injury, death, or property  
36 damage to an insured and has no physical contact with the insured or  
37 the vehicle which the insured is occupying at the time of the accident  
38 if:



1 (a) The facts of the accident can be corroborated by competent  
2 evidence other than the testimony of the insured or any person having  
3 an underinsured motorist claim resulting from the accident; and

4 (b) The accident has been reported to the appropriate law  
5 enforcement agency within seventy-two hours of the accident.

6 (9) An insurer who elects to write motorcycle or motor-driven cycle  
7 insurance in this state must provide information to prospective  
8 insureds about the coverage.

9 (10) An insurer who elects to write motorcycle or motor-driven  
10 cycle insurance in this state must provide an opportunity for named  
11 insureds, who have purchased liability coverage for a motorcycle or  
12 motor-driven cycle, to reject underinsured coverage for that motorcycle  
13 or motor-driven cycle in writing.

14 (11) If the covered person seeking underinsured motorist coverage  
15 under this section was the intended victim of the tort feisor, the  
16 incident must be reported to the appropriate law enforcement agency and  
17 the covered person must cooperate with any related law enforcement  
18 investigation.

19 (12) The purpose of this section is to protect innocent victims of  
20 motorists of underinsured motor vehicles. Covered persons are entitled  
21 to coverage without regard to whether an incident was intentionally  
22 caused. However, a person is not entitled to coverage if the insurer  
23 can demonstrate that the covered person intended to cause the  
24 ((damage)) event for which ((underinsured motorists' coverage is  
25 sought)) a claim is made under the coverage described in this section.  
26 As used in this section, and in the section of policies providing the  
27 underinsured motorist coverage described in this section, "accident"  
28 means an occurrence that is unexpected and unintended from the  
29 standpoint of the covered person.

30 (13) "Underinsured coverage," for the purposes of this section,  
31 means coverage for "underinsured motor vehicles," as defined in  
32 subsection (1) of this section.

33 NEW SECTION. Sec. 15. The following acts or parts of acts are  
34 each repealed:

35 (1) RCW 48.12.120 (Loss reserve--Workers' compensation insurance)  
36 and 1995 c 35 s 4, 1987 c 185 s 20, & 1947 c 79 s .12.12;

1           (2) RCW 48.12.130 (Unallocated workers' compensation loss expense)  
2 and 1995 c 35 s 5, 1987 c 185 s 21, & 1947 c 79 s .12.13; and  
3           (3) RCW 48.14.050 ("Ocean marine and foreign trade insurances"  
4 defined) and 1947 c 79 s .14.05.

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