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**SUBSTITUTE SENATE BILL 5049**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Government Operations, Tribal Relations & Elections  
(originally sponsored by Senators Kline, Roach, and Keiser)

READ FIRST TIME 02/03/11.

1       AN ACT Relating to implementing recommendations of the sunshine  
2 committee; amending RCW 13.34.100, 42.56.230, 42.56.330, 48.37.060, and  
3 70.148.060; reenacting and amending RCW 42.56.250; and providing an  
4 expiration date.

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

6       **Sec. 1.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read  
7 as follows:

8       (1) The court shall appoint a guardian ad litem for a child who is  
9 the subject of an action under this chapter, unless a court for good  
10 cause finds the appointment unnecessary. The requirement of a guardian  
11 ad litem may be deemed satisfied if the child is represented by  
12 independent counsel in the proceedings. The court shall attempt to  
13 match a child with special needs with a guardian ad litem who has  
14 specific training or education related to the child's individual needs.

15       (2) If the court does not have available to it a guardian ad litem  
16 program with a sufficient number of volunteers, the court may appoint  
17 a suitable person to act as guardian ad litem for the child under this  
18 chapter. Another party to the proceeding or the party's employee or  
19 representative shall not be so appointed.

1 (3) Each guardian ad litem program shall maintain a background  
2 information record for each guardian ad litem in the program. The  
3 background information record shall include, but is not limited to, the  
4 following information:

5 (a) Level of formal education;

6 (b) General training related to the guardian ad litem's duties;

7 (c) Specific training related to issues potentially faced by  
8 children in the dependency system;

9 (d) Specific training or education related to child disability or  
10 developmental issues;

11 (e) Number of years' experience as a guardian ad litem;

12 (f) Number of appointments as a guardian ad litem and the county or  
13 counties of appointment;

14 (g) The names of any counties in which the person was removed from  
15 a guardian ad litem registry pursuant to a grievance action, and the  
16 name of the court and the cause number of any case in which the court  
17 has removed the person for cause;

18 (h) Founded allegations of abuse or neglect as defined in RCW  
19 26.44.020;

20 (i) The results of an examination of state and national criminal  
21 identification data. The examination shall consist of a background  
22 check as allowed through the Washington state criminal records privacy  
23 act under RCW 10.97.050, the Washington state patrol criminal  
24 identification system under RCW 43.43.832 through 43.43.834, and the  
25 federal bureau of investigation. The background check shall be done  
26 through the Washington state patrol criminal identification section and  
27 must include a national check from the federal bureau of investigation  
28 based on the submission of fingerprints; and

29 (j) Criminal history, as defined in RCW 9.94A.030, for the period  
30 covering ten years prior to the appointment.

31 The background information record shall be updated annually. As a  
32 condition of appointment, the guardian ad litem's background  
33 information record shall be made available to the court and public. If  
34 the appointed guardian ad litem is not a member of a guardian ad litem  
35 program a suitable person appointed by the court to act as guardian ad  
36 litem shall provide the background information record to the court.

37 Upon appointment, the guardian ad litem, or guardian ad litem  
38 program, shall provide the parties or their attorneys with a copy of

1 the background information record. (~~The portion of the background~~  
2 ~~information record containing the results of the criminal background~~  
3 ~~check and the criminal history shall not be disclosed to the parties or~~  
4 ~~their attorneys.~~) The background information record shall not include  
5 identifying information that may be used to harm a guardian ad litem,  
6 such as home addresses and home telephone numbers, and for volunteer  
7 guardians ad litem the court may allow the use of maiden names or  
8 pseudonyms as necessary for their safety.

9 (4) The appointment of the guardian ad litem shall remain in effect  
10 until the court discharges the appointment or no longer has  
11 jurisdiction, whichever comes first. The guardian ad litem may also be  
12 discharged upon entry of an order of guardianship.

13 (5) A guardian ad litem through counsel, or as otherwise authorized  
14 by the court, shall have the right to present evidence, examine and  
15 cross-examine witnesses, and to be present at all hearings. A guardian  
16 ad litem shall receive copies of all pleadings and other documents  
17 filed or submitted to the court, and notice of all hearings according  
18 to court rules. The guardian ad litem shall receive all notice  
19 contemplated for a parent or other party in all proceedings under this  
20 chapter.

21 (6)(a) Pursuant to this subsection, the department or supervising  
22 agency and the child's guardian ad litem shall each notify a child of  
23 his or her right to request counsel and shall ask the child whether he  
24 or she wishes to have counsel. The department or supervising agency  
25 and the child's guardian ad litem shall notify the child and make this  
26 inquiry immediately after:

- 27 (i) The date of the child's twelfth birthday;  
28 (ii) Assignment of a case involving a child age twelve or older; or  
29 (iii) July 1, 2010, for a child who turned twelve years old before  
30 July 1, 2010.

31 (b) The department or supervising agency and the child's guardian  
32 ad litem shall repeat the notification and inquiry at least annually  
33 and upon the filing of any motion or petition affecting the child's  
34 placement, services, or familial relationships.

35 (c) The notification and inquiry is not required if the child has  
36 already been appointed counsel.

37 (d) The department or supervising agency shall note in the child's  
38 individual service and safety plan, and the guardian ad litem shall

1 note in his or her report to the court, that the child was notified of  
2 the right to request counsel and indicate the child's position  
3 regarding appointment of counsel.

4 (e) At the first regularly scheduled hearing after:

5 (i) The date of the child's twelfth birthday;

6 (ii) The date that a dependency petition is filed pursuant to this  
7 chapter on a child age twelve or older; or

8 (iii) July 1, 2010, for a child who turned twelve years old before  
9 July 1, 2010;

10 the court shall inquire whether the child has received notice of his or  
11 her right to request legal counsel from the department or supervising  
12 agency and the child's guardian ad litem. The court shall make an  
13 additional inquiry at the first regularly scheduled hearing after the  
14 child's fifteenth birthday. No inquiry is necessary if the child has  
15 already been appointed counsel.

16 (f) If the child requests legal counsel and is age twelve or older,  
17 or if the guardian ad litem or the court determines that the child  
18 needs to be independently represented by counsel, the court may appoint  
19 an attorney to represent the child's position.

20 (7) For the purposes of child abuse prevention and treatment act  
21 (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247,  
22 or any related state or federal legislation, a person appointed  
23 pursuant to this section shall be deemed a guardian ad litem to  
24 represent the best interests of the minor in proceedings before the  
25 court.

26 (8) When a court-appointed special advocate or volunteer guardian  
27 ad litem is requested on a case, the program shall give the court the  
28 name of the person it recommends. The program shall attempt to match  
29 a child with special needs with a guardian ad litem who has specific  
30 training or education related to the child's individual needs. The  
31 court shall immediately appoint the person recommended by the program.

32 (9) If a party in a case reasonably believes the court-appointed  
33 special advocate or volunteer guardian ad litem is inappropriate or  
34 unqualified, the party may request a review of the appointment by the  
35 program. The program must complete the review within five judicial  
36 days and remove any appointee for good cause. If the party seeking the  
37 review is not satisfied with the outcome of the review, the party may

1 file a motion with the court for the removal of the court-appointed  
2 special advocate or volunteer guardian ad litem on the grounds the  
3 advocate or volunteer is inappropriate or unqualified.

4 **Sec. 2.** RCW 42.56.230 and 2010 c 106 s 102 are each amended to  
5 read as follows:

6 The following personal information is exempt from public inspection  
7 and copying under this chapter:

8 (1) Personal information in any files maintained for students in  
9 public schools, patients or clients of public institutions or public  
10 health agencies, or welfare recipients;

11 (2) Personal information in files maintained for employees,  
12 appointees, or elected officials of any public agency to the extent  
13 that disclosure would violate their right to privacy;

14 (3) Information required of any taxpayer in connection with the  
15 assessment or collection of any tax if the disclosure of the  
16 information to other persons would: (a) Be prohibited to such persons  
17 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340(~~(, or any ordinance~~  
18 ~~authorized under RCW 35.102.145))~~); or (b) violate the taxpayer's right  
19 to privacy or result in unfair competitive disadvantage to the  
20 taxpayer;

21 (4) Credit card numbers, debit card numbers, electronic check  
22 numbers, card expiration dates, or bank or other financial (~~account~~  
23 ~~numbers~~) information as defined in RCW 9.35.005 including social  
24 security numbers, except when disclosure is expressly required by or  
25 governed by other law;

26 (5) Personal and financial information related to a small loan or  
27 any system of authorizing a small loan in RCW 31.45.093; and

28 (6) Documents and related materials and scanned images of documents  
29 and related materials used to prove identity, age, residential address,  
30 social security number, or other personal information required to apply  
31 for a driver's license or identicard.

32 **Sec. 3.** RCW 42.56.250 and 2010 c 257 s 1 and 2010 c 128 s 9 are  
33 each reenacted and amended to read as follows:

34 The following employment and licensing information is exempt from  
35 public inspection and copying under this chapter:

1 (1) Test questions, scoring keys, and other examination data used  
2 to administer a license, employment, or academic examination;

3 (2) All applications for public employment, including the names of  
4 applicants, resumes, and other related materials submitted with respect  
5 to an applicant, subject to the following exceptions:

6 (a) The applications of finalists applying for the highest  
7 management position in a public agency, county, or local government  
8 department with confidential reference information removed or redacted  
9 is not exempt from inspection and copying; and

10 (b) Application materials not exempt from inspection and copying  
11 must be available to the public after the finalists are selected, but  
12 before the agency, county, or local government makes its decision;

13 (3) The residential addresses, residential telephone numbers,  
14 personal wireless telephone numbers, personal electronic mail  
15 addresses, social security numbers, and emergency contact information  
16 of employees or volunteers of a public agency, and the names, dates of  
17 birth, residential addresses, residential telephone numbers, personal  
18 wireless telephone numbers, personal electronic mail addresses, social  
19 security numbers, and emergency contact information of dependents of  
20 employees or volunteers of a public agency that are held by any public  
21 agency in personnel records, public employment related records, or  
22 volunteer rosters, or are included in any mailing list of employees or  
23 volunteers of any public agency. For purposes of this subsection,  
24 "employees" includes independent provider home care workers as defined  
25 in RCW 74.39A.240;

26 (4) Information that identifies a person who, while an agency  
27 employee: (a) Seeks advice, under an informal process established by  
28 the employing agency, in order to ascertain his or her rights in  
29 connection with a possible unfair practice under chapter 49.60 RCW  
30 against the person; and (b) requests his or her identity or any  
31 identifying information not be disclosed;

32 (5) Investigative records compiled by an employing agency  
33 conducting an active and ongoing investigation of a possible unfair  
34 practice under chapter 49.60 RCW or of a possible violation of other  
35 federal, state, or local laws prohibiting discrimination in employment;

36 (6) Criminal history records checks for board staff finalist  
37 candidates conducted pursuant to RCW 43.33A.025;

1 (7) Except as provided in RCW 47.64.220, salary and benefit  
2 information for maritime employees collected from private employers  
3 under RCW 47.64.220(1) and described in RCW 47.64.220(2); and

4 (8) Photographs and month and year of birth in the personnel files  
5 of employees and workers of criminal justice agencies as defined in RCW  
6 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have  
7 access to the photographs and full date of birth. For the purposes of  
8 this subsection, news media does not include any person or organization  
9 of persons in the custody of a criminal justice agency as defined in  
10 RCW 10.97.030.

11 For the purposes of this section, "employment" does not include  
12 service on boards or commissions where the individual does not receive  
13 pay or benefits, even if that individual may receive minimal  
14 reimbursement or stipend for expenses.

15 **Sec. 4.** RCW 42.56.330 and 2010 c 128 s 8 are each amended to read  
16 as follows:

17 The following information relating to public utilities and  
18 transportation is exempt from disclosure under this chapter:

19 (1) Records filed with the utilities and transportation commission  
20 or attorney general under RCW 80.04.095 that a court has determined are  
21 confidential under RCW 80.04.095;

22 (2) The residential addresses and residential telephone numbers of  
23 the customers of a public utility contained in the records or lists  
24 held by the public utility of which they are customers, except that  
25 this information may be released to the division of child support or  
26 the agency or firm providing child support enforcement for another  
27 state under Title IV-D of the federal social security act, for the  
28 establishment, enforcement, or modification of a support order;

29 (3) The names, residential addresses, residential telephone  
30 numbers, and other individually identifiable records held by an agency  
31 in relation to a vanpool, carpool, or other ride-sharing program or  
32 service(~~;- however, these records~~). Participant's names, general  
33 locations, and e-mail addresses may be disclosed to other persons who  
34 apply for ride-matching services and who need that information in order  
35 to identify potential riders or drivers with whom to share rides;

36 (4) The personally identifying information of current or former

1 participants or applicants in a paratransit or other transit service  
2 operated for the benefit of persons with disabilities or elderly  
3 persons;

4 (5) The personally identifying information of persons who acquire  
5 and use transit passes and other fare payment media including, but not  
6 limited to, stored value smart cards and magnetic strip cards, except  
7 that an agency may disclose this information to a person, employer,  
8 educational institution, or other entity that is responsible, in whole  
9 or in part, for payment of the cost of acquiring or using a transit  
10 pass or other fare payment media for the purpose of preventing fraud(~~(~~  
11 ~~or to the news media when reporting on public transportation or public~~  
12 ~~safety)~~)).

13 (a) This information may be disclosed in aggregate form if the data  
14 does not contain any personally identifying information.

15 (b) Personally identifying information may be released to law  
16 enforcement agencies if the request is accompanied by a court order;

17 (6) Any information obtained by governmental agencies that is  
18 collected by the use of a motor carrier intelligent transportation  
19 system or any comparable information equipment attached to a truck,  
20 tractor, or trailer; however, the information may be given to other  
21 governmental agencies or the owners of the truck, tractor, or trailer  
22 from which the information is obtained. As used in this subsection,  
23 "motor carrier" has the same definition as provided in RCW 81.80.010;

24 (7) The personally identifying information of persons who acquire  
25 and use transponders or other technology to facilitate payment of  
26 tolls. This information may be disclosed in aggregate form as long as  
27 the data does not contain any personally identifying information. For  
28 these purposes aggregate data may include the census tract of the  
29 account holder as long as any individual personally identifying  
30 information is not released. Personally identifying information may be  
31 released to law enforcement agencies only for toll enforcement  
32 purposes. Personally identifying information may be released to law  
33 enforcement agencies for other purposes only if the request is  
34 accompanied by a court order; and

35 (8) The personally identifying information of persons who acquire  
36 and use a driver's license or identicard that includes a radio  
37 frequency identification chip or similar technology to facilitate  
38 border crossing. This information may be disclosed in aggregate form



1 as long as the data does not contain any personally identifying  
2 information. Personally identifying information may be released to law  
3 enforcement agencies only for United States customs and border  
4 protection enforcement purposes. Personally identifying information  
5 may be released to law enforcement agencies for other purposes only if  
6 the request is accompanied by a court order.

7 **Sec. 5.** RCW 48.37.060 and 2008 c 100 s 2 are each amended to read  
8 as follows:

9 (1) When the commissioner determines that other market conduct  
10 actions identified in RCW 48.37.040(4)(a) have not sufficiently  
11 addressed issues raised concerning company activities in Washington  
12 state, the commissioner has the discretion to conduct market conduct  
13 examinations in accordance with the NAIC market conduct uniform  
14 examination procedures and the NAIC market regulation handbook.

15 (2)(a) In lieu of an examination of an insurer licensed in this  
16 state, the commissioner shall accept an examination report of another  
17 state, unless the commissioner determines that the other state does not  
18 have laws substantially similar to those of this state, or does not  
19 have a market oversight system that is comparable to the market conduct  
20 oversight system set forth in this law.

21 (b) The commissioner's determination under (a) of this subsection  
22 is discretionary with the commissioner and is not subject to appeal.

23 (c) If the insurer to be examined is part of an insurance holding  
24 company system, the commissioner may also seek to simultaneously  
25 examine any affiliates of the insurer under common control and  
26 management which are licensed to write the same lines of business in  
27 this state.

28 (3) Before commencement of a market conduct examination, market  
29 conduct oversight personnel shall prepare a work plan consisting of the  
30 following:

- 31 (a) The name and address of the insurer being examined;
- 32 (b) The name and contact information of the examiner-in-charge;
- 33 (c) The name of all market conduct oversight personnel initially  
34 assigned to the market conduct examination;
- 35 (d) The justification for the examination;
- 36 (e) The scope of the examination;
- 37 (f) The date the examination is scheduled to begin;

1 (g) Notice of any noninsurance department personnel who will assist  
2 in the examination;

3 (h) A time estimate for the examination;

4 (i) A budget for the examination if the cost of the examination is  
5 billed to the insurer; and

6 (j) An identification of factors that will be included in the  
7 billing if the cost of the examination is billed to the insurer.

8 (4)(a) Within ten days of the receipt of the information contained  
9 in subsection (3) of this section, insurers may request the  
10 commissioner's discretionary review of any alleged conflict of  
11 interest, pursuant to RCW 48.37.090(2), of market conduct oversight  
12 personnel and noninsurance department personnel assigned to a market  
13 conduct examination. The request for review shall specifically  
14 describe the alleged conflict of interest in the proposed assignment of  
15 any person to the examination.

16 (b) Within five business days of receiving a request for  
17 discretionary review of any alleged conflict of interest in the  
18 proposed assignment of any person to a market conduct examination, the  
19 commissioner or designee shall notify the insurer of any action  
20 regarding the assignment of personnel to a market conduct examination  
21 based on the insurer's allegation of conflict of interest.

22 (5) Market conduct examinations shall, to the extent feasible, use  
23 desk examinations and data requests before an on-site examination.

24 (6) Market conduct examinations shall be conducted in accordance  
25 with the provisions set forth in the NAIC market regulation handbook  
26 and the NAIC market conduct uniform examinations procedures, subject to  
27 the precedence of the provisions of chapter 82, Laws of 2007.

28 (7) The commissioner shall use the NAIC standard data request.

29 (8) Announcement of the examination shall be sent to the insurer  
30 and posted on the NAIC's examination tracking system as soon as  
31 possible but in no case later than sixty days before the estimated  
32 commencement of the examination, except where the examination is  
33 conducted in response to extraordinary circumstances as described in  
34 RCW 48.37.050(2)(a). The announcement sent to the insurer shall  
35 contain the examination work plan and a request for the insurer to name  
36 its examination coordinator.

37 (9) If an examination is expanded significantly beyond the original  
38 reasons provided to the insurer in the notice of the examination

1 required by subsection (3) of this section, the commissioner shall  
2 provide written notice to the insurer, explaining the expansion and  
3 reasons for the expansion. The commissioner shall provide a revised  
4 work plan if the expansion results in significant changes to the items  
5 presented in the original work plan required by subsection (3) of this  
6 section.

7 (10) The commissioner shall conduct a preexamination conference  
8 with the insurer examination coordinator and key personnel to clarify  
9 expectations at least thirty days before commencement of the  
10 examination, unless otherwise agreed by the insurer and the  
11 commissioner.

12 (11) Before the conclusion of the field work for market conduct  
13 examination, the examiner-in-charge shall review examination findings  
14 to date with insurer personnel and schedule an exit conference with the  
15 insurer, in accordance with procedures in the NAIC market regulation  
16 handbook.

17 (12)(a) No later than sixty days after completion of each market  
18 conduct examination, the commissioner shall make a full written report  
19 of each market conduct examination containing only facts ascertained  
20 from the accounts, records, and documents examined and from the sworn  
21 testimony of individuals, and such conclusions and recommendations as  
22 may reasonably be warranted from such facts.

23 (b) The report shall be certified by the commissioner or by the  
24 examiner-in-charge of the examination, and shall be filed in the  
25 commissioner's office subject to (c) of this subsection.

26 (c) The commissioner shall furnish a copy of the market conduct  
27 examination report to the person examined not less than ten days and,  
28 unless the time is extended by the commissioner, not more than thirty  
29 days prior to the filing of the report for public inspection in the  
30 commissioner's office. If the person so requests in writing within  
31 such period, the commissioner shall hold a hearing to consider  
32 objections of such person to the report as proposed, and shall not so  
33 file the report until after such hearing and until after any  
34 modifications in the report deemed necessary by the commissioner have  
35 been made.

36 (d) Within thirty days of the end of the period described in (c) of  
37 this subsection, unless extended by order of the commissioner, the

1 commissioner shall consider the report, together with any written  
2 submissions or rebuttals and any relevant portions of the examiner's  
3 work papers and enter an order:

4 (i) Adopting the market conduct examination report as filed or with  
5 modification or corrections. If the market conduct examination report  
6 reveals that the company is operating in violation of any law, rule, or  
7 order of the commissioner, the commissioner may order the company to  
8 take any action the commissioner considers necessary and appropriate to  
9 cure that violation;

10 (ii) Rejecting the market conduct examination report with  
11 directions to the examiners to reopen the examination for purposes of  
12 obtaining additional data, documentation, or information, and refileing  
13 under this subsection; or

14 (iii) Calling for an investigatory hearing with no less than twenty  
15 days' notice to the company for purposes of obtaining additional  
16 documentation, data, information, and testimony.

17 (e) All orders entered under (d) of this subsection must be  
18 accompanied by findings and conclusions resulting from the  
19 commissioner's consideration and review of the market conduct  
20 examination report, relevant examiner work papers, and any written  
21 submissions or rebuttals. The order is considered a final  
22 administrative decision and may be appealed under the administrative  
23 procedure act, chapter 34.05 RCW, and must be served upon the company  
24 by certified mail or certifiable electronic means, together with a copy  
25 of the adopted examination report. A copy of the adopted examination  
26 report must be sent by certified mail or certifiable electronic means  
27 to each director at the director's residential address or to a personal  
28 e-mail account.

29 (f)(i) Upon the adoption of the market conduct examination report  
30 under (d) of this subsection, the commissioner shall continue to hold  
31 the content of the examination report as private and confidential  
32 information for a period of five days except that the order may be  
33 disclosed to the person examined. Thereafter, the commissioner (~~may~~)  
34 must open the report for public inspection so long as no court of  
35 competent jurisdiction has stayed its publication.

36 (ii) If the commissioner determines that regulatory action is  
37 appropriate as a result of any market conduct examination, he or she  
38 may initiate any proceedings or actions as provided by law.

1 (iii) Nothing contained in this subsection requires the  
2 commissioner to disclose any information or records that would indicate  
3 or show the existence or content of any investigation or activity of a  
4 criminal justice agency.

5 (g) The insurer's response shall be included in the commissioner's  
6 order adopting the final report as an exhibit to the order. The  
7 insurer is not obligated to submit a response.

8 (13) Except as provided in subsection (12)(f)(i) of this section,  
9 the commissioner may withhold from public inspection any examination or  
10 investigation report for so long as he or she deems it advisable.

11 (14)(a) Market conduct examinations within this state of any  
12 insurer domiciled or having its home offices in this state, other than  
13 a title insurer, made by the commissioner or the commissioner's  
14 examiners and employees shall, except as to fees, mileage, and expense  
15 incurred as to witnesses, be at the expense of the state.

16 (b) Every other examination, whatsoever, or any part of the market  
17 conduct examination of any person domiciled or having its home offices  
18 in this state requiring travel and services outside this state, shall  
19 be made by the commissioner or by examiners designated by the  
20 commissioner and shall be at the expense of the person examined; but a  
21 domestic insurer shall not be liable for the compensation of examiners  
22 employed by the commissioner for such services outside this state.

23 (c) When making a market conduct examination under this chapter,  
24 the commissioner may contract, in accordance with applicable state  
25 contracting procedures, for qualified attorneys, appraisers,  
26 independent certified public accountants, contract actuaries, and other  
27 similar individuals who are independently practicing their professions,  
28 even though those persons may from time to time be similarly employed  
29 or retained by persons subject to examination under this chapter, as  
30 examiners as the commissioner deems necessary for the efficient conduct  
31 of a particular examination. The compensation and per diem allowances  
32 paid to such contract persons shall be reasonable in the market and  
33 time incurred, shall not exceed one hundred twenty-five percent of the  
34 compensation and per diem allowances for examiners set forth in the  
35 guidelines adopted by the national association of insurance  
36 commissioners, unless the commissioner demonstrates that one hundred  
37 twenty-five percent is inadequate under the circumstances of the  
38 examination, and subject to the provisions of (a) of this subsection.

1 (d)(i) The person examined and liable shall reimburse the state  
2 upon presentation of an itemized statement thereof, for the actual  
3 travel expenses of the commissioner's examiners, their reasonable  
4 living expenses allowance, and their per diem compensation, including  
5 salary and the employer's cost of employee benefits, at a reasonable  
6 rate approved by the commissioner, incurred on account of the  
7 examination. Per diem, salary, and expenses for employees examining  
8 insurers domiciled outside the state of Washington shall be established  
9 by the commissioner on the basis of the national association of  
10 insurance commissioner's recommended salary and expense schedule for  
11 zone examiners, or the salary schedule established by the director of  
12 the Washington department of personnel and the expense schedule  
13 established by the office of financial management, whichever is higher.  
14 A domestic title insurer shall pay the examination expense and costs to  
15 the commissioner as itemized and billed by the commissioner.

16 (ii) The commissioner or the commissioner's examiners shall not  
17 receive or accept any additional emolument on account of any  
18 examination.

19 (iii) Market conduct examination fees subject to being reimbursed  
20 by an insurer shall be itemized and bills shall be provided to the  
21 insurer on a monthly basis for review prior to submission for payment,  
22 or as otherwise provided by state law.

23 (e) Nothing contained in this chapter limits the commissioner's  
24 authority to terminate or suspend any examination in order to pursue  
25 other legal or regulatory action under the insurance laws of this  
26 state. Findings of fact and conclusions made pursuant to any  
27 examination are prima facie evidence in any legal or regulatory action.

28 (f) The commissioner shall maintain active management and oversight  
29 of market conduct examination costs, including costs associated with  
30 the commissioner's own examiners, and with retaining qualified contract  
31 examiners necessary to perform an examination. Any agreement with a  
32 contract examiner shall:

33 (i) Clearly identify the types of functions to be subject to  
34 outsourcing;

35 (ii) Provide specific timelines for completion of the outsourced  
36 review;

37 (iii) Require disclosure to the insurer of contract examiners'  
38 recommendations;

1 (iv) Establish and use a dispute resolution or arbitration  
2 mechanism to resolve conflicts with insurers regarding examination  
3 fees; and

4 (v) Require disclosure of the terms of the contracts with the  
5 outside consultants that will be used, specifically the fees and/or  
6 hourly rates that can be charged.

7 (g) The commissioner, or the commissioner's designee, shall review  
8 and affirmatively endorse detailed billings from the qualified contract  
9 examiner before the detailed billings are sent to the insurer.

10 **Sec. 6.** RCW 70.148.060 and 2005 c 274 s 341 are each amended to  
11 read as follows:

12 (1) All (~~examination and proprietary reports and~~) information  
13 except for proprietary reports or information obtained by the director  
14 and the director's staff in soliciting bids from insurers and in  
15 monitoring the insurer selected by the director shall (~~not~~) be made  
16 public or otherwise disclosed to any person, firm, corporation, agency,  
17 association, governmental body, or other entity.

18 (2) Subsection (1) of this section notwithstanding, the director  
19 may furnish all or part of examination reports prepared by the director  
20 or by any person, firm, corporation, association, or other entity  
21 preparing the reports on behalf of the director to:

- 22 (a) The Washington state insurance commissioner;
- 23 (b) A person or organization officially connected with the insurer  
24 as officer, director, attorney, auditor, or independent attorney or  
25 independent auditor; and
- 26 (c) The attorney general in his or her role as legal advisor to the  
27 director.

28 (3) Subsection (1) of this section notwithstanding, the director  
29 may furnish all or part of the examination or proprietary reports or  
30 information obtained by the director to:

- 31 (a) The Washington state insurance commissioner; and
- 32 (b) A person, firm, corporation, association, governmental body, or  
33 other entity with whom the director has contracted for services  
34 necessary to perform his or her official duties.

35 (4) (~~Examination reports and~~) Proprietary information obtained by  
36 the director and the director's staff are not subject to public  
37 disclosure under chapter 42.56 RCW.

1           (5) A person who violates any provision of this section is guilty  
2 of a gross misdemeanor.

3           NEW SECTION.   **Sec. 7.** Section 6 of this act expires June 1, 2013.

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