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SENATE BILL 5213

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Litzow and Hobbs; by request of Insurance Commissioner

Read first time 01/18/11. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to insurance; amending RCW 4.28.080, 48.02.150,  
2 48.02.190, 48.03.060, 48.05.200, 48.05.215, 48.10.170, 48.14.0201,  
3 48.15.150, 48.17.380, 48.36A.350, 48.85.030, 48.94.010, 48.102.011,  
4 48.102.021, 48.110.030, 48.110.055, and 48.155.020; and repealing RCW  
5 48.05.210.

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

7 **Sec. 1.** RCW 4.28.080 and 1997 c 380 s 1 are each amended to read  
8 as follows:

9 Service made in the modes provided in this section (~~(shall be taken~~  
10 ~~and held to be)~~) is personal service. The summons shall be served by  
11 delivering a copy thereof, as follows:

12 (1) If the action (~~(be)~~) is against any county in this state, to  
13 the county auditor or, during normal office hours, to the deputy  
14 auditor, or in the case of a charter county, summons may be served upon  
15 the agent, if any, designated by the legislative authority.

16 (2) If against any town or incorporated city in the state, to the  
17 mayor, city manager, or, during normal office hours, to the mayor's or  
18 city manager's designated agent or the city clerk thereof.

1 (3) If against a school or fire district, to the superintendent or  
2 commissioner thereof or by leaving the same in his or her office with  
3 an assistant superintendent, deputy commissioner, or business manager  
4 during normal business hours.

5 (4) If against a railroad corporation, to any station, freight,  
6 ticket or other agent thereof within this state.

7 (5) If against a corporation owning or operating sleeping cars, or  
8 hotel cars, to any person having charge of any of its cars or any agent  
9 found within the state.

10 (6) If against a domestic insurance company, to any agent  
11 authorized by such company to solicit insurance within this state.

12 (7)(a) If against ((a)) an unauthorized foreign or alien insurance  
13 company, as provided in ((chapter 48.05)) RCW 48.05.200.

14 (b) If against an unauthorized insurer, as provided in RCW  
15 48.05.215 and 48.15.150.

16 (c) If against a reciprocal insurer, as provided in RCW 48.10.170.

17 (d) If against a nonresident surplus line broker, as provided in  
18 RCW 48.15.073.

19 (e) If against a nonresident insurance producer or title insurance  
20 agent, as provided in RCW 48.17.173.

21 (f) If against a nonresident adjuster, as provided in RCW  
22 48.17.380.

23 (g) If against a fraternal benefit society, as provided in RCW  
24 48.36A.350.

25 (h) If against a nonresident reinsurance intermediary, as provided  
26 in RCW 48.94.010.

27 (i) If against a nonresident life settlement provider, as provided  
28 in RCW 48.102.011.

29 (j) If against a nonresident life settlement broker, as provided in  
30 RCW 48.102.021.

31 (k) If against a service contract provider, as provided in RCW  
32 48.110.030.

33 (l) If against a protection product guarantee provider, as provided  
34 in RCW 48.110.055.

35 (m) If against a discount plan organization, as provided in RCW  
36 48.155.020.

37 (8) If against a company or corporation doing any express business,

1 to any agent authorized by said company or corporation to receive and  
2 deliver express matters and collect pay therefor within this state.

3 (9) If (~~the suit be~~) against a company or corporation other than  
4 those designated in (~~the preceding subdivisions~~) subsections (1)  
5 through (8) of this section, to the president or other head of the  
6 company or corporation, the registered agent, secretary, cashier or  
7 managing agent thereof or to the secretary, stenographer or office  
8 assistant of the president or other head of the company or corporation,  
9 registered agent, secretary, cashier or managing agent.

10 (10) If (~~the suit be~~) against a foreign corporation or  
11 nonresident joint stock company, partnership or association doing  
12 business within this state, to any agent, cashier or secretary thereof.

13 (11) If against a minor under the age of fourteen years, to such  
14 minor personally, and also to his or her father, mother, guardian, or  
15 if there be none within this state, then to any person having the care  
16 or control of such minor, or with whom he or she resides, or in whose  
17 service he or she is employed, if such there be.

18 (12) If against any person for whom a guardian has been appointed  
19 for any cause, then to such guardian.

20 (13) If against a foreign or alien steamship company or steamship  
21 charterer, to any agent authorized by such company or charterer to  
22 solicit cargo or passengers for transportation to or from ports in the  
23 state of Washington.

24 (14) If against a self-insurance program regulated by chapter 48.62  
25 RCW, as provided in chapter 48.62 RCW.

26 (15) In all other cases, to the defendant personally, or by leaving  
27 a copy of the summons at the house of his or her usual abode with some  
28 person of suitable age and discretion then resident therein.

29 (16) In lieu of service under subsection (15) of this section,  
30 where the person cannot with reasonable diligence be served as  
31 described, the summons may be served as provided in this subsection,  
32 and shall be deemed complete on the tenth day after the required  
33 mailing: By leaving a copy at his or her usual mailing address with a  
34 person of suitable age and discretion who is a resident, proprietor, or  
35 agent thereof, and by thereafter mailing a copy by first-class mail,  
36 postage prepaid, to the person to be served at his or her usual mailing  
37 address. For the purposes of this subsection, "usual mailing address"

1 ((shall)) does not include a United States postal service post office  
2 box or the person's place of employment.

3 **Sec. 2.** RCW 48.02.150 and 2009 c 549 s 7011 are each amended to  
4 read as follows:

5 The commissioner ((shall)) must purchase at the expense of the  
6 state, and in the manner provided by law((+  
7 (+1))), printing, books, reports, furniture, equipment, and supplies  
8 as he or she deems necessary to the proper discharge of his or her  
9 duties under this code.

10 ((~~(2) "Convention form" insurers' annual statement blanks, which he~~  
11 ~~or she may purchase from any printer manufacturing the forms for the~~  
12 ~~various states.~~))

13 **Sec. 3.** RCW 48.02.190 and 2009 c 161 s 1 are each amended to read  
14 as follows:

15 (1) As used in this section:

16 (a) "Organization" means every insurer, as defined in RCW  
17 48.01.050, having a certificate of authority to do business in this  
18 state, every health care service contractor, as defined in RCW  
19 48.44.010, every health maintenance organization, as defined in RCW  
20 48.46.020, or self-funded multiple employer welfare arrangement, as  
21 defined in RCW 48.125.010, registered to do business in this state.  
22 "Class one" organizations ((shall)) consist of all insurers as defined  
23 in RCW 48.01.050. "Class two" organizations ((shall)) consist of all  
24 organizations registered under provisions of chapters 48.44 and 48.46  
25 RCW. "Class three" organizations ((shall)) consist of self-funded  
26 multiple employer welfare arrangements as defined in RCW 48.125.010.

27 (b)(i) "Receipts" means (A) net direct premiums consisting of  
28 direct gross premiums, as defined in RCW 48.18.170, paid for insurance  
29 written or renewed upon risks or property resident, situated, or to be  
30 performed in this state, less return premiums and premiums on policies  
31 not taken, dividends paid or credited to policyholders on direct  
32 business, and premiums received from policies or contracts issued in  
33 connection with qualified plans as defined in RCW 48.14.021, and (B)  
34 prepayments to health care service contractors, as defined in RCW  
35 48.44.010, health maintenance organizations, as defined in RCW  
36 48.46.020, or participant contributions to self-funded multiple

1 employer welfare arrangements, as defined in RCW 48.125.010, less  
2 experience rating credits, dividends, prepayments returned to  
3 subscribers, and payments for contracts not taken.

4 (ii) Participant contributions, under chapter 48.125 RCW, used to  
5 determine the receipts in this state under this section (~~shall be~~)  
6 are determined in the same manner as premiums taxable in this state are  
7 determined under RCW 48.14.090.

8 (c) "Regulatory surcharge" means the fees imposed by this section.

9 (2) The annual cost of operating the office of insurance  
10 commissioner (~~shall be~~) is determined by legislative appropriation.  
11 A pro rata share of the cost (~~shall be~~) is charged to all  
12 organizations as a regulatory surcharge. Each class of organization  
13 (~~shall~~) must contribute a sufficient amount to the insurance  
14 commissioner's regulatory account to pay the reasonable costs,  
15 including overhead, of regulating that class of organization.

16 (3) The regulatory surcharge (~~shall be~~) is calculated separately  
17 for each class of organization. The regulatory surcharge collected  
18 from each organization (~~shall be~~) is that portion of the cost of  
19 operating the insurance commissioner's office, for that class of  
20 organization, for the ensuing fiscal year that is represented by the  
21 organization's portion of the receipts collected or received by all  
22 organizations within that class on business in this state during the  
23 previous calendar year. However, the regulatory surcharge must not  
24 exceed one-eighth of one percent of receipts and the minimum regulatory  
25 surcharge (~~shall be~~) is one thousand dollars.

26 (4) The commissioner (~~shall~~) must annually, on or before (~~June~~)  
27 July 1st, calculate and bill each organization for the amount of the  
28 regulatory surcharge. The regulatory surcharge (~~shall be~~) is due and  
29 payable no later than (~~June~~) July 15th of each year. However, if the  
30 necessary financial records are not available or if the amount of the  
31 legislative appropriation is not determined in time to carry out such  
32 calculations and bill such regulatory surcharge within the time  
33 specified, the commissioner may use the regulatory surcharge factors  
34 for the prior year as the basis for the regulatory surcharge and, if  
35 necessary, the commissioner may impose supplemental fees to fully and  
36 properly charge the organizations. Any organization failing to pay the  
37 regulatory surcharges by (~~June 30th shall~~) July 31st must pay the  
38 same penalties as the penalties for failure to pay taxes when due under

1 RCW 48.14.060. The regulatory surcharge required by this section is in  
2 addition to all other taxes and fees now imposed or that may be  
3 subsequently imposed.

4 (5) All moneys collected (~~shall~~) must be deposited in the  
5 insurance commissioner's regulatory account in the state treasury which  
6 is hereby created.

7 (6) Unexpended funds in the insurance commissioner's regulatory  
8 account at the close of a fiscal year (~~shall be~~) are carried forward  
9 in the insurance commissioner's regulatory account to the succeeding  
10 fiscal year and (~~shall be~~) are used to reduce future regulatory  
11 surcharges.

12 (7)(a) Each insurer may annually collect regulatory surcharges  
13 remitted in preceding years by means of a policyholder surcharge on  
14 premiums charged for all kinds of insurance. The recoupment (~~shall  
15 be~~) is at a uniform rate reasonably calculated to collect the  
16 regulatory surcharge remitted by the insurer.

17 (b) If an insurer fails to collect the entire amount of the  
18 recoupment in the first year under this section, it may repeat the  
19 recoupment procedure provided for in this subsection (7) in succeeding  
20 years until the regulatory surcharge is fully collected or a de minimis  
21 amount remains uncollected. Any such de minimis amount may be  
22 collected as provided in (d) of this subsection.

23 (c) The amount and nature of any recoupment (~~shall~~) must be  
24 separately stated on either a billing or policy declaration sent to an  
25 insured. The amount of the recoupment must not be considered a premium  
26 for any purpose, including the premium tax or agents' commissions.

27 (d) An insurer may elect not to collect the regulatory surcharge  
28 from its insured. In such a case, the insurer may recoup the  
29 regulatory surcharge through its rates, if the following requirements  
30 are met:

31 (i) The insurer remits the amount of surcharge not collected by  
32 election under this subsection; and

33 (ii) The surcharge is not considered a premium for any purpose,  
34 including the premium tax or agents' commission.

35 **Sec. 4.** RCW 48.03.060 and 2004 c 260 s 23 are each amended to read  
36 as follows:

37 (1) Examinations within this state of any insurer or self-funded

1 multiple employer welfare arrangement as defined in RCW 48.125.010  
2 domiciled or having its home offices in this state, other than a title  
3 insurer, made by the commissioner or the commissioner's examiners and  
4 employees (~~shall~~) must, except as to fees, mileage, and expense  
5 incurred as to witnesses, be at the expense of the state.

6 (2) Every other examination, whatsoever, or any part of the  
7 examination of any person domiciled or having its home offices in this  
8 state requiring travel and services outside this state, (~~shall~~) must  
9 be made by the commissioner or by examiners designated by the  
10 commissioner and (~~shall~~) must be at the expense of the person  
11 examined; but a domestic insurer (~~shall~~) must not be liable for the  
12 compensation of examiners employed by the commissioner for such  
13 services outside this state.

14 (3) When making an examination under this chapter, the commissioner  
15 may retain attorneys, appraisers, independent actuaries, independent  
16 certified public accountants, or other professionals and specialists as  
17 examiners, the cost of which (~~shall~~) must be borne by the person who  
18 is the subject of the examination, except as provided in subsection (1)  
19 of this section.

20 (4) The person examined and liable (~~therefor—shall~~) must  
21 reimburse the state upon presentation of an itemized statement  
22 (~~thereof,~~) for the actual travel expenses of the commissioner's  
23 examiners, their reasonable living expense allowance, and their per  
24 diem compensation, including salary and the employer's cost of employee  
25 benefits, at a reasonable rate approved by the commissioner, incurred  
26 on account of the examination. Per diem salary and expenses for  
27 employees examining insurers domiciled outside the state of Washington  
28 (~~shall~~) must be established by the commissioner on the basis of the  
29 national association of insurance commissioner's recommended salary and  
30 expense schedule for zone examiners, or the salary schedule established  
31 by the (~~Washington~~) state director of personnel (~~resources board~~),  
32 and the expense schedule established by the office of financial  
33 management, whichever is higher. A domestic title insurer (~~shall~~)  
34 must pay the examination expense and costs to the commissioner as  
35 itemized and billed by the commissioner.

36 The commissioner or the commissioner's examiners (~~shall~~) must not  
37 receive or accept any additional emolument on account of any  
38 examination.

1 (5) Nothing contained in this chapter limits the commissioner's  
2 authority to terminate or suspend any examination in order to pursue  
3 other legal or regulatory action under the insurance laws of this  
4 state. Findings of fact and conclusions made pursuant to any  
5 examination are prima facie evidence in any legal or regulatory action.

6 **Sec. 5.** RCW 48.05.200 and 1985 c 264 s 3 are each amended to read  
7 as follows:

8 (1) Each authorized foreign or alien insurer (~~shall~~) must appoint  
9 the commissioner as its attorney to receive service of, and upon whom  
10 (~~shall~~) must be served, all legal process issued against it in this  
11 state upon causes of action arising within this state. Service upon  
12 the commissioner as attorney (~~shall~~) constitutes service upon the  
13 insurer. Service of legal process against (~~such~~) the insurer can be  
14 had only by service upon the commissioner, except actions upon  
15 contractor bonds pursuant to RCW 18.27.040, where service may be upon  
16 the department of labor and industries.

17 (2) With the appointment the insurer (~~shall~~) must designate by  
18 name, e-mail address, and address the person to whom the commissioner  
19 (~~shall~~) must forward legal process so served upon him or her. The  
20 insurer may change (~~such~~) the person by filing a new designation.

21 (3) The insurer must keep the designation, address, and e-mail  
22 address filed with the commissioner current.

23 (4) The appointment of the commissioner as attorney (~~shall be~~) is  
24 irrevocable, (~~shall~~) binds any successor in interest or to the assets  
25 or liabilities of the insurer, and (~~shall~~) remains in effect as long  
26 as there is in force in this state any contract made by the insurer or  
27 liabilities or duties arising therefrom.

28 (5) The service of process must be accomplished and processed in  
29 the manner prescribed under RCW 48.02.200.

30 **Sec. 6.** RCW 48.05.215 and 1981 c 339 s 4 are each amended to read  
31 as follows:

32 (1) Any foreign or alien insurer not (~~thereunto~~) authorized by  
33 the commissioner, whether it be a surplus lines insurer operating under  
34 chapter 48.15 RCW or not, who, by mail or otherwise, solicits insurance  
35 business in this state or transacts insurance business in this state as  
36 defined by RCW 48.01.060, thereby submits itself to the jurisdiction of

1 the courts of this state in any action, suit, or proceeding instituted  
2 by or on behalf of an insured, beneficiary or the commissioner arising  
3 out of (~~such~~) an unauthorized solicitation of insurance business,  
4 including, but not limited to, an action for injunctive relief by the  
5 commissioner.

6 (2) In any (~~such~~) action, suit, or proceeding instituted by or on  
7 behalf of an insured or beneficiary, service of legal process against  
8 (~~such~~) an unauthorized foreign or alien insurer (~~may be made by~~  
9 ~~service of duplicate copies of legal process on the commissioner by a~~  
10 ~~person competent to serve a summons or by registered mail. At the time~~  
11 ~~of service the plaintiff shall pay to the commissioner ten dollars,~~  
12 ~~taxable as costs in the action. The commissioner shall forthwith mail~~  
13 ~~one of the copies of the process, by registered mail with return~~  
14 ~~receipt requested, to the defendant at its last known principal place~~  
15 ~~of business)) must be accomplished and processed in the manner~~  
16 prescribed under RCW 48.02.200. The defendant insurer (~~shall have~~)  
17 has forty days from the date of the service on the commissioner within  
18 which to plead, answer, or otherwise defend the action.

19 (3) In any such action, suit, or proceeding by the commissioner,  
20 service of legal process against (~~such~~) an unauthorized foreign or  
21 alien insurer may be made by personal service of legal process upon any  
22 officer of such insurer at its last known principal place of business  
23 outside the state of Washington. The summons upon (~~such~~) an  
24 unauthorized foreign or alien insurer (~~shall~~) must contain the same  
25 requisites and be served in like manner as personal summons within the  
26 state of Washington; except, the insurer (~~shall have~~) has forty days  
27 from the date of (~~such~~) personal service within which to plead,  
28 answer, or otherwise defend the action.

29 **Sec. 7.** RCW 48.10.170 and 2009 c 549 s 7042 are each amended to  
30 read as follows:

31 (~~A certificate of authority shall not be issued to a~~  
32 ~~domestic)) Each authorized reciprocal insurer (~~unless prior thereto~~  
33 ~~the attorney has executed and filed with the commissioner the insurer's~~  
34 ~~irrevocable authorization of the commissioner to receive legal process~~  
35 ~~issued in this state against the insurer upon any cause of action~~  
36 ~~arising within this state.~~~~

1       ~~(2) The provisions of RCW 48.05.210 shall apply to service of such~~  
2 ~~process upon the commissioner.~~

3       (3)) must appoint the commissioner as its attorney to receive  
4 service of, and upon whom service must be served, all legal process  
5 issued against it in this state upon causes of action arising within  
6 this state. Service upon the commissioner as attorney constitutes  
7 service upon the insurer.

8       (2) With the appointment the insurer must designate the person to  
9 whom the commissioner must forward legal process so served upon him or  
10 her.

11       (3) The appointment of the commissioner as attorney is irrevocable,  
12 binds any successor in interest or to the assets or liabilities of the  
13 insurer, and remains in effect as long as there is in force in this  
14 state any contract made by the insurer or liabilities or duties arising  
15 under that contract.

16       (4) The service of process must be accomplished and processed in  
17 the manner prescribed under RCW 48.02.200.

18       (5) In lieu of service on the commissioner, legal process may be  
19 served upon a domestic reciprocal insurer by serving the insurer's  
20 attorney at his or her principal offices.

21       ((+4)) (6) Any judgment against the insurer based upon legal  
22 process so served (~~shall be~~) is binding upon each of the insurer's  
23 subscribers as their respective interests may appear and in an amount  
24 not exceeding their respective contingent liabilities.

25       **Sec. 8.** RCW 48.14.0201 and 2009 c 479 s 41 are each amended to  
26 read as follows:

27       (1) As used in this section, "taxpayer" means a health maintenance  
28 organization as defined in RCW 48.46.020, a health care service  
29 contractor as defined in RCW 48.44.010, or a self-funded multiple  
30 employer welfare arrangement as defined in RCW 48.125.010.

31       (2) Each taxpayer (~~shall~~) must pay a tax on or before the first  
32 day of March of each year to the state treasurer through the insurance  
33 commissioner's office. The tax (~~shall~~) must be equal to the total  
34 amount of all premiums and prepayments for health care services  
35 collected or received by the taxpayer under RCW 48.14.090 during the  
36 preceding calendar year multiplied by the rate of two percent. For tax

1 purposes, the reporting of premiums and prepayments must be on a  
2 written basis or on a paid-for basis consistent with the basis required  
3 by the annual statement.

4 (3) Taxpayers (~~shall~~) must prepay their tax obligations under  
5 this section. The minimum amount of the prepayments (~~shall be~~) is  
6 the percentages of the taxpayer's tax obligation for the preceding  
7 calendar year recomputed using the rate in effect for the current year.  
8 For the prepayment of taxes due during the first calendar year, the  
9 minimum amount of the prepayments (~~shall be~~) is the percentages of  
10 the taxpayer's tax obligation that would have been due had the tax been  
11 in effect during the previous calendar year. The tax prepayments  
12 (~~shall~~) must be paid to the state treasurer through the  
13 commissioner's office by the due dates and in the following amounts:

- 14 (a) On or before June 15, forty-five percent;
- 15 (b) On or before September 15, twenty-five percent;
- 16 (c) On or before December 15, twenty-five percent.

17 (4) For good cause demonstrated in writing, the commissioner may  
18 approve an amount smaller than the preceding calendar year's tax  
19 obligation as recomputed for calculating the health maintenance  
20 organization's, health care service contractor's, self-funded multiple  
21 employer welfare arrangement's, or certified health plan's prepayment  
22 obligations for the current tax year.

23 (5) Moneys collected under this section (~~shall be~~) are deposited  
24 in the general fund.

25 (6) The taxes imposed in this section do not apply to:

26 (a) Amounts received by any taxpayer from the United States or any  
27 instrumentality thereof as prepayments for health care services  
28 provided under Title XVIII (medicare) of the federal social security  
29 act.

30 (b) Amounts received by any taxpayer from the state of Washington  
31 as prepayments for health care services provided under:

32 (i) The medical care services program as provided in RCW 74.09.035;  
33 or

34 (ii) The Washington basic health plan on behalf of subsidized  
35 enrollees as provided in chapter 70.47 RCW(~~+-or~~

36 ~~(iii) The medicaid program on behalf of elderly or clients with~~  
37 ~~disabilities as provided in chapter 74.09 RCW when these prepayments~~

1 are received prior to July 1, 2009, and are associated with a managed  
2 care contract program that has been implemented on a voluntary  
3 demonstration or pilot project basis)).

4 (c) Amounts received by any health care service contractor, as  
5 defined in RCW 48.44.010, as prepayments for health care services  
6 included within the definition of practice of dentistry under RCW  
7 18.32.020.

8 (d) Participant contributions to self-funded multiple employer  
9 welfare arrangements that are not taxable in this state.

10 (7) Beginning January 1, 2000, the state (~~does hereby~~) preempts  
11 the field of imposing excise or privilege taxes upon taxpayers and no  
12 county, city, town, or other municipal subdivision (~~shall have~~) has  
13 the right to impose any such taxes upon such taxpayers. This  
14 subsection (~~shall be~~) is limited to premiums and payments for health  
15 benefit plans offered by health care service contractors under chapter  
16 48.44 RCW, health maintenance organizations under chapter 48.46 RCW,  
17 and self-funded multiple employer welfare arrangements as defined in  
18 RCW 48.125.010. The preemption authorized by this subsection (~~shall~~)  
19 must not impair the ability of a county, city, town, or other municipal  
20 subdivision to impose excise or privilege taxes upon the health care  
21 services directly delivered by the employees of a health maintenance  
22 organization under chapter 48.46 RCW.

23 (8)(a) The taxes imposed by this section apply to a self-funded  
24 multiple employer welfare arrangement only in the event that they are  
25 not preempted by the employee retirement income security act of 1974,  
26 as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the  
27 commissioner (~~shall~~) must initially request an advisory opinion from  
28 the United States department of labor or obtain a declaratory ruling  
29 from a federal court on the legality of imposing state premium taxes on  
30 these arrangements. Once the legality of the taxes has been  
31 determined, the multiple employer welfare arrangement certified by the  
32 insurance commissioner must begin payment of these taxes.

33 (b) If there has not been a final determination of the legality of  
34 these taxes, then beginning on the earlier of (i) the date the fourth  
35 multiple employer welfare arrangement has been certified by the  
36 insurance commissioner, or (ii) April 1, 2006, the arrangement  
37 (~~shall~~) must deposit the taxes imposed by this section into an  
38 interest bearing escrow account maintained by the arrangement. Upon a

1 final determination that the taxes are not preempted by the employee  
2 retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001  
3 et seq., all funds in the interest bearing escrow account (~~shall~~)  
4 must be transferred to the state treasurer.

5 (9) The effect of transferring contracts for health care services  
6 from one taxpayer to another taxpayer is to transfer the tax prepayment  
7 obligation with respect to the contracts.

8 (10) On or before June 1st of each year, the commissioner (~~shall~~)  
9 must notify each taxpayer required to make prepayments in that year of  
10 the amount of each prepayment and (~~shall~~) must provide remittance  
11 forms to be used by the taxpayer. However, a taxpayer's responsibility  
12 to make prepayments is not affected by failure of the commissioner to  
13 send, or the taxpayer to receive, the notice or forms.

14 **Sec. 9.** RCW 48.15.150 and 1979 ex.s. c 199 s 4 are each amended to  
15 read as follows:

16 (1) For any cause of action arising in this state under any  
17 contract issued as a surplus line contract under this chapter, an  
18 unauthorized insurer (~~shall~~) must be sued(~~(, upon any cause of action~~  
19 ~~arising in this state under any contract issued by it as a surplus line~~  
20 ~~contract, pursuant to this chapter,))~~ in the superior court of the  
21 county in which the cause of action arose.

22 (2) (~~Service of legal process against the insurer may be made in~~  
23 ~~any such action by service upon the commissioner of duplicate copies of~~  
24 ~~such legal process either by a person competent to serve a summons or~~  
25 ~~by registered mail or certified mail with return receipt requested. At~~  
26 ~~the time of such service the plaintiff shall pay to the commissioner~~  
27 ~~ten dollars, taxable as costs in the action. The commissioner shall~~  
28 ~~forthwith mail the documents of process served, or a true copy thereof,~~  
29 ~~to the insurer at its principal place of business last known to the~~  
30 ~~commissioner, or to the person designated by the insurer for that~~  
31 ~~purpose in the most recent document filed with the commissioner, on~~  
32 ~~forms prescribed by the commissioner, by prepaid registered or~~  
33 ~~certified mail with return receipt requested. The insurer shall have~~  
34 ~~forty days from the date of service upon the commissioner within which~~  
35 ~~to plead, answer, or otherwise defend the action. Upon service of~~  
36 ~~process upon the commissioner in accordance with this provision, the~~  
37 ~~court shall be deemed to have jurisdiction in personam of the insurer.~~

1       ~~(3))~~ An unauthorized insurer issuing (~~such~~) a policy (~~shall be~~  
2 ~~deemed thereby to have~~) under this chapter has authorized service of  
3 process against it in the manner (~~and to the effect as provided in~~  
4 ~~this section~~) prescribed under RCW 48.02.200. Any (~~such~~) policy  
5 (~~shall~~) must contain a provision designating the commissioner as the  
6 person upon whom service of process may be made.

7       (3) The insurer has forty days from the date of the service upon  
8 the commissioner within which to plead, answer, or otherwise defend the  
9 action. Upon service of process upon the commissioner in accordance  
10 with this section, the court has jurisdiction in personam of the  
11 insurer.

12       **Sec. 10.** RCW 48.17.380 and 2009 c 162 s 23 are each amended to  
13 read as follows:

14       (1) Application for a license to be an adjuster (~~shall~~) must be  
15 made to the commissioner upon forms furnished by the commissioner. As  
16 a part of or in connection with the application, an individual  
17 applicant (~~shall~~) must furnish information concerning his or her  
18 identity, including fingerprints for submission to the Washington state  
19 patrol, the federal bureau of investigation, and any governmental  
20 agency or entity authorized to receive this information for a state and  
21 national criminal history background check, personal history,  
22 experience, business record, purposes, and other pertinent facts, as  
23 the commissioner may reasonably require. If, in the process of  
24 verifying fingerprints, business records, or other information, the  
25 commissioner's office incurs fees or charges from another governmental  
26 agency or from a business firm, the amount of the fees or charges must  
27 be paid to the commissioner's office by the applicant.

28       (2) Any person willfully misrepresenting any fact required to be  
29 disclosed in any application shall be liable to penalties as provided  
30 by this code.

31       (3) The commissioner (~~shall~~) license as an adjuster only an  
32 individual or business entity which has otherwise complied with this  
33 code (~~therefor~~) and the individual or responsible officer of the  
34 business entity has furnished evidence satisfactory to the commissioner  
35 that the individual or responsible officer of the business entity is  
36 qualified as follows:

37       (a) Is eighteen or more years of age;

1 (b) Is a bona fide resident of this state, or is a resident of a  
2 state which will permit residents of this state to act as adjusters in  
3 such other state;

4 (c) Is a trustworthy person;

5 (d) Has had experience or special education or training with  
6 reference to the handling of loss claims under insurance contracts, of  
7 sufficient duration and extent reasonably to make the individual or  
8 responsible officer of the business entity competent to fulfill the  
9 responsibilities of an adjuster;

10 (e) Has successfully passed any examination as required under this  
11 chapter;

12 (f) If for a public adjuster's license, has filed the bond required  
13 by RCW 48.17.430;

14 (g) If a nonresident business entity, has designated an individual  
15 licensed adjuster responsible for the business entity's compliance with  
16 the insurance laws and rules of this state.

17 (4)(a) Each licensed nonresident adjuster, by application for and  
18 issuance of a license, has appointed the commissioner as the adjuster's  
19 attorney to receive service of legal process against the adjuster in  
20 this state upon causes of action arising within this state. Service  
21 upon the commissioner as attorney constitutes effective legal service  
22 on the adjuster.

23 (b) The appointment of the commissioner as attorney is irrevocable,  
24 binds any successor in interest or to the assets or liabilities of the  
25 adjuster, and remains in effect for as long as there could be any cause  
26 of action against the adjuster arising out of the adjuster's  
27 transactions in this state. The service of process must be  
28 accomplished and processed in the manner prescribed under RCW  
29 48.02.200.

30 (5) The commissioner may require any documents reasonably necessary  
31 to verify the information contained in an application and may, from  
32 time to time, require any licensed adjuster to produce the information  
33 called for in an application for a license.

34 **Sec. 11.** RCW 48.36A.350 and 1987 c 366 s 35 are each amended to  
35 read as follows:

36 (1) Every society authorized to do business in this state (~~shall~~

1       ~~(a) Appoint in writing the commissioner and each successor in~~  
2 ~~office to be its true and lawful attorney upon whom all lawful process~~  
3 ~~in any action or proceeding against it shall be served;~~

4       ~~(b) Agree in writing that any lawful process against it which is~~  
5 ~~served on the commissioner shall be of the same legal force and~~  
6 ~~validity as if served upon the society; and~~

7       ~~(c) Agree that the authority shall continue in force so long as any~~  
8 ~~liability remains outstanding in this state.~~

9       ~~Copies of such appointment, certified by said commissioner, shall~~  
10 ~~be deemed sufficient evidence thereof and shall be admitted in evidence~~  
11 ~~with the same force and effect as the original.~~

12       ~~(2) Service shall only be made upon the commissioner, or if absent,~~  
13 ~~upon the person in charge of the commissioner's office. It shall be~~  
14 ~~made in duplicate and shall constitute sufficient service upon the~~  
15 ~~society. When legal process against a society is served upon the~~  
16 ~~commissioner, the commissioner shall forward one of the duplicate~~  
17 ~~copies by registered mail, prepaid, directed to the secretary or~~  
18 ~~corresponding officer. No service shall require a society to file its~~  
19 ~~answer, pleading, or defense in less than forty days from the date of~~  
20 ~~mailing the copy of the service to a society. Legal process shall not~~  
21 ~~be served upon a society except in the manner provided in this section.~~  
22 ~~At the time of serving any process upon the commissioner, the plaintiff~~  
23 ~~or complainant in the action shall pay to the commissioner the fee~~  
24 ~~established pursuant to RCW 48.05.210.)) must appoint the commissioner~~  
25 ~~as its attorney to receive service of, and upon whom must be served,~~  
26 ~~all legal process issued against it in this state upon causes of action~~  
27 ~~arising within this state. Service upon the commissioner as attorney~~  
28 ~~constitutes service upon the society.~~

29       ~~(2) With the appointment the society must designate the person to~~  
30 ~~whom the commissioner must forward legal process so served upon him or~~  
31 ~~her.~~

32       ~~(3) The appointment of the commissioner as attorney is irrevocable,~~  
33 ~~binds any successor in interest or to the assets or liabilities of the~~  
34 ~~society, and remains in effect as long as there is in force in this~~  
35 ~~state any contract made by the society or liabilities or duties arising~~  
36 ~~therefrom.~~

37       ~~(4) The service of process must be accomplished and processed in~~  
38 ~~the manner prescribed under RCW 48.02.200.~~

1       **Sec. 12.** RCW 48.85.030 and 1995 1st sp.s. c 18 s 78 are each  
2 amended to read as follows:

3       (1) The insurance commissioner shall adopt rules defining the  
4 criteria that qualified long-term care partnership insurance policies  
5 must meet to satisfy the requirements of this chapter. The rules shall  
6 ~~((provide that all))~~ incorporate any requirements set forth by chapter  
7 48.83 RCW and the deficit reduction act of 2005 for qualified long-term  
8 care partnership insurance policies purchased for the purposes of this  
9 chapter(~~(~~

10       ~~(a) Be guaranteed renewable;~~

11       ~~(b) Provide coverage for nursing home care and provide coverage for~~  
12 ~~an alternative plan of care benefit as defined by the commissioner;~~

13       ~~(c) Provide optional coverage for home and community-based~~  
14 ~~services. Such home and community-based services shall be included in~~  
15 ~~the coverage unless rejected in writing by the applicant;~~

16       ~~(d) Provide automatic inflation protection or similar coverage for~~  
17 ~~any policyholder through the age of seventy-nine and made optional at~~  
18 ~~age eighty to protect the policyholder from future increases in the~~  
19 ~~cost of long-term care;~~

20       ~~(e) Not require prior hospitalization or confinement in a nursing~~  
21 ~~home as a prerequisite to receiving long-term care benefits; and~~

22       ~~(f) Contain at least a six-month grace period that permits~~  
23 ~~reinstatement of the policy or contract retroactive to the date of~~  
24 ~~termination if the policy or contract holder's nonpayment of premiums~~  
25 ~~arose as a result of a cognitive impairment suffered by the policy or~~  
26 ~~contract holder as certified by a physician)).~~

27       (2) Insurers offering long-term care policies for the purposes of  
28 this chapter shall demonstrate to the satisfaction of the insurance  
29 commissioner that they:

30       (a) Have procedures to provide notice to each purchaser of the  
31 long-term care consumer education program;

32       ~~(b) ((Offer case management services;~~

33       ~~(c))~~ Have procedures that provide for the keeping of individual  
34 policy records and procedures for the explanation of coverage and  
35 benefits identifying those payments or services available under the  
36 policy that meet the purposes of this chapter;

37       ~~((d))~~ (c) Agree to provide the insurance commissioner(~~(, on or~~  
38 ~~before September 1 of each year, an)) any required annual report~~

1 containing information derived from the long-term care partnership  
2 long-term care insurance uniform data set as specified by the office of  
3 the insurance commissioner.

4 **Sec. 13.** RCW 48.94.010 and 2005 c 274 s 317 are each amended to  
5 read as follows:

6 (1) No person, firm, association, or corporation may act as a  
7 reinsurance intermediary-broker in this state if the person, firm,  
8 association, or corporation maintains an office either directly or as  
9 a member or employee of a firm or association, or an officer, director,  
10 or employee of a corporation:

11 (a) In this state, unless the person, firm, association, or  
12 corporation is a licensed reinsurance intermediary-broker in this  
13 state; or

14 (b) In another state, unless the person, firm, association, or  
15 corporation is a licensed reinsurance intermediary-broker in this state  
16 or another state having a regulatory scheme substantially similar to  
17 this chapter.

18 (2) No person, firm, association, or corporation may act as a  
19 reinsurance intermediary-manager:

20 (a) For a reinsurer domiciled in this state, unless the person,  
21 firm, association, or corporation is a licensed reinsurance  
22 intermediary-manager in this state;

23 (b) In this state, if the person, firm, association, or corporation  
24 maintains an office either directly or as a member or employee of a  
25 firm or association, or an officer, director, or employee of a  
26 corporation in this state, unless the person, firm, association, or  
27 corporation is a licensed reinsurance intermediary-manager in this  
28 state;

29 (c) In another state for a nondomestic reinsurer, unless the  
30 person, firm, association, or corporation is a licensed reinsurance  
31 intermediary-manager in this state or another state having a  
32 substantially similar regulatory scheme.

33 (3) The commissioner may require a reinsurance intermediary-manager  
34 subject to subsection (2) of this section to:

35 (a) File a bond in an amount and from an insurer acceptable to the  
36 commissioner for the protection of the reinsurer; and

1 (b) Maintain an errors and omissions policy in an amount acceptable  
2 to the commissioner.

3 (4)((+a)) The commissioner may issue a reinsurance intermediary  
4 license to a person, firm, association, or corporation who has complied  
5 with the requirements of this chapter. Any such license issued to a  
6 firm or association authorizes all the members of the firm or  
7 association and any designated employees to act as reinsurance  
8 intermediaries under the license, and all such persons may be named in  
9 the application and any supplements to it. Any such license issued to  
10 a corporation authorizes all of the officers, and any designated  
11 employees and directors of it, to act as reinsurance intermediaries on  
12 behalf of the corporation, and all such persons must be named in the  
13 application and any supplements to it.

14 ~~((b) If the applicant for a reinsurance intermediary license is a  
15 nonresident, the applicant, as a condition precedent to receiving or  
16 holding a license, shall designate the commissioner as agent for  
17 service of process in the manner, and with the same legal effect,  
18 provided for by this title for designation of service of process upon  
19 unauthorized insurers, and also shall furnish the commissioner with the  
20 name and address of a resident of this state upon whom notices or  
21 orders of the commissioner or process affecting the nonresident  
22 reinsurance intermediary may be served. The licensee shall promptly  
23 notify the commissioner in writing of every change in its designated  
24 agent for service of process, but the change does not become effective  
25 until acknowledged by the commissioner.))~~

26 (5)(a) Each licensed nonresident reinsurance intermediary must  
27 appoint the commissioner as the reinsurance intermediary's attorney to  
28 receive service of legal process issued against the reinsurance  
29 intermediary in this state upon causes of action arising within this  
30 state. Service upon the commissioner as attorney constitutes effective  
31 legal service upon the reinsurance intermediary.

32 (b) With the appointment the reinsurance intermediary must  
33 designate the person to whom the commissioner must forward legal  
34 process so served upon him or her.

35 (c) The appointment is irrevocable, binds any successor in interest  
36 or to the assets or liabilities of the reinsurance intermediary, and  
37 remains in effect for as long as there could be any cause of action

1 against the reinsurance intermediary arising out of the reinsurance  
2 intermediary's insurance transactions in this state.

3 (d) The service of process must be accomplished and processed in  
4 the manner prescribed under RCW 48.02.200.

5 (6) The commissioner may refuse to issue a reinsurance intermediary  
6 license if, in his or her judgment, the applicant, anyone named on the  
7 application, or a member, principal, officer, or director of the  
8 applicant, is not trustworthy, or that a controlling person of the  
9 applicant is not trustworthy to act as a reinsurance intermediary, or  
10 that any of the foregoing has given cause for revocation or suspension  
11 of the license, or has failed to comply with a prerequisite for the  
12 issuance of such license. Upon written request, the commissioner will  
13 furnish a summary of the basis for refusal to issue a license, which  
14 document is privileged and not subject to chapter 42.56 RCW.

15 ((+6)) (7) Licensed attorneys-at-law of this state when acting in  
16 their professional capacity as such are exempt from this section.

17 **Sec. 14.** RCW 48.102.011 and 2010 c 27 s 5 are each amended to read  
18 as follows:

19 (1) A person, wherever located, may not act as a provider with an  
20 owner who is a resident of this state or if there is more than one  
21 owner on a single policy and one of the owners is a resident of this  
22 state, without first having obtained a license from the commissioner.

23 (2) An application for a provider license must be made to the  
24 commissioner by the applicant on a form prescribed by the commissioner,  
25 and the application must be accompanied by a licensing fee in the  
26 amount of two hundred fifty dollars for deposit into the general fund.

27 (3) All provider licenses continue in force until suspended,  
28 revoked, or not renewed. A license is subject to renewal annually on  
29 the first day of July upon application of the provider and payment of  
30 a renewal fee of two hundred fifty dollars for deposit into the general  
31 fund. If not so renewed, the license automatically expires on the  
32 renewal date.

33 (a) If the renewal fee is not received by the commissioner prior to  
34 the expiration date, the provider must pay to the commissioner in  
35 addition to the renewal fee, a surcharge as follows:

36 (i) For the first thirty days or part thereof delinquency the  
37 surcharge is fifty percent of the renewal fee;

1 (ii) For the next thirty days or part thereof delinquency the  
2 surcharge is one hundred percent of the renewal fee;

3 (b) If the renewal fee is not received by the commissioner after  
4 sixty days but prior to twelve months after the expiration date the  
5 payment of the renewal fee is for reinstatement of the license and the  
6 provider must pay to the commissioner the renewal fee and a surcharge  
7 of two hundred percent.

8 (4) Subsection (3)(a) and (b) of this section does not exempt any  
9 person from any penalty provided by law for transacting a life  
10 settlement business without a valid and subsisting license.

11 (5) The applicant must provide information as the commissioner may  
12 require on forms prescribed by the commissioner. The commissioner has  
13 the authority, at any time, to require an applicant to fully disclose  
14 the identity of its stockholders, partners, officers, and employees,  
15 and the commissioner may, in the exercise of the commissioner's sole  
16 discretion, refuse to issue a license in the name of any person if not  
17 satisfied that any officer, employee, stockholder, or partner thereof  
18 who may materially influence the applicant's conduct meets the  
19 standards of this chapter.

20 (6) A license issued to a partnership, corporation, or other entity  
21 authorizes all members, officers, and designated employees to act as a  
22 licensee under the license, if those persons are named in the  
23 application and any supplements to the application.

24 (7) Upon the filing of an application for a provider's license and  
25 the payment of the license fee, the commissioner must make an  
26 investigation of each applicant and may issue a license if the  
27 commissioner finds that the applicant:

28 (a) Has provided a detailed plan of operation;

29 (b) Is competent and trustworthy and intends to transact its  
30 business in good faith;

31 (c) Has a good business reputation and has had experience,  
32 training, or education so as to be qualified in the business for which  
33 the license is applied;

34 (d)(i) Has demonstrated evidence of financial responsibility in a  
35 form and in an amount prescribed by the commissioner by rule.

36 (ii) The commissioner may ask for evidence of financial  
37 responsibility at any time the commissioner deems necessary;

1 (e) If the applicant is a legal entity, is formed or organized  
2 (~~pursuant to~~) under the laws of this state, is a foreign legal entity  
3 authorized to transact business in this state, or provides a  
4 certificate of good standing from the state of its domicile; and

5 (f) Has provided to the commissioner an antifraud plan that meets  
6 the requirements of RCW 48.102.140 and includes:

7 (i) A description of the procedures for detecting and investigating  
8 possible fraudulent acts and procedures for resolving material  
9 inconsistencies between medical records and insurance applications;

10 (ii) A description of the procedures for reporting fraudulent  
11 insurance acts to the commissioner;

12 (iii) A description of the plan for antifraud education and  
13 training of its underwriters and other personnel; and

14 (iv) A written description or chart outlining the arrangement of  
15 the antifraud personnel who are responsible for the investigation and  
16 reporting of possible fraudulent insurance acts and investigating  
17 unresolved material inconsistencies between medical records and  
18 insurance applications.

19 (8)(a) A nonresident provider must appoint the commissioner as its  
20 attorney to receive service of, and upon whom must be served, all legal  
21 process issued against it in this state upon causes of action arising  
22 within this state. Service upon the commissioner as attorney  
23 constitutes service upon the provider. Service of legal process  
24 against the provider can be had only by service upon the commissioner.

25 (b) With the appointment the provider must designate the person to  
26 whom the commissioner must forward legal process so served upon him or  
27 her. The provider may change the person by filing a new designation.

28 (c) The appointment of the commissioner as attorney is irrevocable,  
29 binds any successor in interest or to the assets or liabilities of the  
30 provider, and remains in effect as long as there is in this state any  
31 contract made by the provider or liabilities or duties arising  
32 therefrom.

33 (~~(d) ((Duplicate copies of legal process against a provider for whom  
34 the commissioner is attorney shall be served upon him or her either by  
35 a person competent to serve summons, or by registered mail. At the  
36 time of service the plaintiff shall pay to the commissioner ten  
37 dollars, taxable as costs in the action.~~

1       ~~(e) The commissioner shall immediately send one of the copies of~~  
2 ~~the process, by registered mail with return receipt requested, to the~~  
3 ~~person designated for the purpose by the provider in its most recent~~  
4 ~~designation filed with the commissioner.~~

5       ~~(f) The commissioner shall keep a record of the day and hour of~~  
6 ~~service upon him or her of all legal process. Proceedings shall not be~~  
7 ~~had against the provider, and the provider shall not be required to~~  
8 ~~appear, plead, or answer until the expiration of forty days after the~~  
9 ~~date of service upon the commissioner.)~~ The service of process must be  
10 accomplished and processed in the manner prescribed under RCW  
11 48.02.200.

12       (9) A provider may not use any person to perform the functions of  
13 a broker unless the person is authorized to act as a broker under this  
14 chapter.

15       (10) A provider must provide to the commissioner new or revised  
16 information about officers, stockholders, partners, directors, members,  
17 or designated employees within thirty days of the change.

18       **Sec. 15.** RCW 48.102.021 and 2009 c 104 s 4 are each amended to  
19 read as follows:

20       (1) Only a life insurance producer who has been duly licensed as a  
21 resident insurance producer with a lifeline of authority in this state  
22 or his or her home state for at least one year and is licensed as a  
23 nonresident producer in this state is permitted to operate as a broker.

24       (2) Not later than thirty days from the first day of operating as  
25 a broker, the life insurance producer (~~shall~~) must notify the  
26 commissioner that he or she intends acting as a broker on a form  
27 prescribed by the commissioner, pay a fee of one hundred dollars, and  
28 if a nonresident producer appoint the commissioner as attorney for  
29 service of process under (~~subsection (6) of this section~~) RCW  
30 48.02.200. Notification (~~shall~~) must include an acknowledgement by  
31 the life insurance producer that he or she will operate as a broker in  
32 accordance with this chapter.

33       (3) A person licensed as an attorney, certified public accountant,  
34 or financial planner accredited by a nationally recognized  
35 accreditation agency, who is retained to represent the owner, whose  
36 compensation is not paid directly or indirectly by the provider or

1 purchaser, may negotiate life settlement contracts on behalf of the  
2 owner without having to obtain a license as a broker.

3 (4) The authority to act as a broker (~~shall~~) continues in force  
4 until suspended, revoked, or not renewed. The authority to act as a  
5 broker (~~shall~~) automatically expires if not timely renewed. The  
6 authority to act as a broker (~~shall be~~) is valid for a time period  
7 coincident with the expiration date of the broker's insurance producer  
8 license. The authority to act as a broker is renewable at that time,  
9 upon payment of a renewal fee in the amount of one hundred dollars and  
10 if the payment is received by the commissioner prior to the expiration  
11 date, the broker's authority to act as a broker continues in effect.

12 (a) If the renewal fee is not received by the commissioner prior to  
13 the expiration date, the broker (~~shall~~) must pay to the commissioner  
14 in addition to the renewal fee, a surcharge as follows:

15 (i) For the first thirty days or part thereof of delinquency the  
16 surcharge is fifty percent of the renewal fee;

17 (ii) For the next thirty days or part thereof delinquency the  
18 surcharge is one hundred percent of the renewal fee;

19 (b) If the payment of the renewal fee is not received by the  
20 commissioner after sixty days the surcharge is two hundred percent of  
21 the renewal fee.

22 (5) Subsection (4)(a) of this section does not exempt any person  
23 from any penalty provided by law for transacting life settlement  
24 business without the valid authority to act as a broker.

25 (6)(a) A nonresident broker (~~shall~~) must appoint the commissioner  
26 as its attorney to receive service of, and upon whom (~~shall~~) must be  
27 served, all legal process issued against it in this state upon causes  
28 of action arising within this state. Service upon the commissioner as  
29 attorney (~~shall~~) constitutes service upon the broker. Service of  
30 legal process against the broker can be had only by service upon the  
31 commissioner.

32 (b) (~~With the appointment the broker shall designate the person to~~  
33 ~~whom the commissioner shall forward legal process so served upon him or~~  
34 ~~her. The broker may change the person by filing a new designation.~~

35 (c) The appointment of the commissioner as attorney (~~shall be~~)  
36 is irrevocable, (~~shall~~) binds any successor in interest or to the  
37 assets or liabilities of the broker, and (~~shall~~) remains in effect as

1 long as there is in this state any contract made by the broker or  
2 liabilities or duties arising therefrom.

3 ~~((d) Duplicate copies of legal process against a broker for whom  
4 the commissioner is attorney shall be served upon him or her either by  
5 a person competent to serve summons, or by registered mail. At the  
6 time of service the plaintiff shall pay to the commissioner ten  
7 dollars, taxable as costs in the action.~~

8 ~~(e) The commissioner shall immediately send one of the copies of  
9 the process, by registered mail with return receipt requested, to the  
10 person designated for the purpose by the broker in its most recent  
11 designation filed with the commissioner.~~

12 ~~(f) The commissioner shall keep a record of the day and hour of  
13 service upon him or her of all legal process. Proceedings shall not be  
14 had against the broker, and the broker shall not be required to appear,  
15 plead, or answer until the expiration of forty days after the date of  
16 service upon the commissioner.)~~ (c) The service of process must be  
17 accomplished and processed in the manner prescribed in RCW 48.02.200.

18 (7) A broker may not use any person to perform the functions of a  
19 provider unless such a person holds a current, valid license as a  
20 provider, and as provided in this chapter.

21 **Sec. 16.** RCW 48.110.030 and 2006 c 274 s 4 are each amended to  
22 read as follows:

23 (1) A person may not act as, or offer to act as, or hold himself or  
24 herself out to be a service contract provider in this state, nor may a  
25 service contract be sold to a consumer in this state, unless the  
26 service contract provider has a valid registration as a service  
27 contract provider issued by the commissioner.

28 (2) Applicants to be a service contract provider must make an  
29 application to the commissioner upon a form to be furnished by the  
30 commissioner. The application must include or be accompanied by the  
31 following information and documents:

32 (a) All basic organizational documents of the service contract  
33 provider, including any articles of incorporation, articles of  
34 association, partnership agreement, trade name certificate, trust  
35 agreement, shareholder agreement, bylaws, and other applicable  
36 documents, and all amendments to those documents;

1 (b) The identities of the service contract provider's executive  
2 officer or officers directly responsible for the service contract  
3 provider's service contract business, and, if more than fifty percent  
4 of the service contract provider's gross revenue is derived from the  
5 sale of service contracts, the identities of the service contract  
6 provider's directors and stockholders having beneficial ownership of  
7 ten percent or more of any class of securities;

8 (c) Audited annual financial statements or other financial reports  
9 acceptable to the commissioner for the two most recent years which  
10 prove that the applicant is solvent and any information the  
11 commissioner may require in order to review the current financial  
12 condition of the applicant. If the service contract provider is  
13 relying on RCW 48.110.050(2)(c) to assure the faithful performance of  
14 its obligations to service contract holders, then the audited financial  
15 statements of the service contract provider's parent company must also  
16 be filed;

17 (d) An application fee of two hundred fifty dollars, which  
18 ~~((shall))~~ must be deposited into the general fund; and

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

20 ~~((The applicant shall appoint the commissioner as its attorney  
21 to receive service of legal process in any action, suit, or proceeding  
22 in any court. This appointment is irrevocable and shall bind the  
23 service contract provider or any successor in interest, shall remain in  
24 effect as long as there is in force in this state any contract or any  
25 obligation arising therefrom related to residents of this state, and  
26 shall be processed in accordance with RCW 48.05.210.))~~ Each registered  
27 service contract provider must appoint the commissioner as the service  
28 contract provider's attorney to receive service of legal process issued  
29 against the service contract provider in this state upon causes of  
30 action arising within this state. Service upon the commissioner as  
31 attorney constitutes effective legal service upon the service contract  
32 provider.

33 (a) With the appointment the service contract provider must  
34 designate the person to whom the commissioner must forward legal  
35 process so served upon him or her.

36 (b) The appointment is irrevocable, binds any successor in interest  
37 or to the assets or liabilities of the service contract provider, and

1 remains in effect for as long as there could be any cause of action  
2 against the service contract provider arising out of any of the service  
3 contract provider's contracts or obligations in this state.

4 (c) The service of process must be accomplished and processed in  
5 the manner prescribed under RCW 48.02.200.

6 (4) The commissioner may refuse to issue a registration if the  
7 commissioner determines that the service contract provider, or any  
8 individual responsible for the conduct of the affairs of the service  
9 contract provider under subsection (2)(b) of this section, is not  
10 competent, trustworthy, financially responsible, or has had a license  
11 as a service contract provider or similar license denied or revoked for  
12 cause by any state.

13 (5) A registration issued under this section is valid, unless  
14 surrendered, suspended, or revoked by the commissioner, or not renewed  
15 for so long as the service contract provider continues in business in  
16 this state and remains in compliance with this chapter. A registration  
17 is subject to renewal annually on the first day of July upon  
18 application of the service contract provider and payment of a fee of  
19 two hundred dollars, which (~~shall~~) must be deposited into the general  
20 fund. If not so renewed, the registration expires on the June 30th  
21 next preceding.

22 (6) A service contract provider (~~shall~~) must keep current the  
23 information required to be disclosed in its registration under this  
24 section by reporting all material changes or additions within thirty  
25 days after the end of the month in which the change or addition occurs.

26 **Sec. 17.** RCW 48.110.055 and 2006 c 274 s 17 are each amended to  
27 read as follows:

28 (1) This section applies to protection product guarantee providers.

29 (2) A person (~~shall~~) must not act as, or offer to act as, or hold  
30 himself or herself out to be a protection product guarantee provider in  
31 this state, nor may a protection product be sold to a consumer in this  
32 state, unless the protection product guarantee provider has:

33 (a) A valid registration as a protection product guarantee provider  
34 issued by the commissioner; and

35 (b) Either demonstrated its financial responsibility or assured the  
36 faithful performance of the protection product guarantee provider's  
37 obligations to its protection product guarantee holders by insuring all

1 protection product guarantees under a reimbursement insurance policy  
2 issued by an insurer holding a certificate of authority from the  
3 commissioner or a risk retention group, as defined in 15 U.S.C. Sec.  
4 3901(a)(4), as long as that risk retention group is in full compliance  
5 with the federal liability risk retention act of 1986 (15 U.S.C. Sec.  
6 3901 et seq.), is in good standing in its domiciliary jurisdiction, and  
7 properly registered with the commissioner under chapter 48.92 RCW. The  
8 insurance required by this subsection must meet the following  
9 requirements:

10 (i) The insurer or risk retention group must, at the time the  
11 policy is filed with the commissioner, and continuously thereafter,  
12 maintain surplus as to policyholders and paid-in capital of at least  
13 fifteen million dollars and annually file audited financial statements  
14 with the commissioner; and

15 (ii) The commissioner may authorize an insurer or risk retention  
16 group that has surplus as to policyholders and paid-in capital of less  
17 than fifteen million dollars, but at least equal to ten million  
18 dollars, to issue the insurance required by this subsection if the  
19 insurer or risk retention group demonstrates to the satisfaction of the  
20 commissioner that the company maintains a ratio of direct written  
21 premiums, wherever written, to surplus as to policyholders and paid-in  
22 capital of not more than three to one.

23 (3) Applicants to be a protection product guarantee provider  
24 (~~shall~~) must make an application to the commissioner upon a form to  
25 be furnished by the commissioner. The application (~~shall~~) must  
26 include or be accompanied by the following information and documents:

27 (a) The names of the protection product guarantee provider's  
28 executive officer or officers directly responsible for the protection  
29 product guarantee provider's protection product guarantee business and  
30 their biographical affidavits on a form prescribed by the commissioner;

31 (b) The name, address, and telephone number of any administrators  
32 designated by the protection product guarantee provider to be  
33 responsible for the administration of protection product guarantees in  
34 this state;

35 (c) A copy of the protection product guarantee reimbursement  
36 insurance policy or policies;

37 (d) A copy of each protection product guarantee the protection  
38 product guarantee provider proposes to use in this state;

1 (e) Any other pertinent information required by the commissioner;  
2 and

3 (f) A nonrefundable application fee of two hundred fifty dollars.

4 ~~(4) ((The applicant shall appoint the commissioner as its attorney~~  
5 ~~to receive service of legal process in any action, suit, or proceeding~~  
6 ~~in any court. This appointment is irrevocable and shall bind the~~  
7 ~~protection product guarantee provider or any successor in interest,~~  
8 ~~shall remain in effect as long as there is in force in this state any~~  
9 ~~protection product guarantee or any obligation arising therefrom~~  
10 ~~related to residents of this state, and shall be processed in~~  
11 ~~accordance with RCW 48.05.210.))~~ Each registered protection product  
12 guarantee provider must appoint the commissioner as the protection  
13 product guarantee provider's attorney to receive service of legal  
14 process issued against the protection product guarantee provider in  
15 this state upon causes of action arising within this state. Service  
16 upon the commissioner as attorney constitutes effective legal service  
17 upon the protection product guarantee provider.

18 (a) With the appointment the protection product guarantee provider  
19 must designate the person to whom the commissioner must forward legal  
20 process so served upon him or her.

21 (b) The appointment is irrevocable, binds any successor in interest  
22 or to the assets or liabilities of the protection product guarantee  
23 provider, and remains in effect for as long as there could be any cause  
24 of action against the protection product guarantee provider arising out  
25 of any of the protection product guarantee provider's contracts or  
26 obligations in this state.

27 (c) The service of process must be accomplished and processed in  
28 the manner prescribed under RCW 48.02.200.

29 (5) The commissioner may refuse to issue a registration if the  
30 commissioner determines that the protection product guarantee provider,  
31 or any individual responsible for the conduct of the affairs of the  
32 protection product guarantee provider under subsection (3)(a) of this  
33 section, is not competent, trustworthy, financially responsible, or has  
34 had a license as a protection product guarantee provider or similar  
35 license denied or revoked for cause by any state.

36 (6) A registration issued under this section is valid, unless  
37 surrendered, suspended, or revoked by the commissioner, or not renewed  
38 for so long as the protection product guarantee provider continues in

1 business in this state and remains in compliance with this chapter. A  
2 registration is subject to renewal annually on the first day of July  
3 upon application of the protection product guarantee provider and  
4 payment of a fee of two hundred fifty dollars. If not so renewed, the  
5 registration expires on the June 30th next preceding.

6 (7) A protection product guarantee provider (~~shall~~) must keep  
7 current the information required to be disclosed in its registration  
8 under this section by reporting all material changes or additions  
9 within thirty days after the end of the month in which the change or  
10 addition occurs.

11 **Sec. 18.** RCW 48.155.020 and 2010 c 27 s 6 are each amended to read  
12 as follows:

13 (1) Before conducting discount plan business to which this chapter  
14 applies, a person must obtain a license from the commissioner to  
15 operate as a discount plan organization.

16 (2) Except as provided in subsection (~~(3)~~) (4) of this section,  
17 each application for a license to operate as a discount plan  
18 organization:

19 (a) Must be in a form prescribed by the commissioner and verified  
20 by an officer or authorized representative of the applicant; and

21 (b) Must demonstrate, set forth, or be accompanied by the  
22 following:

23 (i) The two hundred fifty dollar application fee, which must be  
24 deposited into the general fund;

25 (ii) A copy of the organization documents of the applicant, such as  
26 the articles of incorporation, including all amendments;

27 (iii) A copy of the applicant's bylaws or other enabling documents  
28 that establish organizational structure;

29 (iv) The applicant's federal identification number, business  
30 address, and mailing address;

31 (v)(A) A list of names, addresses, official positions, and  
32 biographical information of the individuals who are responsible for  
33 conducting the applicant's affairs, including all members of the board  
34 of directors, board of trustees, executive committee, or other  
35 governing board or committee, the officers, contracted management  
36 company personnel, and any person or entity owning or having the right

1 to acquire ten percent or more of the voting securities of the  
2 applicant; and

3 (B) A disclosure in the listing of the extent and nature of any  
4 contracts or arrangements between any individual who is responsible for  
5 conducting the applicant's affairs and the discount plan organization,  
6 including all possible conflicts of interest;

7 (vi) A complete biographical statement, on forms prescribed by the  
8 commissioner, with respect to each individual identified under (b)(v)  
9 of this subsection;

10 (vii) A statement generally describing the applicant, its  
11 facilities and personnel, and the health care services for which a  
12 discount will be made available under the discount plan;

13 (viii) A copy of the form of all contracts made or to be made  
14 between the applicant and any health care providers or health care  
15 provider networks regarding the provision of health care services to  
16 members and discounts to be made available to members;

17 (ix) A copy of the form of any contract made or arrangement to be  
18 made between the applicant and any individual listed in (b)(v) of this  
19 subsection;

20 (x) A list identifying by name, address, telephone number, and e-  
21 mail address all persons who will market each discount plan offered by  
22 the applicant. If the person who will market a discount plan is an  
23 entity, only the entity must be identified. This list must be  
24 maintained and updated within sixty days of any change in the  
25 information. An updated list must be sent to the commissioner as part  
26 of the discount plan organization's renewal application under (b)(vii)  
27 of this subsection;

28 (xi) A copy of the form of any contract made or to be made between  
29 the applicant and any person, corporation, partnership, or other entity  
30 for the performance on the applicant's behalf of any function,  
31 including marketing, administration, enrollment, and subcontracting for  
32 the provision of health care services to members and discounts to be  
33 made available to members;

34 (xii) A copy of the applicant's most recent financial statements  
35 audited by an independent certified public accountant, except that,  
36 subject to the approval of the commissioner, an applicant that is an  
37 affiliate of a parent entity that is publicly traded and that prepares  
38 audited financial statements reflecting the consolidated operations of

1 the parent entity may submit the audited financial statement of the  
2 parent entity and a written guaranty that the minimum capital  
3 requirements required under RCW 48.155.030 will be met by the parent  
4 entity instead of the audited financial statement of the applicant;

5 (xiii) A description of the proposed methods of marketing  
6 including, but not limited to, describing the use of marketers, use of  
7 the internet, sales by telephone, electronic mail, or facsimile  
8 machine, and use of salespersons to market the discount plan benefits;

9 (xiv) A description of the member complaint procedures which must  
10 be established and maintained by the applicant;

11 (xv) If domiciled in this state, the name and address of the  
12 applicant's Washington statutory agent for service of process, notice,  
13 or demand ((or, if not domiciled in this state, a power of attorney  
14 duly executed by the applicant, appointing the commissioner and duly  
15 authorized deputies as the true and lawful attorney of the applicant in  
16 and for this state upon whom all law process in any legal action or  
17 proceeding against the discount plan organization on a cause of action  
18 arising in this state may be served)); and

19 (xvi) Any other information the commissioner may reasonably  
20 require.

21 (3)(a) If the applicant is not domiciled in this state, the  
22 applicant must appoint the commissioner as the discount plan  
23 organization's attorney to receive service of legal process issued  
24 against the discount plan organization in this state upon causes of  
25 action arising within this state. Service upon the commissioner as  
26 attorney constitutes effective legal service upon the discount plan  
27 organization.

28 (b) With the appointment the discount plan organization must  
29 designate by name, e-mail address, and address the person to whom the  
30 commissioner must forward legal process so served upon him or her. The  
31 discount plan organization may change the person by filing a new  
32 designation.

33 (c) The discount plan organization must keep the designation,  
34 address, and e-mail address filed with the commissioner current.

35 (d) The appointment is irrevocable, binds any successor in interest  
36 or to the assets or liabilities of the discount plan organization, and  
37 remains in effect for as long as there could be any cause of action

1 against the discount plan organization arising out of the discount plan  
2 organization's transactions in this state.

3 (e) The service of process must be accomplished and processed in  
4 the manner prescribed under RCW 48.02.200.

5 (4)(a) Upon application to and approval by the commissioner and  
6 payment of the applicable fees, a discount plan organization that holds  
7 a current license or other form of authority from another state to  
8 operate as a discount plan organization, at the commissioner's  
9 discretion, may not be required to submit the information required  
10 under subsection (2) of this section in order to obtain a license under  
11 this section if the commissioner is satisfied that the other state's  
12 requirements, at a minimum, are equivalent to those required under  
13 subsection (2) of this section or the commissioner is satisfied that  
14 the other state's requirements are sufficient to protect the interests  
15 of the residents of this state.

16 (b) Whenever the discount plan organization loses its license or  
17 other form of authority in that other state to operate as a discount  
18 plan organization, or is the subject of any disciplinary administrative  
19 proceeding related to the organization's operating as a discount plan  
20 organization in that other state, the discount plan organization must  
21 immediately notify the commissioner.

22 ~~((+4))~~ (5) After the receipt of an application filed under  
23 subsection (2) or ~~((+3))~~ (4) of this section, the commissioner must  
24 review the application and notify the applicant of any deficiencies in  
25 the application.

26 ~~((+5))~~ (6)(a) Within ninety days after the date of receipt of a  
27 completed application, the commissioner must:

28 (i) Issue a license if the commissioner is satisfied that the  
29 applicant has met the following:

30 (A) The applicant has fulfilled the requirements of this section  
31 and the minimum capital requirements in accordance with RCW 48.155.030;  
32 and

33 (B) The persons who own, control, and manage the applicant are  
34 competent and trustworthy and possess managerial experience that would  
35 make the proposed operation of the discount plan organization  
36 beneficial to discount plan members; or

37 (ii) Disapprove the application and state the grounds for  
38 disapproval.

1 (b) In making a determination under (a) of this subsection, the  
2 commissioner may consider, for example, whether the applicant or an  
3 officer or manager of the applicant: (i) Is not financially  
4 responsible; (ii) does not have adequate expertise or experience to  
5 operate a medical discount plan organization; or (iii) is not of good  
6 character. Among the factors that the commissioner may consider in  
7 making the determination is whether the applicant or an affiliate or a  
8 business formerly owned or managed by the applicant or an officer or  
9 manager of the applicant has had a previous application for a license,  
10 or other authority, to operate as any entity regulated by the  
11 commissioner denied, revoked, suspended, or terminated for cause, or is  
12 under investigation for or has been found in violation of a statute or  
13 regulation in another jurisdiction within the previous five years.

14 ~~((+6))~~ (7) Prior to licensure by the commissioner, each discount  
15 plan organization must establish an internet web site in order to  
16 conform to the requirements of RCW 48.155.070(2).

17 ~~((+7))~~ (8)(a) A license is effective for up to one year, unless  
18 prior to its expiration the license is renewed in accordance with this  
19 subsection or suspended or revoked in accordance with subsection  
20 ~~((+8))~~ (9) of this section. Licenses issued or renewed on or after  
21 July 1, 2010, will be subject to renewal annually on July 1st. If not  
22 so renewed, the license will automatically expire on the renewal date.

23 (b) At least ninety days before a license expires, the discount  
24 plan organization must submit:

25 (i) A renewal application form; and

26 (ii) A two hundred dollar renewal application fee for deposit into  
27 the general fund.

28 (c) The commissioner must renew the license of each holder that  
29 meets the requirements of this chapter and pays the appropriate renewal  
30 fee required.

31 ~~((+8))~~ (9)(a) The commissioner may suspend the authority of a  
32 discount plan organization to enroll new members or refuse to renew or  
33 revoke a discount plan organization's license if the commissioner finds  
34 that any of the following conditions exist:

35 (i) The discount plan organization is not operating in compliance  
36 with this chapter;

37 (ii) The discount plan organization does not have the minimum net  
38 worth as required under RCW 48.155.030;

1 (iii) The discount plan organization has advertised, merchandised,  
2 or attempted to merchandise its services in such a manner as to  
3 misrepresent its services or capacity for service or has engaged in  
4 deceptive, misleading, or unfair practices with respect to advertising  
5 or merchandising;

6 (iv) The discount plan organization is not fulfilling its  
7 obligations as a discount plan organization; or

8 (v) The continued operation of the discount plan organization would  
9 be hazardous to its members.

10 (b) If the commissioner has cause to believe that grounds for the  
11 nonrenewal, suspension, or revocation of a license exists, the  
12 commissioner must notify the discount plan organization in writing  
13 specifically stating the grounds for the refusal to renew or suspension  
14 or revocation and may also pursue a hearing on the matter under chapter  
15 48.04 RCW.

16 (c) When the license of a discount plan organization is nonrenewed,  
17 surrendered, or revoked, the discount plan organization must  
18 immediately upon the effective date of the order of revocation or, in  
19 the case of a nonrenewal, the date of expiration of the license, stop  
20 any further advertising, solicitation, collecting of fees, or renewal  
21 of contracts, and proceed to wind up its affairs transacted under the  
22 license.

23 (d)(i) When the commissioner suspends a discount plan  
24 organization's authority to enroll new members, the suspension order  
25 must specify the period during which the suspension is to be in effect  
26 and the conditions, if any, that must be met by the discount plan  
27 organization prior to reinstatement of its license to enroll members.

28 (ii) The commissioner may rescind or modify the order of suspension  
29 prior to the expiration of the suspension period.

30 (iii) The license of a discount plan organization may not be  
31 reinstated unless requested by the discount plan organization. The  
32 commissioner may not grant the request for reinstatement if the  
33 commissioner finds that the circumstances for which the suspension  
34 occurred still exist or are likely to recur.

35 ((+9)) (10) Each licensed discount plan organization must notify  
36 the commissioner immediately whenever the discount plan organization's  
37 license, or other form of authority to operate as a discount plan

1 organization in another state, is suspended, revoked, or nonrenewed in  
2 that state.

3 ((+10+)) (11) A health care provider who provides discounts to his  
4 or her own patients without any cost or fee of any kind to the patient  
5 is not required to obtain and maintain a license under this chapter as  
6 a discount plan organization.

7 NEW SECTION. **Sec. 19.** RCW 48.05.210 (Service of process--  
8 Procedure) and 2009 c 549 s 7018, 1981 c 339 s 3, & 1947 c 79 s .05.21  
9 are each repealed.

--- END ---