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HOUSE BILL 1370

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State of Washington

54th Legislature

1995 Regular Session

By Representatives L. Thomas, Jacobsen and Dyer; by request of Insurance Commissioner

Read first time 01/23/95. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the capital and surplus requirements of  
2 insurance companies; amending RCW 48.05.340; and adding new sections to  
3 chapter 48.05 RCW.

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

5 NEW SECTION. **Sec. 1.** As used in sections 1 through 13 of this  
6 act, these terms have the following meanings:

7 (1) "RBC" means risk-based capital.

8 (2) "NAIC" means the national association of insurance  
9 commissioners.

10 (3) "Domestic insurer" means any insurance company domiciled in  
11 this state.

12 (4) "Foreign or alien insurer" means any insurance company that is  
13 licensed to do business in this state under this chapter but is not  
14 domiciled in this state.

15 (5) "Life and disability insurer" means any insurance company  
16 authorized to write only life insurance, disability insurance, or both,  
17 as defined in chapter 48.11 RCW.

18 (6) "Property and casualty insurer" means any insurance company  
19 authorized to write only property insurance, marine and transportation

1 insurance, general casualty insurance, vehicle insurance, or any  
2 combination thereof, including disability insurance, as defined in  
3 chapter 48.11 RCW.

4 (7) "Corrective order" means an order issued by the commissioner  
5 specifying corrective actions that the commissioner has determined are  
6 required.

7 (8) "Negative trend" means, with respect to a life insurer, a  
8 disability insurer, or a life and disability insurer, the negative  
9 trend over a period of time, as determined in accordance with the trend  
10 test calculation included in the RBC instructions.

11 (9) "Adjusted RBC report" means an RBC report that has been  
12 adjusted by the commissioner in accordance with section 2(5) of this  
13 act.

14 (10) "RBC instructions" means the RBC report including risk-based  
15 capital instructions adopted by the NAIC.

16 (11) "RBC level" means an insurer's company action level RBC,  
17 regulatory action level RBC, authorized control level RBC, or mandatory  
18 control level RBC where:

19 (a) "Company action level RBC" means, with respect to any insurer,  
20 the product of 2.0 and its authorized control level RBC;

21 (b) "Regulatory action level RBC" means the product 1.5 and its  
22 authorized control level RBC;

23 (c) "Authorized control level RBC" means the number determined  
24 under the risk-based capital formula in accordance with the RBC  
25 instructions; and

26 (d) "Mandatory control level RBC" means the product of .70 and the  
27 authorized control level RBC.

28 (12) "RBC plan" means a comprehensive financial plan containing the  
29 elements specified in section 3(2) of this act. If the commissioner  
30 rejects the RBC plan, and it is revised by the insurer, with or without  
31 the commissioner's recommendation, the plan shall be called the  
32 "revised RBC plan."

33 (13) "RBC report" means the report required in section 2 of this  
34 act.

35 (14) "Total adjusted capital" means the sum of:

36 (a) An insurer's statutory capital and surplus as determined in  
37 accordance with statutory accounting applicable to the annual financial  
38 statements required to be filed under RCW 48.05.250; and

39 (b) Other items, if any, as the RBC instructions may provide.

1        NEW SECTION.    **Sec. 2.**    (1) Every domestic insurer shall, on or  
2 prior to the filing date, which is hereby established as March 1,  
3 prepare and submit to the commissioner a report of its RBC levels as of  
4 the end of the calendar year just ended, in a form and containing that  
5 information required by the RBC instructions.    In addition, every  
6 domestic insurer shall file its RBC report:

7        (a) With the NAIC in accordance with the RBC instructions; and

8        (b) With the insurance commissioner in any state in which the  
9 insurer is authorized to do business, if the insurance commissioner has  
10 notified the insurer of its request in writing, in which case the  
11 insurer shall file its RBC report not later than the later of:

12        (i) Fifteen days from the receipt of notice to file its RBC report  
13 with that state; or

14        (ii) The filing date.

15        (2) A life and disability insurer's RBC shall be determined in  
16 accordance with the formula set forth in the RBC instructions.    The  
17 formula shall take into account and may adjust for the covariance  
18 between:

19        (a) The risk with respect to the insurer's assets;

20        (b) The risk of adverse insurance experience with respect to the  
21 insurer's liabilities and obligations;

22        (c) The interest rate risk with respect to the insurer's business;  
23 and

24        (d) All other business risks and other relevant risks as are set  
25 forth in the RBC instructions; determined in each case by applying the  
26 factors in the manner set forth in the RBC instructions.

27        (3) A property and casualty insurer's RBC shall be determined in  
28 accordance with the formula set forth in the RBC instructions.    The  
29 formula shall take into account and may adjust for the covariance  
30 between:

31        (a) Asset risk;

32        (b) Credit risk;

33        (c) Underwriting risk; and

34        (d) All other business risks and other relevant risks as are set  
35 forth in the RBC instructions; determined in each case by applying the  
36 factors in the manner set forth in the RBC instructions.

37        (4) An excess of capital over the amount produced by the RBC  
38 requirements and the formulas, schedules, and instructions under  
39 sections 1 through 13 of this act is desirable in the business of

1 insurance. Accordingly, insurers should seek to maintain capital above  
2 the RBC levels required. Additional capital is used and useful in the  
3 insurance business and helps to secure an insurer against various risks  
4 inherent in, or affecting, the business of insurance and not accounted  
5 for or only partially measured by the RBC requirements.

6 (5) If a domestic insurer files an RBC report that in the judgment  
7 of the commissioner is inaccurate, then the commissioner shall adjust  
8 the RBC report to correct the inaccuracy and shall notify the insurer  
9 of the adjustment. The notice shall contain a statement of the reason  
10 for the adjustment.

11 NEW SECTION. **Sec. 3.** (1) "Company action level event" means any  
12 of the following events:

13 (a) The filing of an RBC report by an insurer indicating that:

14 (i) The insurer's total adjusted capital is greater than or equal  
15 to its regulatory action level RBC, but less than its company action  
16 level RBC; or

17 (ii) If a life and disability insurer, the insurer has total  
18 adjusted capital that is greater than or equal to its company action  
19 level RBC, but less than the product of its authorized control level  
20 RBC and 2.5 and has a negative trend;

21 (b) The notification by the commissioner to the insurer of an  
22 adjusted RBC report that indicates an event in (a) of this subsection,  
23 provided the insurer does not challenge the adjusted RBC report under  
24 section 7 of this act; or

25 (c) If, under section 7 of this act, an insurer challenges an  
26 adjusted RBC report that indicates an event in (a) of this subsection,  
27 the notification by the commissioner to the insurer that the  
28 commissioner has, after a hearing, rejected the insurer's challenge.

29 (2) In the event of a company action level event, the insurer shall  
30 prepare and submit to the commissioner an RBC plan that:

31 (a) Identifies the conditions that contribute to the company action  
32 level event;

33 (b) Contains proposals of corrective actions that the insurer  
34 intends to take and would be expected to result in the elimination of  
35 the company action level event;

36 (c) Provides projections of the insurer's financial results in the  
37 current year and at least the four succeeding years, both in the  
38 absence of proposed corrective actions and giving effect to the

1 proposed corrective actions, including projections of statutory  
2 operating income, net income, capital, and surplus. The projections  
3 for both new and renewal business might include separate projections  
4 for each major line of business and separately identify each  
5 significant income, expense, and benefit component;

6 (d) Identifies the key assumptions impacting the insurer's  
7 projections and the sensitivity of the projections to the assumptions;  
8 and

9 (e) Identifies the quality of, and problems associated with, the  
10 insurer's business, including but not limited to its assets,  
11 anticipated business growth and associated surplus strain,  
12 extraordinary exposure to risk, mix of business, and use of  
13 reinsurance, if any, in each case.

14 (3) The RBC plan shall be submitted:

15 (a) Within forty-five days of the company action level event; or

16 (b) If the insurer challenges an adjusted RBC report under section  
17 7 of this act, within forty-five days after notification to the insurer  
18 that the commissioner has, after a hearing, rejected the insurer's  
19 challenge.

20 (4) Within sixty days after the submission by an insurer of an RBC  
21 plan to the commissioner, the commissioner shall notify the insurer  
22 whether the RBC plan may be implemented or is, in the judgment of the  
23 commissioner, unsatisfactory. If the commissioner determines the RBC  
24 plan is unsatisfactory, the notification to the insurer shall set forth  
25 the reasons for the determination, and may set forth proposed revisions  
26 that will render the RBC plan satisfactory. Upon notification from the  
27 commissioner, the insurer shall prepare a revised RBC plan, that may  
28 incorporate by reference any revisions proposed by the commissioner,  
29 and shall submit the revised RBC plan to the commissioner:

30 (a) Within forty-five days after the notification from the  
31 commissioner; or

32 (b) If the insurer challenges the notification from the  
33 commissioner under section 7 of this act, within forty-five days after  
34 a notification to the insurer that the commissioner has, after a  
35 hearing, rejected the insurer's challenge.

36 (5) In the event of a notification by the commissioner to an  
37 insurer that the insurer's RBC plan or revised RBC plan is  
38 unsatisfactory, the commissioner may, subject to the insurer's rights

1 to a hearing under section 7 of this act, specify in the notification  
2 that the notification constitutes a regulatory action level event.

3 (6) Every domestic insurer that files an RBC plan or revised RBC  
4 plan with the commissioner shall file a copy of the RBC plan or revised  
5 RBC plan with the insurance commissioner in any state in which the  
6 insurer is authorized to do business if:

7 (a) The state has an RBC provision substantially similar to section  
8 8(1) of this act; and

9 (b) The insurance commissioner of that state has notified the  
10 insurer of its request for the filing in writing, in which case the  
11 insurer shall file a copy of the RBC plan or revised RBC plan in that  
12 state no later than the later of:

13 (i) Fifteen days after the receipt of notice to file a copy of its  
14 RBC plan or revised plan with the state; or

15 (ii) The date on which the RBC plan or revised RBC plan is filed  
16 under subsections (3) and (4) of this section.

17 NEW SECTION. **Sec. 4.** (1) "Regulatory action level event" means,  
18 with respect to any insurer, any of the following events:

19 (a) The filing of an RBC report by the insurer indicating that the  
20 insurer's total adjusted capital is greater than or equal to its  
21 authorized control level RBC but less than its regulatory action level  
22 RBC;

23 (b) The notification by the commissioner to an insurer of an  
24 adjusted RBC report that indicates the event in (a) of this subsection,  
25 provided the insurer does not challenge the adjusted RBC report under  
26 section 7 of this act;

27 (c) If, under section 7 of this act, the insurer challenges an  
28 adjusted RBC report that indicates the event in (a) of this subsection,  
29 the notification by the commissioner to the insurer that the  
30 commissioner has, after a hearing, rejected the insurer's challenge;

31 (d) The failure of the insurer to file an RBC report by the filing  
32 date, unless the insurer has provided an explanation for such failure  
33 that is satisfactory to the commissioner and has cured the failure  
34 within ten days after the filing date;

35 (e) The failure of the insurer to submit an RBC plan to the  
36 commissioner within the time period set forth in section 3(3) of this  
37 act;

38 (f) Notification by the commissioner to the insurer that:

1 (i) The RBC plan or revised RBC plan submitted by the insurer is,  
2 in the judgment of the commissioner, unsatisfactory; and

3 (ii) The notification constitutes a regulatory action level event  
4 with respect to the insurer, provided the insurer has not challenged  
5 the determination under section 7 of this act;

6 (g) If, under section 7 of this act, the insurer challenges a  
7 determination by the commissioner under (f) of this subsection, the  
8 notification by the commissioner to the insurer that the commissioner  
9 has, after a hearing, rejected the challenge;

10 (h) Notification by the commissioner to the insurer that the  
11 insurer has failed to adhere to its RBC plan or revised RBC plan, but  
12 only if the failure has a substantial adverse effect on the ability of  
13 the insurer to eliminate the company action level event in accordance  
14 with its RBC plan or revised RBC plan and the commissioner has so  
15 stated in the notification, provided the insurer has not challenged the  
16 determination under section 7 of this act; or

17 (i) If, under section 7 of this act, the insurer challenges a  
18 determination by the commissioner under (h) of this subsection, the  
19 notification by the commissioner to the insurer that the commissioner  
20 has, after a hearing, rejected the challenge.

21 (2) In the event of a regulatory action level event the  
22 commissioner shall:

23 (a) Require the insurer to prepare and submit an RBC plan or, if  
24 applicable, a revised RBC plan;

25 (b) Perform the examination or analysis the commissioner deems  
26 necessary of the assets, liabilities, and operations of the insurer  
27 including a review of its RBC plan or revised RBC plan; and

28 (c) Subsequent to the examination or analysis, issue an order  
29 specifying those corrective actions the commissioner determines are  
30 required.

31 (3) In determining corrective actions, the commissioner may take  
32 into account those factors deemed relevant with respect to the insurer  
33 based upon the commissioner's examination or analysis of the assets,  
34 liabilities, and operations of the insurer, including, but not limited  
35 to, the results of any sensitivity tests undertaken under the RBC  
36 instructions. The RBC plan or revised RBC plan shall be submitted:

37 (a) Within forty-five days after the occurrence of the regulatory  
38 action level event;

1 (b) If the insurer challenges an adjusted RBC report under section  
2 7 of this act, and the challenge is not frivolous in the judgment of  
3 the commissioner, within forty-five days after the notification to the  
4 insurer that the commissioner has, after a hearing, rejected the  
5 insurer's challenge; or

6 (c) If the insurer challenges a revised RBC plan under section 7 of  
7 this act, and the challenge is not frivolous in the judgment of the  
8 commissioner, within forty-five days after the notification to the  
9 insurer that the commissioner has, after a hearing, rejected the  
10 insurer's challenge.

11 (4) The commissioner may retain actuaries and investment experts  
12 and other consultants as may be necessary in the judgment of the  
13 commissioner to review the insurer's RBC plan or revised RBC plan,  
14 examine or analyze the assets, liabilities, and operations of the  
15 insurer and formulate the corrective order with respect to the insurer.  
16 The fees, costs, and expenses relating to consultants shall be borne by  
17 the affected insurer or other party as directed by the commissioner.

18 NEW SECTION. **Sec. 5.** (1) "Authorized control level event" means  
19 any of the following events:

20 (a) The filing of an RBC report by the insurer indicating that the  
21 insurer's total adjusted capital is greater than or equal to its  
22 mandatory control level RBC but less than its authorized control level  
23 RBC;

24 (b) The notification by the commissioner to the insurer of an  
25 adjusted RBC report that indicates the event in (a) of this subsection,  
26 provided the insurer does not challenge the adjusted RBC report under  
27 section 7 of this act;

28 (c) If, under section 7 of this act, the insurer challenges an  
29 adjusted RBC report that indicates the event in (a) of this subsection,  
30 notification by the commissioner to the insurer that the commissioner  
31 has, after a hearing, rejected the insurer's challenge;

32 (d) The failure of the insurer to respond, in a manner satisfactory  
33 to the commissioner, to a corrective order, provided the insurer has  
34 not challenged the corrective order under section 7 of this act; or

35 (e) If the insurer has challenged a corrective order under section  
36 7 of this act and the commissioner has, after a hearing, rejected the  
37 challenge or modified the corrective order, the failure of the insurer  
38 to respond, in a manner satisfactory to the commissioner, to the

1 corrective order subsequent to rejection or modification by the  
2 commissioner.

3 (2) In the event of an authorized control level event with respect  
4 to an insurer, the commissioner shall:

5 (a) Take those actions required under section 4 of this act  
6 regarding an insurer with respect to which a regulatory action level  
7 event has occurred; or

8 (b) If the commissioner deems it to be in the best interests of the  
9 policyholders and creditors of the insurer and of the public, take  
10 those actions necessary to cause the insurer to be placed under  
11 regulatory control under chapter 48.31 RCW. In the event the  
12 commissioner takes these actions, the authorized control level event is  
13 sufficient grounds for the commissioner to take action under chapter  
14 48.31 RCW, and the commissioner has the rights, powers, and duties with  
15 respect to the insurer as are set forth in chapter 48.31 RCW. In the  
16 event the commissioner takes actions under this subsection pursuant to  
17 an adjusted RBC report, the insurer is entitled to those protections  
18 afforded to insurers under RCW 48.31.121 pertaining to summary  
19 proceedings.

20 NEW SECTION. **Sec. 6.** (1) "Mandatory control level event" means  
21 any of the following events:

22 (a) The filing of an RBC report indicating that the insurer's total  
23 adjusted capital is less than its mandatory control level RBC;

24 (b) Notification by the commissioner to the insurer of an adjusted  
25 RBC report that indicates the event in (a) of this subsection, provided  
26 the insurer does not challenge the adjusted RBC report under section 7  
27 of this act; or

28 (c) If, under section 7 of this act, the insurer challenges an  
29 adjusted RBC report that indicates the event in (a) of this subsection,  
30 notification by the commissioner to the insurer that the commissioner  
31 has, after a hearing, rejected the insurer's challenge.

32 (2) In the event of a mandatory control level event:

33 (a) With respect to a life and disability insurer, the commissioner  
34 shall take those actions necessary to place the insurer under  
35 regulatory control under chapter 48.31 RCW. In that event, the  
36 mandatory control level event is sufficient grounds for the  
37 commissioner to take action under chapter 48.31 RCW, and the  
38 commissioner has the rights, powers, and duties with respect to the

1 insurer as are set forth in chapter 48.31 RCW. If the commissioner  
2 takes actions pursuant to an adjusted RBC report, the insurer is  
3 entitled to the protections of RCW 48.31.121 pertaining to summary  
4 proceedings. However, the commissioner may forego action for up to  
5 ninety days after the mandatory control level event if the commissioner  
6 finds there is a reasonable expectation that the mandatory control  
7 level event may be eliminated within the ninety-day period.

8 (b) With respect to a property and casualty insurer, the  
9 commissioner shall take those actions necessary to place the insurer  
10 under regulatory control under chapter 48.31 RCW, or, in the case of an  
11 insurer that is writing no business and that is running-off its  
12 existing business, may allow the insurer to continue its run-off under  
13 the supervision of the commissioner. In either event, the mandatory  
14 control level event is sufficient grounds for the commissioner to take  
15 action under chapter 48.31 RCW and the commissioner has the rights,  
16 powers, and duties with respect to the insurer as are set forth in  
17 chapter 48.31 RCW. If the commissioner takes actions pursuant to an  
18 adjusted RBC report, the insurer is entitled to the protections of RCW  
19 48.31.121 pertaining to summary proceedings. However, the commissioner  
20 may forego action for up to ninety days after the mandatory control  
21 level event if the commissioner finds there is a reasonable expectation  
22 that the mandatory control level event may be eliminated within the  
23 ninety-day period.

24 NEW SECTION. **Sec. 7.** (1) Upon notification to an insurer by the  
25 commissioner of any of the following, the insurer shall have the right  
26 to a hearing, in accordance with chapters 48.04 and 34.05 RCW, at which  
27 the insurer may challenge any determination or action by the  
28 commissioner:

29 (a) Of an adjusted RBC report; or

30 (b)(i) That the insurer's RBC plan or revised RBC plan is  
31 unsatisfactory; and

32 (ii) The notification constitutes a regulatory action level event  
33 with respect to such insurer; or

34 (c) That the insurer has failed to adhere to its RBC plan or  
35 revised RBC plan and that such failure has a substantial adverse effect  
36 on the ability of the insurer to eliminate the company action level  
37 event with respect to the insurer in accordance with its RBC plan or  
38 revised RBC plan; or

1 (d) Of a corrective order with respect to the insurer.

2 (2) The insurer shall notify the commissioner of its request for a  
3 hearing within five days after the notification by the commissioner  
4 under this section. Upon receipt of the insurer's request for a  
5 hearing, the commissioner shall set a date for the hearing. The date  
6 shall be no less than ten nor more than thirty days after the date of  
7 the insurer's request.

8 NEW SECTION. **Sec. 8.** (1) All RBC reports, to the extent the  
9 information is not required to be set forth in a publicly available  
10 annual statement schedule, and RBC plans, including the results or  
11 report of any examination or analysis of an insurer and any corrective  
12 order issued by the commissioner, with respect to any domestic insurer  
13 or foreign insurer that are filed with the commissioner constitute  
14 information that might be damaging to the insurer if made available to  
15 its competitors, and therefore shall be kept confidential by the  
16 commissioner. This information shall not be made public or be subject  
17 to subpoena, other than by the commissioner and then only for the  
18 purpose of enforcement actions taken by the commissioner.

19 (2) The comparison of an insurer's total adjusted capital to any of  
20 its RBC levels is a regulatory tool that may indicate the need for  
21 possible corrective action with respect to the insurer, and is not a  
22 means to rank insurers generally. Therefore, except as otherwise  
23 required under the provisions of sections 1 through 13 of this act, the  
24 making, publishing, disseminating, circulating, or placing before the  
25 public, or causing, directly or indirectly to be made, published,  
26 disseminated, circulated, or placed before the public, in a newspaper,  
27 magazine, or other publication, or in the form of a notice, circular,  
28 pamphlet, letter, or poster, or over any radio or television station,  
29 or in any other way, an advertisement, announcement, or statement  
30 containing an assertion, representation, or statement with regard to  
31 the RBC levels of any insurer, or of any component derived in the  
32 calculation, by any insurer, agent, broker, or other person engaged in  
33 any manner in the insurance business would be misleading and is  
34 therefore prohibited. However, if any materially false statement with  
35 respect to the comparison regarding an insurer's total adjusted capital  
36 to its RBC levels, or any of them, or an inappropriate comparison of  
37 any other amount to the insurer's RBC levels is published in any  
38 written publication and the insurer is able to demonstrate to the

1 commissioner with substantial proof the falsity of such statement, or  
2 the inappropriateness, as the case may be, then the insurer may publish  
3 an announcement in a written publication if the sole purpose of the  
4 announcement is to rebut the materially false statement.

5 (3) The RBC instructions, RBC reports, adjusted RBC reports, RBC  
6 plans, and revised RBC plans are solely for use by the commissioner in  
7 monitoring the solvency of insurers and the need for possible  
8 corrective action with respect to insurers and shall not be used by the  
9 commissioner for ratemaking nor considered or introduced as evidence in  
10 any rate proceeding nor used by the commissioner to calculate or derive  
11 any elements of an appropriate premium level or rate of return for any  
12 line of insurance that an insurer or any affiliate is authorized to  
13 write.

14 NEW SECTION. **Sec. 9.** (1) The provisions of sections 1 through 13  
15 of this act are supplemental to any other provisions of the laws of  
16 this state, and shall not preclude or limit any other powers or duties  
17 of the commissioner under those laws, including, but not limited to,  
18 chapter 48.31 RCW.

19 (2) The commissioner may exempt any domestic property and casualty  
20 insurer from sections 1 through 13 of this act, if the insurer:

21 (a) Writes direct business only in this state;

22 (b) Writes direct annual premiums of two million dollars or less;  
23 and

24 (c) Assumes no reinsurance in excess of five percent of direct  
25 premiums written.

26 NEW SECTION. **Sec. 10.** (1) Any foreign or alien insurer shall,  
27 upon the written request of the commissioner, submit to the  
28 commissioner an RBC report as of the end of the calendar year just  
29 ended by the later of:

30 (a) The date an RBC report would be required to be filed by a  
31 domestic insurer under section 2 of this act; or

32 (b) Fifteen days after the request is received by the foreign or  
33 alien insurer. Any foreign or alien insurer shall, at the written  
34 request of the commissioner, promptly submit to the commissioner a copy  
35 of any RBC plan that is filed with the insurance commissioner of any  
36 other state.

1 (2) In the event of a company action level event, regulatory action  
2 level event, or authorized control level event with respect to any  
3 foreign or alien insurer as determined under the RBC statute applicable  
4 in the state of domicile of the insurer or, if no RBC statute is in  
5 force in that state, under the provisions of sections 1 through 13 of  
6 this act, if the insurance commissioner of the state of domicile of the  
7 foreign or alien insurer fails to require the foreign or alien insurer  
8 to file an RBC plan in the manner specified under that state's RBC  
9 statute, the commissioner may require the foreign or alien insurer to  
10 file an RBC plan. In this event, the failure of the foreign or alien  
11 insurer to file an RBC plan is grounds to order the insurer to cease  
12 and desist from writing new insurance business in this state.

13 (3) In the event of a mandatory control level event with respect to  
14 any foreign or alien insurer, if no domiciliary receiver has been  
15 appointed with respect to the foreign or alien insurer under the  
16 rehabilitation and liquidation statute applicable in the state of  
17 domicile of the foreign or alien insurer, the commissioner may apply  
18 for an order under RCW 48.31.080 or 48.31.090 to conserve the assets  
19 within this state of foreign or alien insurers, and the occurrence of  
20 the mandatory control level event is considered adequate grounds for  
21 the application.

22 NEW SECTION. **Sec. 11.** There is no liability on the part of, and  
23 no cause of action may arise against, the commissioner or insurance  
24 department or its employees or agents for any action taken by them in  
25 the performance of their powers and duties under sections 1 through 13  
26 of this act.

27 NEW SECTION. **Sec. 12.** All notices by the commissioner to an  
28 insurer that may result in regulatory action are effective upon  
29 dispatch if transmitted by registered or certified mail, or in the case  
30 of any other transmission are effective upon the insurer's receipt of  
31 the notice.

32 NEW SECTION. **Sec. 13.** For RBC reports required by property and  
33 casualty insurers for 1995, the following requirements apply in lieu of  
34 sections 3 through 6 of this act:

35 (1) In the event of a company action level event with respect to a  
36 domestic insurer, the commissioner shall take no regulatory action.

1 (2) In the event of a regulatory action level event under section  
2 4(1) (a), (b), or (c) of this act the commissioner shall take the  
3 actions required under section 3 of this act.

4 (3) In the event of a regulatory action level event under section  
5 4(1) (d), (e), (f), (g), (h), or (i) of this act or an authorized  
6 control level event, the commissioner shall take the actions required  
7 under section 4 of this act.

8 (4) In the event of a mandatory control level event with respect to  
9 an insurer, the commissioner shall take the actions required under  
10 section 5 of this act.

11 **Sec. 14.** RCW 48.05.340 and 1994 c 171 s 1 are each amended to read  
12 as follows:

13 (1) Subject to RCW 48.05.350 and 48.05.360 to qualify for authority  
14 to transact any one kind of insurance as defined in chapter 48.11 RCW  
15 or combination of kinds of insurance as shown below, a foreign or alien  
16 insurer, whether stock or mutual, or a domestic insurer hereafter  
17 formed shall possess unimpaired paid-in capital stock, if a stock  
18 insurer, or unimpaired surplus if a mutual insurer, and additional  
19 funds in surplus, as follows, and shall thereafter maintain unimpaired  
20 a combined total of: (a) The paid-in capital stock if a stock insurer  
21 or surplus if a mutual insurer, plus (b) such additional funds in  
22 surplus equal to the total of the following initial requirements:

23	Paid-in capital		
24	Kind or kinds	stock or	Additional
25	of insurance	basic surplus	surplus
26	Life . . . . .	\$2,000,000	\$2,000,000
27	Disability . . . . .	2,000,000	2,000,000
28	Life and disability . . . . .	2,400,000	2,400,000
29	Property . . . . .	2,000,000	2,000,000
30	Marine & transportation . . . . .	2,000,000	2,000,000
31	General casualty . . . . .	2,400,000	2,400,000
32	Vehicle . . . . .	2,000,000	2,000,000
33	Surety . . . . .	2,000,000	2,000,000

1 Any two of the following  
 2 kinds of insurance:  
 3 Property, marine &  
 4 transportation, general  
 5 casualty, vehicle,  
 6 surety, disability . . . . . 3,000,000 3,000,000  
 7 Multiple lines (all insurances  
 8 except life and title  
 9 insurance) . . . . . 3,000,000 3,000,000  
 10 Title (in accordance with the  
 11 provisions of chapter 48.29 RCW)

12 (2) Capital and surplus requirements are based upon all the kinds  
 13 of insurance transacted by the insurer wherever it may operate or  
 14 propose to operate, whether or not only a portion of such kinds are to  
 15 be transacted in this state.

16 (3) Until December 31, 1996, a foreign or alien insurer holding a  
 17 certificate of authority to transact insurance in this state  
 18 immediately prior to June 9, 1994, may continue to be authorized to  
 19 transact the same kinds of insurance as long as it is otherwise  
 20 qualified for such authority. A domestic insurer holding a certificate  
 21 of authority to transact insurance in this state immediately prior to  
 22 June 9, 1994, may continue to be authorized to transact the same kinds  
 23 of insurance as long as it is otherwise qualified for such an authority  
 24 and thereafter maintains unimpaired the amount of paid-in capital  
 25 stock, if a stock insurer, or basic surplus, if a mutual or reciprocal  
 26 insurer, and special or additional surplus as required of it under laws  
 27 in force immediately prior to June 9, 1994.

28 ~~((4) The commissioner may, by rule, require insurers to maintain~~  
 29 ~~additional capital and surplus based upon the type, volume, and nature~~  
 30 ~~of insurance business transacted consistent with the methods then~~  
 31 ~~adopted by the National Association of Insurance Commissioners for~~  
 32 ~~determining the appropriate amount of additional capital and surplus to~~  
 33 ~~be required. In the absence of an applicable rule, the commissioner~~  
 34 ~~may, after a hearing or with the consent of the insurer, require an~~  
 35 ~~insurer to have and maintain a larger amount of capital or surplus than~~  
 36 ~~prescribed under this section or the rules under this section, based~~  
 37 ~~upon the volume and kinds of insurance transacted by the insurer and on~~  
 38 ~~the principles of risk-based capital as determined by the National~~  
 39 ~~Association of Insurance Commissioners. This subsection applies only~~

1 ~~to insurers authorized to write life insurance, disability insurance,~~  
2 ~~or both.))~~

3 NEW SECTION. **Sec. 15.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 16.** Sections 1 through 13 of this act are each  
8 added to chapter 48.05 RCW.

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