

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 6302**

Chapter 241, Laws of 1998

55th Legislature  
1998 Regular Session

RISK-BASED CAPITAL STANDARDS FOR HEALTH CARE

EFFECTIVE DATE: 6/11/98

Passed by the Senate March 7, 1998  
YEAS 47 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House February 27, 1998  
YEAS 95 NAYS 0

CLYDE BALLARD

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**Speaker of the  
House of Representatives**

Approved March 30, 1998

GARY LOCKE

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**Governor of the State of Washington**

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6302** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

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**Secretary**

FILED

March 30, 1998 - 3:20 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 6302**

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Passed Legislature - 1998 Regular Session

AS AMENDED BY THE HOUSE

**State of Washington                      55th Legislature                      1998 Regular Session**

**By** Senate Committee on Financial Institutions, Insurance & Housing  
(originally sponsored by Senators Winsley and Prentice; by request of  
Insurance Commissioner)

Read first time 02/05/98.

1            AN ACT Relating to the risk-based capital of health carriers;  
2 amending RCW 48.42.040; and adding new sections to chapter 48.43 RCW.

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

4            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
5 throughout sections 1 through 15 of this act unless the context  
6 clearly requires otherwise.

7            (1) "Adjusted RBC report" means an RBC report that has been  
8 adjusted by the commissioner in accordance with section 2(4) of this  
9 act.

10           (2) "Corrective order" means an order issued by the commissioner  
11 specifying corrective actions that the commissioner has determined are  
12 required.

13           (3) "Domestic carrier" means any carrier domiciled in this state,  
14 or any person or entity subject to chapter 48.42 RCW domiciled in this  
15 state.

16           (4) "Foreign or alien carrier" means any carrier that is licensed  
17 to do business in this state but is not domiciled in this state, or any  
18 person or entity subject to chapter 48.42 RCW not domiciled in this  
19 state.

1 (5) "NAIC" means the national association of insurance  
2 commissioners.

3 (6) "Negative trend" means, with respect to a carrier, a negative  
4 trend over a period of time, as determined in accordance with the  
5 "trend test calculation" included in the RBC instructions.

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

7 (8) "RBC instructions" means the RBC report including risk-based  
8 capital instructions adopted by the NAIC, as such RBC instructions may  
9 be amended by the NAIC from time to time in accordance with the  
10 procedures adopted by the NAIC.

11 (9) "RBC level" means a carrier's company action level RBC,  
12 regulatory action level RBC, authorized control level RBC, or mandatory  
13 control level RBC where:

14 (a) "Company action level RBC" means, with respect to any carrier,  
15 the product of 2.0 and its authorized control level RBC;

16 (b) "Regulatory action level RBC" means the product of 1.5 and its  
17 authorized control level RBC;

18 (c) "Authorized control level RBC" means the number determined  
19 under the risk-based capital formula in accordance with the RBC  
20 instructions;

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

23 (10) "RBC plan" means a comprehensive financial plan containing the  
24 elements specified in section 3(2) of this act. If the commissioner  
25 rejects the RBC plan, and it is revised by the carrier, with or without  
26 the commissioner's recommendation, the plan shall be called the  
27 "revised RBC plan."

28 (11) "RBC report" means the report required in section 2 of this  
29 act.

30 (12) "Total adjusted capital" means the sum of:

31 (a) Either a carrier's statutory capital and surplus or net worth,  
32 or both, as determined in accordance with statutory accounting  
33 applicable to the annual financial statements required to be filed with  
34 the commissioner; and

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

36 NEW SECTION. **Sec. 2.** (1) Every domestic carrier shall, on or  
37 prior to the filing date of March 1st, prepare and submit to the  
38 commissioner a report of its RBC levels as of the end of the calendar

1 year just ended, in a form and containing such information as is  
2 required by the RBC instructions. In addition, every domestic carrier  
3 shall file its RBC report:

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

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

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

11 (ii) The filing date.

12 (2) A carrier's RBC shall be determined in accordance with the  
13 formula set forth in the RBC instructions. The formula shall take into  
14 account (and may adjust for the covariance between):

15 (a) The risk with respect to the carrier's assets;

16 (b) The risk of adverse insurance experience with respect to the  
17 carrier's liabilities and obligations;

18 (c) The interest rate risk with respect to the carrier's business;  
19 and

20 (d) All other business risks and such other relevant risks as are  
21 set forth in the RBC instructions; determined in each case by applying  
22 the factors in the manner set forth in the RBC instructions.

23 (3) An excess of capital over the amount produced by the risk-based  
24 capital requirements contained in sections 1 through 15 of this act and  
25 the formulas, schedules, and instructions referenced in sections 1  
26 through 15 of this act is desirable in the business of insurance.  
27 Accordingly, carriers should seek to maintain capital above the RBC  
28 levels required by sections 1 through 15 of this act. Additional  
29 capital is used and useful in the insurance business and helps to  
30 secure a carrier against various risks inherent in, or affecting, the  
31 business of insurance and not accounted for or only partially measured  
32 by the risk-based capital requirements contained in sections 1 through  
33 15 of this act.

34 (4) If a domestic carrier files an RBC report that in the judgment  
35 of the commissioner is inaccurate, then the commissioner shall adjust  
36 the RBC report to correct the inaccuracy and shall notify the carrier  
37 of the adjustment. The notice shall contain a statement of the reason  
38 for the adjustment.

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

3        (a) The filing of an RBC report by a carrier which indicates that:

4        (i) The carrier's total adjusted capital is greater than or equal  
5 to its regulatory action level RBC but less than its company action  
6 level RBC; or

7        (ii) The carrier has total adjusted capital which is greater than  
8 or equal to its company action level RBC but less than the product of  
9 its authorized control level RBC and 2.5 and has a negative trend;

10       (b) The notification by the commissioner to the carrier of an  
11 adjusted RBC report that indicates an event in (a) of this subsection,  
12 provided the carrier does not challenge the adjusted RBC report under  
13 section 7 of this act; or

14       (c) If, under section 7 of this act, a carrier challenges an  
15 adjusted RBC report that indicates the event in (a) of this subsection,  
16 the notification by the commissioner to the carrier that the  
17 commissioner has, after a hearing, rejected the carrier's challenge.

18       (2) In the event of a company action level event, the carrier shall  
19 prepare and submit to the commissioner an RBC plan that:

20       (a) Identifies the conditions that contribute to the company action  
21 level event;

22       (b) Contains proposals of corrective actions that the carrier  
23 intends to take and would be expected to result in the elimination of  
24 the company action level event;

25       (c) Provides projections of the carrier's financial results in the  
26 current year and at least the four succeeding years, both in the  
27 absence of proposed corrective actions and giving effect to the  
28 proposed corrective actions, including projections of statutory  
29 operating income, net income, capital, surplus, capital and surplus,  
30 and net worth. The projections for both new and renewal business might  
31 include separate projections for each major line of business and  
32 separately identify each significant income, expense, and benefit  
33 component;

34       (d) Identifies the key assumptions impacting the carrier's  
35 projections and the sensitivity of the projections to the assumptions;  
36 and

37       (e) Identifies the quality of, and problems associated with, the  
38 carrier's business, including but not limited to its assets,  
39 anticipated business growth and associated surplus strain,

1 extraordinary exposure to risk, mix of business, and use of  
2 reinsurance, if any, in each case.

3 (3) The RBC plan shall be submitted:

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

5 (b) If the carrier challenges an adjusted RBC report under section  
6 7 of this act, within forty-five days after notification to the carrier  
7 that the commissioner has, after a hearing, rejected the carrier's  
8 challenge.

9 (4) Within sixty days after the submission by a carrier of an RBC  
10 plan to the commissioner, the commissioner shall notify the carrier  
11 whether the RBC plan may be implemented or is, in the judgment of the  
12 commissioner, unsatisfactory. If the commissioner determines the RBC  
13 plan is unsatisfactory, the notification to the carrier shall set forth  
14 the reasons for the determination, and may set forth proposed revisions  
15 that will render the RBC plan satisfactory. Upon notification from the  
16 commissioner, the carrier shall prepare a revised RBC plan, that may  
17 incorporate by reference any revisions proposed by the commissioner,  
18 and shall submit the revised RBC plan to the commissioner:

19 (a) Within forty-five days after the notification from the  
20 commissioner; or

21 (b) If the carrier challenges the notification from the  
22 commissioner under section 7 of this act, within forty-five days after  
23 a notification to the carrier that the commissioner has, after a  
24 hearing, rejected the carrier's challenge.

25 (5) In the event of a notification by the commissioner to a carrier  
26 that the carrier's RBC plan or revised RBC plan is unsatisfactory, the  
27 commissioner may, subject to the carrier's rights to a hearing under  
28 section 7 of this act, specify in the notification that the  
29 notification constitutes a regulatory action level event.

30 (6) Every domestic carrier that files an RBC plan or revised RBC  
31 plan with the commissioner shall file a copy of the RBC plan or revised  
32 RBC plan with the insurance commissioner in any state in which the  
33 carrier is authorized to do business if:

34 (a) Such state has an RBC provision substantially similar to  
35 section 8(1) of this act; and

36 (b) The insurance commissioner of that state has notified the  
37 carrier of its request for the filing in writing, in which case the  
38 carrier shall file a copy of the RBC plan or revised RBC plan in that  
39 state no later than the later of:

- 1 (i) Fifteen days after the receipt of notice to file a copy of its  
2 RBC plan or revised plan with the state; or  
3 (ii) The date on which the RBC plan or revised RBC plan is filed  
4 under subsections (3) and (4) of this section.

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

7 (a) The filing of an RBC report by the carrier which indicates that  
8 the carrier's total adjusted capital is greater than or equal to its  
9 authorized control level RBC but less than its regulatory action level  
10 RBC;

11 (b) The notification by the commissioner to a carrier of an  
12 adjusted RBC report that indicates the event in (a) of this subsection,  
13 provided the carrier does not challenge the adjusted RBC report under  
14 section 7 of this act;

15 (c) If, under section 7 of this act, the carrier challenges an  
16 adjusted RBC report that indicates the event in (a) of this subsection,  
17 the notification by the commissioner to the carrier that the  
18 commissioner has, after a hearing, rejected the carrier's challenge;

19 (d) The failure of the carrier to file an RBC report by the filing  
20 date, unless the carrier has provided an explanation for such failure  
21 that is satisfactory to the commissioner and has cured the failure  
22 within ten days after the filing date;

23 (e) The failure of the carrier to submit an RBC plan to the  
24 commissioner within the time period set forth in section 3(3) of this  
25 act;

26 (f) Notification by the commissioner to the carrier that:

27 (i) The RBC plan or revised RBC plan submitted by the carrier is,  
28 in the judgment of the commissioner, unsatisfactory; and

29 (ii) The notification constitutes a regulatory action level event  
30 with respect to the carrier, provided the carrier has not challenged  
31 the determination under section 7 of this act;

32 (g) If, under section 7 of this act, the carrier challenges a  
33 determination by the commissioner under (f) of this subsection, the  
34 notification by the commissioner to the carrier that the commissioner  
35 has, after a hearing, rejected the challenge;

36 (h) Notification by the commissioner to the carrier that the  
37 carrier has failed to adhere to its RBC plan or revised RBC plan, but  
38 only if such failure has a substantial adverse effect on the ability of

1 the carrier to eliminate the company action level event in accordance  
2 with its RBC plan or revised RBC plan and the commissioner has so  
3 stated in the notification, provided the carrier has not challenged the  
4 determination under section 7 of this act; or

5 (i) If, under section 7 of this act, the carrier challenges a  
6 determination by the commissioner under (h) of this subsection, the  
7 notification by the commissioner to the carrier that the commissioner  
8 has, after a hearing, rejected the challenge.

9 (2) In the event of a regulatory action level event the  
10 commissioner shall:

11 (a) Require the carrier to prepare and submit an RBC plan or, if  
12 applicable, a revised RBC plan;

13 (b) Perform the examination or analysis the commissioner deems  
14 necessary of the assets, liabilities, and operations of the carrier  
15 including a review of its RBC plan or revised RBC plan; and

16 (c) Subsequent to the examination or analysis, issue an order  
17 specifying those corrective actions the commissioner determines are  
18 required.

19 (3) In determining corrective actions, the commissioner may take  
20 into account those factors deemed relevant with respect to the carrier  
21 based upon the commissioner's examination or analysis of the assets,  
22 liabilities, and operations of the carrier, including, but not limited  
23 to, the results of any sensitivity tests undertaken pursuant to the RBC  
24 instructions. The RBC plan or revised RBC plan shall be submitted:

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

27 (b) If the carrier challenges an adjusted RBC report under section  
28 7 of this act and the challenge is not frivolous in the judgment of the  
29 commissioner within forty-five days after the notification to the  
30 carrier that the commissioner has, after a hearing, rejected the  
31 carrier's challenge; or

32 (c) If the carrier challenges a revised RBC plan under section 7 of  
33 this act and the challenge is not frivolous in the judgment of the  
34 commissioner, within forty-five days after the notification to the  
35 carrier that the commissioner has, after a hearing, rejected the  
36 carrier's challenge.

37 (4) The commissioner may retain actuaries and investment experts  
38 and other consultants as may be necessary in the judgment of the  
39 commissioner to review the carrier's RBC plan or revised RBC plan,



1 examine or analyze the assets, liabilities, and operations of the  
2 carrier and formulate the corrective order with respect to the carrier.  
3 The fees, costs, and expenses relating to consultants shall be borne by  
4 the affected carrier or other party as directed by the commissioner.

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

7 (a) The filing of an RBC report by the carrier which indicates that  
8 the carrier's total adjusted capital is greater than or equal to its  
9 mandatory control level RBC but less than its authorized control level  
10 RBC;

11 (b) The notification by the commissioner to the carrier of an  
12 adjusted RBC report that indicates the event in (a) of this subsection,  
13 provided the carrier does not challenge the adjusted RBC report under  
14 section 7 of this act;

15 (c) If, under section 7 of this act, the carrier challenges an  
16 adjusted RBC report that indicates the event in (a) of this subsection,  
17 notification by the commissioner to the carrier that the commissioner  
18 has, after a hearing, rejected the carrier's challenge;

19 (d) The failure of the carrier to respond, in a manner satisfactory  
20 to the commissioner, to a corrective order, provided the carrier has  
21 not challenged the corrective order under section 7 of this act; or

22 (e) If the carrier has challenged a corrective order under section  
23 7 of this act and the commissioner has, after a hearing, rejected the  
24 challenge or modified the corrective order, the failure of the carrier  
25 to respond, in a manner satisfactory to the commissioner, to the  
26 corrective order subsequent to rejection or modification by the  
27 commissioner.

28 (2) In the event of an authorized control level event with respect  
29 to a carrier, the commissioner shall:

30 (a) Take those actions required under section 4 of this act  
31 regarding a carrier with respect to which a regulatory action level  
32 event has occurred; or

33 (b) If the commissioner deems it to be in the best interests of  
34 either the policyholders or subscribers, or both, and creditors of the  
35 carrier and of the public, take those actions necessary to cause the  
36 carrier to be placed under regulatory control under chapter 48.31 RCW.  
37 In the event the commissioner takes such actions, the authorized  
38 control level event is sufficient grounds for the commissioner to take

1 action under chapter 48.31 RCW, and the commissioner shall have the  
2 rights, powers, and duties with respect to the carrier as are set forth  
3 in chapter 48.31 RCW. In the event the commissioner takes actions  
4 under this subsection (2)(b) pursuant to an adjusted RBC report, the  
5 carrier is entitled to those protections afforded to carriers under the  
6 provisions of RCW 48.31.121 pertaining to summary proceedings.

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

9 (a) The filing of an RBC report which indicates that the carrier's  
10 total adjusted capital is less than its mandatory control level RBC;

11 (b) Notification by the commissioner to the carrier of an adjusted  
12 RBC report that indicates the event in (a) of this subsection, provided  
13 the carrier does not challenge the adjusted RBC report under section 7  
14 of this act; or

15 (c) If, under section 7 of this act, the carrier challenges an  
16 adjusted RBC report that indicates the event in (a) of this subsection,  
17 notification by the commissioner to the carrier that the commissioner  
18 has, after a hearing, rejected the carrier's challenge.

19 (2) In the event of a mandatory control level event, with respect  
20 to a carrier, the commissioner shall take those actions necessary to  
21 place the carrier under regulatory control under chapter 48.31 RCW. In  
22 that event, the mandatory control level event is sufficient grounds for  
23 the commissioner to take action under chapter 48.31 RCW, and the  
24 commissioner shall have the rights, powers, and duties with respect to  
25 the carrier as are set forth in chapter 48.31 RCW. If the commissioner  
26 takes actions pursuant to an adjusted RBC report, the carrier is  
27 entitled to the protections of RCW 48.31.121 pertaining to summary  
28 proceedings. However, the commissioner may forego action for up to  
29 ninety days after the mandatory control level event if the commissioner  
30 finds there is a reasonable expectation that the mandatory control  
31 level event may be eliminated within the ninety-day period.

32 NEW SECTION. **Sec. 7.** (1) Upon notification to a carrier by the  
33 commissioner of any of the following, the carrier shall have the right  
34 to a hearing, in accordance with chapters 48.04 and 34.05 RCW, at which  
35 the carrier may challenge any determination or action by the  
36 commissioner:

37 (a) Of an adjusted RBC report; or

1 (b)(i) That the carrier's RBC plan or revised RBC plan is  
2 unsatisfactory; and

3 (ii) The notification constitutes a regulatory action level event  
4 with respect to such carrier; or

5 (c) That the carrier has failed to adhere to its RBC plan or  
6 revised RBC plan and that such failure has a substantial adverse effect  
7 on the ability of the carrier to eliminate the company action level  
8 event with respect to the carrier in accordance with its RBC plan or  
9 revised RBC plan; or

10 (d) Of a corrective order with respect to the carrier.

11 (2) The carrier shall notify the commissioner of its request for a  
12 hearing within five days after the notification by the commissioner  
13 under this section. Upon receipt of the carrier's request for a  
14 hearing, the commissioner shall set a date for the hearing. The date  
15 shall be no less than ten nor more than thirty days after the date of  
16 the carrier's request.

17 NEW SECTION. **Sec. 8.** (1) All RBC reports, to the extent the  
18 information therein is not required to be set forth in a publicly  
19 available annual statement schedule, and RBC plans, including the  
20 results or report of any examination or analysis of a carrier and any  
21 corrective order issued by the commissioner, with respect to any  
22 domestic carrier or foreign carrier that are filed with the  
23 commissioner constitute information that might be damaging to the  
24 carrier if made available to its competitors, and therefore shall be  
25 kept confidential by the commissioner. This information shall not be  
26 made public or be subject to subpoena, other than by the commissioner  
27 and then only for the purpose of enforcement actions taken by the  
28 commissioner.

29 (2) The comparison of a carrier's total adjusted capital to any of  
30 its RBC levels is a regulatory tool that may indicate the need for  
31 possible corrective action with respect to the carrier, and is not a  
32 means to rank carriers generally. Therefore, except as otherwise  
33 required under the provisions of sections 1 through 15 of this act, the  
34 making, publishing, disseminating, circulating, or placing before the  
35 public, or causing, directly or indirectly, to be made, published,  
36 disseminated, circulated, or placed before the public, in a newspaper,  
37 magazine, or other publication, or in the form of a notice, circular,  
38 pamphlet, letter, or poster, or over any radio or television station,

1 or in any other way, an advertisement, announcement, or statement  
2 containing an assertion, representation, or statement with regard to  
3 the RBC levels of any carrier, or of any component derived in the  
4 calculation, by any carrier, agent, broker, or other person engaged in  
5 any manner in the insurance business would be misleading and is  
6 therefore prohibited. However, if any materially false statement with  
7 respect to the comparison regarding a carrier's total adjusted capital  
8 to its RBC levels (or any of them) or an inappropriate comparison of  
9 any other amount to the carrier's RBC levels is published in any  
10 written publication and the carrier is able to demonstrate to the  
11 commissioner with substantial proof the falsity of such statement, or  
12 the inappropriateness, as the case may be, then the carrier may publish  
13 an announcement in a written publication if the sole purpose of the  
14 announcement is to rebut the materially false statement.

15 (3) The RBC instructions, RBC reports, adjusted RBC reports, RBC  
16 plans, and revised RBC plans are intended solely for use by the  
17 commissioner in monitoring the solvency of carriers and the need for  
18 possible corrective action with respect to carriers and shall not be  
19 used by the commissioner for ratemaking nor considered or introduced as  
20 evidence in any rate proceeding nor used by the commissioner to  
21 calculate or derive any elements of an appropriate premium level or  
22 rate of return for any line of insurance that a carrier or any  
23 affiliate is authorized to write.

24 NEW SECTION. **Sec. 9.** (1) The provisions of sections 1 through 15  
25 of this act are supplemental to any other provisions of the laws and  
26 rules of this state, and shall not preclude or limit any other powers  
27 or duties of the commissioner under such laws and rules, including, but  
28 not limited to, chapter 48.31 RCW.

29 (2) The commissioner may adopt reasonable rules necessary for the  
30 implementation of sections 1 through 15 of this act.

31 NEW SECTION. **Sec. 10.** (1) Any foreign or alien carrier shall,  
32 upon the written request of the commissioner, submit to the  
33 commissioner an RBC report as of the end of the calendar year just  
34 ended by the later of:

35 (a) The date an RBC report would be required to be filed by a  
36 domestic carrier under sections 1 through 15 of this act; or

1 (b) Fifteen days after the request is received by the foreign or  
2 alien carrier. Any foreign or alien carrier shall, at the written  
3 request of the commissioner, promptly submit to the commissioner a copy  
4 of any RBC plan that is filed with the insurance commissioner of any  
5 other state.

6 (2) In the event of a company action level event, regulatory action  
7 level event, or authorized control level event with respect to any  
8 foreign or alien carrier as determined under the RBC statute applicable  
9 in the state of domicile of the carrier or, if no RBC statute is in  
10 force in that state, under the provisions of sections 1 through 15 of  
11 this act, if the insurance commissioner of the state of domicile of the  
12 foreign or alien carrier fails to require the foreign or alien carrier  
13 to file an RBC plan in the manner specified under that state's RBC  
14 statute or, if no RBC statute is in force in that state, under section  
15 3 of this act, the commissioner may require the foreign or alien  
16 carrier to file an RBC plan with the commissioner. In this event, the  
17 failure of the foreign or alien carrier to file an RBC plan with the  
18 commissioner is grounds to order the carrier to cease and desist from  
19 writing new insurance business in this state.

20 (3) In the event of a mandatory control level event with respect to  
21 any foreign or alien carrier, if no domiciliary receiver has been  
22 appointed with respect to the foreign or alien carrier under the  
23 rehabilitation and liquidation statute applicable in the state of  
24 domicile of the foreign or alien carrier, the commissioner may apply  
25 for an order under RCW 48.31.080 or 48.31.090 to conserve the assets  
26 within this state of foreign or alien carriers, and the occurrence of  
27 the mandatory control level event is considered adequate grounds for  
28 the application.

29 NEW SECTION. **Sec. 11.** There is no liability on the part of, and  
30 no cause of action shall arise against, the commissioner or insurance  
31 department or its employees or agents for any action taken by them in  
32 the performance of their powers and duties under sections 1 through 15  
33 of this act.

34 NEW SECTION. **Sec. 12.** All notices by the commissioner to a  
35 carrier that may result in regulatory action are effective upon  
36 dispatch if transmitted by registered or certified mail, or in the case

1 of any other transmission, are effective upon the carrier's receipt of  
2 such notice.

3 NEW SECTION. **Sec. 13.** For RBC reports to be filed by carriers  
4 commencing operations after the effective date of this act, those  
5 carriers shall calculate the initial RBC levels using financial  
6 projections, considering managed care arrangements, for its first full  
7 year in operation. Such projections, including the risk-based capital  
8 requirement, must be included as part of a comprehensive business plan  
9 that is submitted as part of the application for registration under RCW  
10 48.44.040 and 48.46.030. The resulting RBC requirement shall be  
11 reported in the first RBC report submitted under section 2 of this act.  
12 For subsequent reports, the RBC results using actual financial data  
13 shall be included.

14 NEW SECTION. **Sec. 14.** The first RBC report required under section  
15 2 of this act shall be filed on or prior to March 1, 1999, for the 1998  
16 calendar year.

17 NEW SECTION. **Sec. 15.** Sections 1 through 15 of this act shall not  
18 apply to a carrier which is subject to the provisions of RCW 48.05.430  
19 through 48.05.490.

20 **Sec. 16.** RCW 48.42.040 and 1983 c 36 s 4 are each amended to read  
21 as follows:

22 Any person or entity unable to show that it is subject to the  
23 jurisdiction and regulation of another agency of this state, any  
24 subdivision thereof, or the federal government, shall be subject to all  
25 appropriate provisions of this title regarding the conduct of its  
26 business including, but not limited to, sections 1 through 15 of this  
27 act.

28 NEW SECTION. **Sec. 17.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 18.** Sections 1 through 15 of this act are each  
33 added to chapter 48.43 RCW.

Passed the Senate March 7, 1998.  
Passed the House February 27, 1998.  
Approved by the Governor March 30, 1998.  
Filed in Office of Secretary of State March 30, 1998.