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ENGROSSED HOUSE BILL 1099

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Santos, Benson, Tokuda, Bush, DeBolt, Hatfield and McIntire

Read first time 01/17/2001. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the PACE program; amending RCW 48.44.037; adding  
2 a new section to chapter 74.09 RCW; creating a new section; and  
3 declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that PACE programs  
6 provide essential care to the frail elderly in the state of Washington.  
7 PACE serves to enhance the quality of life and autonomy for frail,  
8 older adults, maximize the dignity of and respect for older adults,  
9 enable frail and older adults to live in their homes and their  
10 community as long as medically possible, and preserve and support the  
11 older adult's family unit.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW  
13 to read as follows:

14 (1) The definitions in this subsection apply throughout this  
15 section unless the context clearly requires otherwise.

16 (a) "PACE" means the program of all-inclusive care for the elderly,  
17 a managed care medicare/medicaid program authorized under sections

1 1894, 1905(a), and 1934 of the social security act and administered by  
2 the department.

3 (b) "PACE program agreement" means an agreement between a PACE  
4 organization, the health care financing administration, and the  
5 department.

6 (2) A PACE program may operate in the state only in accordance with  
7 a PACE program agreement with the department.

8 (3) A PACE program shall at the time of entering into the initial  
9 PACE program agreement, and at each renewal thereof, demonstrate cash  
10 reserves to cover expenses in the event of insolvency.

11 (a) The cash reserves at a minimum shall equal the sum of:

12 (i) One month's total capitation revenue; and

13 (ii) One month's average payment to subcontractors.

14 (b) The program may demonstrate cash reserves to cover expenses of  
15 insolvency with one or more of the following: Reasonable and  
16 sufficient net worth, insolvency insurance, letters of credit, or  
17 parental guarantees.

18 (4) A PACE program must provide full disclosure regarding the terms  
19 of enrollment and the option to disenroll at any time to all persons  
20 who seek to participate or who are participants in the program.

21 **Sec. 3.** RCW 48.44.037 and 1997 c 212 s 2 are each amended to read  
22 as follows:

23 (1) Except as provided in subsection (2) or (8) of this section,  
24 every health care service contractor must have and maintain a minimum  
25 net worth equal to the greater of:

26 (a) Three million dollars; or

27 (b) Two percent of the annual premium earned, as reported on the  
28 most recent annual financial statement filed with the commissioner, on  
29 the first one hundred fifty million dollars of premium and one percent  
30 of the annual premium on the premium in excess of one hundred fifty  
31 million dollars.

32 (2) A health care service contractor registered before July 27,  
33 1997, that, on July 27, 1997, has a minimum net worth equal to or  
34 greater than that required by subsection (1) of this section must  
35 continue to have and maintain the minimum net worth required by  
36 subsection (1) of this section. A health care service contractor  
37 registered before July 27, 1997, that, on July 27, 1997, does not have

1 the minimum net worth required by subsection (1) of this section must  
2 have and maintain a minimum net worth of:

3 (a) The amount required immediately prior to July 27, 1997, until  
4 December 31, 1997;

5 (b) Fifty percent of the amount required by subsection (1) of this  
6 section by December 31, 1997;

7 (c) Seventy-five percent of the amount required by subsection (1)  
8 of this section by December 31, 1998; and

9 (d) One hundred percent of the amount required by subsection (1) of  
10 this section by December 31, 1999.

11 (3)(a) In determining net worth, no debt shall be considered fully  
12 subordinated unless the subordination is in a form acceptable to the  
13 commissioner. An interest obligation relating to the repayment of a  
14 subordinated debt must be similarly subordinated.

15 (b) The interest expenses relating to the repayment of a fully  
16 subordinated debt shall not be considered uncovered expenditures.

17 (c) A subordinated debt incurred by a note meeting the requirement  
18 of this section, and otherwise acceptable to the commissioner, shall  
19 not be considered a liability and shall be recorded as equity.

20 (4) Every health care service contractor shall, when determining  
21 liabilities, include an amount estimated in the aggregate to provide  
22 for any unearned premium and for the payment of all claims for health  
23 care expenditures which have been incurred, whether reported or  
24 unreported, which are unpaid and for which the organization is or may  
25 be liable, and to provide for the expense of adjustment or settlement  
26 of the claims.

27 Liabilities shall be computed in accordance with regulations  
28 adopted by the commissioner upon reasonable consideration of the  
29 ascertained experience and character of the health care service  
30 contractor.

31 (5) All income from reserves on deposit with the commissioner shall  
32 belong to the depositing health care service contractor and shall be  
33 paid to it as it becomes available.

34 (6) Any funded reserve required by this chapter shall be considered  
35 an asset of the health care service contractor in determining the  
36 organization's net worth.

37 (7) A health care service contractor that has made a securities  
38 deposit with the commissioner may, at its option, withdraw the  
39 securities deposit or any part thereof after first having deposited or

1 provided in lieu thereof an approved surety bond, a deposit of cash or  
2 securities, or any combination of these or other deposits of equal  
3 amount and value to that withdrawn. Any securities and surety bond  
4 shall be subject to approval by the commissioner before being  
5 substituted.

6 (8) This section does not apply to PACE programs that meet the  
7 financial requirements of section 2 of this act.

8 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 immediately.

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