
HOUSE BILL 1971

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Dellwo, Paris, Zellinsky, Mielke, Inslee, Day, Schmidt, Prince and Scott.

Read first time February 18, 1991. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to alien insurers; and adding a new chapter to
2 Title 48 RCW.

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

4 NEW SECTION. **Sec. 1.** This chapter applies to all alien
5 insurers using this state as a state of entry to transact insurance in
6 the United States.

7 For the purposes of this chapter, "alien insurer" has the
8 definition supplied in RCW 48.05.010.

9 NEW SECTION. **Sec. 2.** (1) An alien insurer may use this state
10 as a state of entry to transact insurance in the United States by
11 making and maintaining in this state a deposit of assets in trust with
12 a solvent public depository or trust institution approved by the
13 commissioner.

1 (2) The deposit, together with other trust deposits of the insurer
2 held in the United States for the same purpose, must be in an amount
3 not less than the deposits required of an alien insurer under RCW
4 48.05.090 and consist of eligible assets as set forth in RCW 48.16.030.

5 (3) The deposit may be referred to as "trusteed assets."

6 NEW SECTION. **Sec. 3.** All trusts of trustee assets created
7 before the effective date of this act must be continued under the
8 instruments creating those trusts. If the commissioner determines that
9 the instruments are inconsistent with the provisions of this chapter,
10 the insurer shall correct those inconsistencies within six months of
11 the commissioner's determination.

12 NEW SECTION. **Sec. 4.** The deposit required by this chapter
13 must be for the benefit, security, and protection of the policyholders
14 or creditors, or both, of the insurer in the United States. It shall
15 be maintained as long as there is outstanding any liability of the
16 insurer arising out of its insurance transactions in the United States.

17 NEW SECTION. **Sec. 5.** (1) The alien insurer shall create the
18 trustee assets required by this chapter under a written trust
19 agreement between the insurer and the trustee, consistent with the
20 provisions of this chapter, and in such form and manner as the
21 commissioner may designate or approve.

22 (2) The agreement is effective when filed with and approved in
23 writing by the commissioner. The commissioner shall not approve any
24 trust agreement not found to be in compliance with state or federal law
25 or the terms of which do not in fact provide reasonably adequate
26 protection for the insurer's policyholders or creditors, or both, in
27 the United States.

1 NEW SECTION. **Sec. 6.** An alien insurer proposing to use this
2 state as a state of entry to transact insurance in the United States,
3 whether or not it is currently authorized to transact insurance in this
4 state, may make and execute any trust agreement required by this
5 chapter.

6 NEW SECTION. **Sec. 7.** A trust agreement may be amended.
7 However, the amendment is not effective until filed with the
8 commissioner and the commissioner finds and states in writing that the
9 amendment is in compliance with this chapter.

10 NEW SECTION. **Sec. 8.** The commissioner may withdraw his or her
11 approval of a trust agreement, or of an amendment to the agreement, if
12 the commissioner determines that the requisites for the approval no
13 longer exist. The determination shall be made after notice and a
14 hearing as provided in chapter 48.04 RCW.

15 NEW SECTION. **Sec. 9.** The trust agreement must provide that
16 title to the trust assets vests and remains vested in the trustees
17 and their successors for the purposes of the trust deposit.

18 NEW SECTION. **Sec. 10.** The trustee shall keep the trust
19 assets separate from other assets and shall maintain a record
20 sufficient to identify the trust assets at all times.

21 NEW SECTION. **Sec. 11.** (1) The trustee of trust assets shall
22 from time to time file statements with the commissioner, in a form as
23 may be designated and requested in writing by the commissioner,
24 certifying the character and amount of the assets.

1 (2) If the trustee fails to file a requested statement after a
2 reasonable time has expired, the commissioner may suspend or revoke the
3 certificate of authority of the insurer required under RCW 48.05.030.

4 NEW SECTION. **Sec. 12.** The commissioner may examine trusteed
5 assets of any insurer at any time in accordance with the same
6 conditions and procedures governing the examination of insurers
7 provided in chapter 48.03 RCW.

8 NEW SECTION. **Sec. 13.** (1) The trust agreement must provide
9 that the commissioner shall authorize and approve in writing all
10 withdrawals of trusteed assets in advance except as follows:

11 (a) Any or all income, earnings, dividends, or interest
12 accumulations of the trusteed assets may be paid over to the United
13 States manager of the insurer upon request of the insurer or the
14 manager;

15 (b) Withdrawals coincident with substitutions of securities or
16 assets that are at least equal in value to those being withdrawn, if
17 the substituted securities or assets would be eligible for investment
18 by domestic insurers, and the insurer's United States manager requests
19 the withdrawal in writing under a general or specific written authority
20 previously given or delegated by the insurer's board of directors, or
21 other similar governing body, and a copy of such authority has been
22 filed with the trustee;

23 (c) For the purpose of making deposits required by another state in
24 which the insurer is, or becomes, an authorized insurer and for the
25 protection of the insurer's policyholders or creditors, or both, in the
26 state or United States, if the withdrawal does not reduce the insurer's
27 deposit in this state to an amount less than the minimum deposit
28 required. The trustee shall transfer any assets withdrawn and in the

1 amount required to be deposited in the other state, directly to the
2 depository required to receive the deposit as certified in writing by
3 the public official having supervision of insurance in that state; and

4 (d) For the purpose of transferring the trustee assets to an
5 official liquidator, conservator, or rehabilitator under an order of a
6 court of competent jurisdiction.

7 (2) The commissioner shall authorize a withdrawal of only those
8 assets that are in excess of the amount of assets required to be held
9 in trust, or as may otherwise be consistent with the provisions of this
10 chapter.

11 (3) If at any time the insurer becomes insolvent or if its assets
12 held in the United States are less than required as determined by the
13 commissioner, the commissioner shall order in writing the trustee to
14 suspend the withdrawal of assets until a further order of the
15 commissioner releasing the assets.

16 NEW SECTION. **Sec. 14.** (1) A new trustee may be substituted for
17 the original trustee of trustee assets in the event of a vacancy or
18 for other proper cause. Any such substitution is subject to the
19 commissioner's approval.

20 (2) If the trustees of any trustee assets are individuals, and if
21 the number of the trustees is reduced to less than three by death,
22 registration, or otherwise, the commissioner shall require that an
23 approved public depository or trust institution in this state be
24 substituted for the trustees.

25 NEW SECTION. **Sec. 15.** The insurer shall provide for the
26 compensation and expenses of the trustees of assets of an alien insurer
27 under this chapter in an amount, or on a basis, as agreed upon by the
28 insurer and the trustees in the trust agreement.

1 NEW SECTION. **Sec. 16.** The provisions of this chapter
2 applicable to a United States manager shall, in the case of insurers
3 domiciled in Canada, be deemed to refer to the president, vice-
4 president, secretary, or treasurer of the Canadian insurer.

5 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act shall
6 constitute a new chapter in Title 48 RCW.