Chapter 48.05 RCW
INSURERS—GENERAL REQUIREMENTS

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RCW 48.05.010 "Domestic," "foreign," "alien" insurers defined. (1) A "domestic" insurer is one formed under the laws of this state.

(2) A "foreign" insurer is one formed under the laws of the United States, of a state or territory of the United States other than this state, or of the District of Columbia.

(3) An "alien" insurer is one formed under the laws of a nation other than the United States.

(4) For the purposes of this code, "United States," when used to signify place, means only the states of the United States, the government of Puerto Rico and the District of Columbia. [1961 c 194 s 1; 1947 c 79 s .05.01; Rem. Supp. 1947 s 45.05.01.]

"Insurer" defined: RCW 48.01.050.

RCW 48.05.030 Certificate of authority required. (1) No person shall act as an insurer and no insurer shall transact insurance in this state other than as authorized by a certificate of authority issued to it by the commissioner and then in force; except, as to such transactions as are expressly otherwise provided for in this code.

(2) Every certificate of authority shall specify the name of the insurer, the location of its principal office, the name and location of the principal office of its attorney-in-fact if a reciprocal insurer, and the kind or kinds of insurance it is authorized to transact in this state.

(3) The investigation and adjustment of any claim in this state arising under an insurance contract issued by an unauthorized insurer, shall not be deemed to constitute the transacting of insurance in this state. [1947 c 79 s .05.03; Rem. Supp. 1947 s 45.05.03.]

RCW 48.05.040 Certificate of authority—Qualifications. To qualify for and hold a certificate of authority an insurer must:

(1) Be a stock, mutual, or reciprocal insurer of the same general type as may be formed as a domestic insurer under the provisions of chapter 48.06 RCW of this code, but this requirement shall not apply as to domestic mutual property insurers which, as of January 1, 1957, were lawfully transacting insurance on the assessment plan; and

(2) Have capital funds as required by this code, based upon the type and domicile of the insurer and the kinds of insurance proposed to be transacted; and

(3) Transact or propose to transact in this state insurances authorized by its charter, and only such insurance as meets the standards and requirements of this code; and

(4) Fully comply with, and qualify according to, the other provisions of this code. [1957 c 193 s 1; 1947 c 79 s .05.04; Rem. Supp. 1947 s 45.05.04.]

RCW 48.05.045 Certificate of authority not to be issued to governmentally owned insurer. No certificate of authority shall be issued to or exist with respect to any insurer which is owned and controlled, in whole or in substantial part, by any government or governmental agency. [1957 c 193 s 2.]

RCW 48.05.050 "Charter" defined. "Charter" means articles of incorporation, articles of agreement, articles of association of a corporation, or other basic constituent document of a corporation, or subscribers' agreement and attorney-in-fact agreement of a reciprocal insurer. [1947 c 79 s .05.05; Rem. Supp. 1947 s 45.05.05.]

RCW 48.05.060 "Capital funds" defined. "Capital funds" means the excess of the assets of an insurer over its liabilities. Capital stock, if any, shall not be deemed to be a liability for the purposes of this section. [1947 c 79 s .05.06; Rem. Supp. 1947 s 45.05.06.]

RCW 48.05.070 Application for certificate of authority. To apply for an original certificate of authority an insurer shall:

(1) File with the commissioner its request therefor showing:

(a) Its name, home office location, type of insurer, organization date, and state or country of its domicile.

(b) The kinds of insurance it proposes to transact.

(c) Additional information as the commissioner may reasonably require.

(2) File with the commissioner:

(a) A copy of its charter as amended, certified, if a foreign or alien insurer, by the proper public officer of the state or country of domicile.

(b) A copy of its bylaws, certified by its proper officer.

(c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the commissioner.

(d) If a foreign or alien insurer, or a domestic reciprocal insurer, an appointment of the commissioner as its attorney to receive service of legal process.

(e) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its proper officer.

(f) If a foreign or alien insurer, a certificate from the proper public official of its state or country of domicile showing that it is duly organized and is authorized to transact the kinds of insurance proposed to be transacted.

(g) If a domestic reciprocal insurer, the declaration required by RCW 48.10.090 of this code.

(h) Other documents or stipulations as the commissioner may reasonably require to evidence compliance with the provisions of this code.

(3) Deposit with the commissioner the fees required by this code to be paid for filing the accompanying documents, and for the

certificate of authority, if granted. [1947 c 79 s .05.07; Rem. Supp. 1947 s 45.05.07.]

RCW 48.05.073 Filing of financial statements. Every insurer holding a certificate of authority from the commissioner shall file its financial statements as required by this code and by the commissioner in accordance with the accounting practices and procedures manuals as adopted by the national association of insurance commissioners, unless otherwise provided by law. [1999 c 33 s 1.]

RCW 48.05.080 Foreign insurers—Deposit. (1) Prior to the issuance of a certificate of authority to a foreign insurer, it shall make a deposit of assets with the commissioner for the protection of all its policyholders, or of all of its policyholders and obligees or its policyholders and obligees within the United States, in amount and kind, subject to RCW 48.14.040, the same as is required of a like domestic insurer transacting like kinds of insurance.

(2) In lieu of such deposit or part thereof the commissioner may accept the certificate of the public official having supervision over insurers in any other state to the effect that a like deposit by such insurer or like part thereof in equal or greater amount is held in public custody in such state. [1955 c 86 s 1; 1947 c 79 s .05.08; Rem. Supp. 1947 s 45.05.08.]

Effective date—1955 c 86: "This act shall become effective on January 1, 1956." [1955 c 86 s 18.]

Supervision of transfers—1955 c 86: "All transfers authorized under this act shall be made under the supervision of the state auditor." [1955 c 86 s 19.]

RCW 48.05.090 Alien insurers—Assets required—Trust deposit. (1) An alien insurer shall not be authorized to transact insurance in this state unless it maintains within the United States assets in amount not less than its outstanding liabilities arising out of its insurance transactions in the United States, nor unless it maintains a trust deposit in an amount not less than the required reserves under its policies resulting from such transactions (after deducting, in the case of a life insurer, the amount of outstanding policy loans on such policies) plus assets equal to the larger of the following sums:

(a) The largest amount of deposit required under this title to be made in this state by any type of domestic insurer transacting like kinds of insurance; or

(b) Two hundred thousand dollars.

(2) The trust deposit shall be for the security of all policyholders or policyholders and obligees of the insurer in the United States. It shall not be subject to diminution below the amount currently determined in accordance with subsection (1) of this section so long as the insurer has outstanding any liabilities arising out of its business transacted in the United States.

(3) The trust deposit shall be maintained with public depositaries or trust institutions within the United States approved

by the commissioner. [1949 c 190 s 4; 1947 c 79 s .05.09; Rem. Supp. 1949 s 45.05.09.]

RCW 48.05.100 Alien insurers—Deposit resolution. An alien insurer shall file with the commissioner a certified copy of the resolution of its governing board by which the trust deposit was established, together with a certified copy of any trust agreement under which the deposit is held. [1947 c 79 s .05.10; Rem. Supp. 1947 s 45.05.10.]

RCW 48.05.105 Foreign or alien insurers—Three years active transacting required—Exception. (1) No certificate of authority shall be granted to a foreign or alien applicant that has not actively transacted for three years the classes of insurance for which it seeks to be admitted.

(2) Subsection (1) of this section does not apply to the following:

(a) Any subsidiary of a seasoned, reputable insurer that has held a certificate of authority in this state for at least three years; or

(b) Any applicant that:

(i) Has surplus of not less than twenty-five million dollars; and

(ii) Has made a deposit with the commissioner in the amount of one million dollars for the sole benefit of the applicant's Washington policyholders.

(3) The commissioner shall release the deposit to an authorized insurer who originally met the requirement in subsection (2)(b)(ii) of this section, in accordance with chapter 48.16 RCW, if:

(a) The certificate of authority was issued at least three years prior to application for release of the deposit; and

(b) The insurer is in good standing with the commissioner. [2010 c 93 s 1; 1967 c 150 s 2.]

RCW 48.05.110 Issuance of certificate of authority. If the commissioner finds that an insurer has met the requirements for and is fully entitled thereto under this code, he or she shall issue to it a proper certificate of authority. If the commissioner does not so find, the authority shall be refused within a reasonable length of time following completion by the insurer of the application therefor. [2009 c 549 s 7015; 1947 c 79 s .05.11; Rem. Supp. 1947 s 45.05.11.]

RCW 48.05.120 Certificate of authority—Duration, renewal, amendment. (1) All certificates of authority shall continue in force until suspended, revoked, or not renewed. A certificate shall be subject to renewal annually on the first day of July upon application of the insurer and payment of the fee therefor. If not so renewed, the certificate shall expire as of the thirtieth day of June next preceding.

(2) The commissioner may amend a certificate of authority at any time in accordance with changes in the insurer's charter or insuring powers. [1957 c 193 s 3; 1955 c 31 s 1; 1947 c 79 s .05.12; Rem. Supp. 1947 s 45.05.12.]

RCW 48.05.130 Certificate of authority—Mandatory refusal, revocation, suspension. The commissioner shall refuse to renew or shall revoke or suspend an insurer's certificate of authority, in addition to other grounds therefor in this code, if the insurer:

(1) Is a foreign or alien insurer and no longer qualifies or meets the requirements for the authority; or, is a domestic mutual or domestic reciprocal insurer, and fails to make good a deficiency of assets as required by the commissioner.

(2) Is a domestic stock insurer and has assets less in amount than its liabilities, including its capital stock as a liability, and has failed to make good such deficiency as required by the commissioner.

(3) Knowingly exceeds its charter powers or its certificate of authority. [1947 c 79 s .05.13; Rem. Supp. 1947 s 45.05.13.]

RCW 48.05.140 Certificate of authority—Discretionary refusal, revocation, suspension. The commissioner may refuse, suspend, or revoke an insurer's certificate of authority, in addition to other grounds therefor in this code, if the insurer:

(1) Fails to comply with any provision of this code other than those for violation of which refusal, suspension, or revocation is mandatory, or fails to comply with any proper order or regulation of the commissioner.

(2) Is found by the commissioner to be in such condition that its further transaction of insurance in this state would be hazardous to policyholders and the people in this state.

(3) Refuses to remove or discharge a director or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude.

(4) Usually compels claimants under policies either to accept less than the amount due them or to bring suit against it to secure full payment of the amount due.

(5) Is affiliated with and under the same general management, or interlocking directorate, or ownership as another insurer which transacts insurance in this state without having a certificate of authority therefor, except as is permitted by this code.

(6) Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(7) Fails to pay any final judgment rendered against it in this state upon any policy, bond, recognizance, or undertaking issued or guaranteed by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final determination, whichever date is the later.

(8) Is found by the commissioner, after investigation or upon receipt of reliable information, to be managed by persons, whether by its directors, officers, or by any other means, who are incompetent or untrustworthy or so lacking in insurance company managerial experience as to make a proposed operation hazardous to the insurance-buying public; or that there is good reason to believe it is affiliated directly or indirectly through ownership, control, reinsurance or other insurance or business relations, with any person or persons

whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or of the public, by bad faith or by manipulation of assets, or of accounts, or of reinsurance.

(9) Does business through insurance producers or title insurance agents in this state or in any other state who are not properly licensed under applicable laws and duly enacted regulations adopted pursuant thereto. [2008 c 217 s 2; 1973 1st ex.s. c 152 s 1; 1969 ex.s. c 241 s 3; 1967 c 150 s 4; 1947 c 79 s .05.14; Rem. Supp. 1947 s 45.04.14.]

Severability—Effective date—2008 c 217: See notes following RCW 48.03.020.

Severability—1973 1st ex.s. c 152: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 152 s 7.]

RCW 48.05.150 Notice of intention to refuse, revoke, or suspend. The commissioner shall give an insurer notice of his or her intention to suspend, revoke, or refuse to renew its certificate of authority not less than ten days before the order of suspension, revocation or refusal is to become effective; except that no advance notice of intention is required where the order results from a domestic insurer's failure to make good a deficiency of assets as required by the commissioner. [2009 c 549 s 7016; 1947 c 79 s .05.15; Rem. Supp. 1947 s 45.05.15.]

RCW 48.05.160 Period of suspension. The commissioner shall not suspend an insurer's certificate of authority for a period in excess of one year, and he or she shall state in his or her order of suspension the period during which it shall be effective. [2009 c 549 s 7017; 1947 c 79 s .05.16; Rem. Supp. 1947 s 45.05.16.]

RCW 48.05.170 Reauthorization, limitation upon. No insurer whose certificate of authority has been suspended, revoked, or refused shall subsequently be authorized unless the grounds for such suspension, revocation, or refusal no longer exist and the insurer is otherwise fully qualified. [1947 c 79 s .05.17; Rem. Supp. 1947 s 45.05.17.]

RCW 48.05.180 Notice of refusal, revocation, suspension—Effect upon insurance producers' or title insurance agents' authority. Upon the suspension, revocation or refusal of an insurer's certificate of authority, the commissioner shall give notice thereof to the insurer and shall likewise suspend, revoke or refuse the authority of its appointed insurance producers or title insurance agents to represent it in this state and give notice thereof to these insurance producers or title insurance agents. [2008 c 217 s 3; 1947 c 79 s .05.18; Rem. Supp. 1947 s 45.05.18.]

Severability—Effective date—2008 c 217: See notes following RCW 48.03.020.

RCW 48.05.185 Fine in addition or in lieu of suspension, revocation, or refusal. After hearing or with the consent of the insurer and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of authority the commissioner may levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than ten thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of such order. Upon failure to pay any such fine when due the commissioner shall revoke the certificate of authority of the insurer if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund. [1980 c 102 s 1; 1975 1st ex.s. c 266 s 3; 1965 ex.s. c 70 s 3.]

Severability—1975 1st ex.s. c 266: See note following RCW 48.01.010.

RCW 48.05.190 Name of insurer. (1) Every insurer shall conduct its business in its own legal name.

(2) No insurer shall assume or use a name deceptively similar to that of any other authorized insurer. [1947 c 79 s .05.19; Rem. Supp. 1947 s 45.05.19.]

RCW 48.05.200 Commissioner as attorney for service of process—Exception. (1) Each authorized foreign or alien insurer must appoint the commissioner as its attorney to receive service of, and upon whom must be served, all legal process issued against it in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes service upon the insurer. Service of legal process against the insurer can be had only by service upon the commissioner, except actions upon contractor bonds pursuant to RCW 18.27.040, where service may be upon the department of labor and industries.

(2) With the appointment the insurer must designate by name, email address, and address the person to whom the commissioner must forward legal process so served upon him or her. The insurer may change the person by filing a new designation.

(3) The insurer must keep the designation, address, and email address filed with the commissioner current.

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

(5) The service of process must be accomplished and processed in the manner prescribed under RCW 48.02.200. [2011 c 47 s 5; 1985 c 264 s 3; 1947 c 79 s .05.20; Rem. Supp. 1947 s 45.05.20.]

RCW 48.05.215 Unauthorized foreign or alien insurers—Jurisdiction of state courts—Service of process—Procedure. (1) Any foreign or alien insurer not authorized by the commissioner, whether it be a surplus lines insurer operating under chapter 48.15 RCW or not, who, by mail or otherwise, solicits insurance business in this state or transacts insurance business in this state as defined by RCW 48.01.060, thereby submits itself to the jurisdiction of the courts of this state in any action, suit, or proceeding instituted by or on behalf of an insured, beneficiary or the commissioner arising out of an unauthorized solicitation of insurance business, including, but not limited to, an action for injunctive relief by the commissioner.

(2) In any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary, service of legal process against an unauthorized foreign or alien insurer must be accomplished and processed in the manner prescribed under RCW 48.02.200. The defendant insurer has forty days from the date of the service on the commissioner within which to plead, answer, or otherwise defend the action.

(3) In any such action, suit, or proceeding by the commissioner, service of legal process against an unauthorized foreign or alien insurer may be made by personal service of legal process upon any officer of such insurer at its last known principal place of business outside the state of Washington. The summons upon an unauthorized foreign or alien insurer must contain the same requisites and be served in like manner as personal summons within the state of Washington; except, the insurer has forty days from the date of personal service within which to plead, answer, or otherwise defend the action. [2011 c 47 s 6; 1981 c 339 s 4; 1967 c 150 s 3.]

RCW 48.05.220 Venue of actions against insurer. Suit upon causes of action arising within this state against an insurer upon an insurance contract shall be brought in the county where the cause of action arose. [1947 c 79 s .05.22; Rem. Supp. 1947 s 45.05.22.]

RCW 48.05.250 Annual statement. (1) Each domestic insurer shall annually, on or before the first day of March, file with the commissioner a true statement of its financial condition, transactions, and affairs as of the thirty-first day of December preceding. The statement forms shall be in general form and context as approved by the National Association of Insurance Commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by this code and by the commissioner. The statement shall be verified by the oaths of at least two of the insurer's officers.

(2) The annual statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise. The statement shall be verified by the insurer's United States manager or by its officers duly authorized.

(3) The commissioner shall suspend or revoke the certificate of authority of any insurer failing to file its annual statement when due or during any extension of time therefor which the commissioner, for good cause, may grant. [2006 c 25 s 5; 1983 c 85 s 1; 1947 c 79 s .05.25; Rem. Supp. 1947 s 45.05.25.]

Advertising of financial condition: RCW 48.30.070.

Assets and liabilities: Chapter 48.12 RCW.

False financial statements: RCW 48.30.030.

RCW 48.05.270 Alien insurer—Capital funds, determination. (1) The capital funds of an alien insurer shall be deemed to be the amount by which its assets, deposited and otherwise held as provided in RCW 48.05.090 exceed its liabilities with respect to its business transacted in the United States.

(2) Assets of such insurer held in any state for the special protection of policyholders and obligees in such state shall not constitute assets of the insurer for the purposes of this code. Liabilities of the insurer so secured by such assets, but not exceeding the amount of such assets, may be deducted in computing the insurer's liabilities for the purpose of this section. [1947 c 79 s .05.27; Rem. Supp. 1947 s 45.05.27.]

RCW 48.05.280 Records and accounts of insurers. Every insurer shall keep full and adequate accounts and records of its assets, obligations, transactions, and affairs. [1947 c 79 s .05.28; Rem. Supp. 1947 s 45.05.28.]

RCW 48.05.290 Withdrawal of insurer—Reinsurance. (1) No insurer shall withdraw from this state until its direct liability to its policyholders and obligees under all its insurance contracts then in force in this state has been assumed by another authorized insurer under an agreement approved by the commissioner. In the case of a life insurer, its liability pursuant to contracts issued in this state in settlement of proceeds under its policies shall likewise be so assumed.

(2) The commissioner may waive this requirement if he or she finds upon examination that a withdrawing insurer is then fully solvent and that the protection to be given its policyholders in this state will not be impaired by the waiver.

(3) The assuming insurer shall within a reasonable time replace the assumed insurance contracts with its own, or by endorsement thereon acknowledge its liability thereunder. [2009 c 549 s 7019; 1947 c 79 s .05.29; Rem. Supp. 1947 s 45.05.29.]

RCW 48.05.320 Reports of fire losses—Rules. (1) Within 90 days of closing a claim related to a fire loss or damage, or any subsequent non-de minimis adjustment or further investigation related to a fire loss or damage, an authorized insurer shall report to the insurance commissioner, in the manner prescribed by the insurance commissioner to include reporting via a third-party vendor, each fire loss of property in this state reported to the insurer. At a minimum, the reported information must include:

(a) The property address;

(b) The date of loss;

(c) The amount that the insurer paid on each coverage;

(d) The known origin and cause of the loss or damage if determined, including whether the loss is due to criminal activity or to undetermined causes; and

(e) NAIC company number.

(2)(a) In addition to the report of information required under subsection (1) of this section, whenever an insurer knows or suspects that a fire loss or damage may be due to criminal activity, the insurer shall immediately report to the local or tribal law enforcement agency of jurisdiction, and the insurance commissioner, the details of the loss or damage and the basis for the insurer's knowledge or suspicion that it may be due to criminal activity, and upon request, provide a complete copy of any full or partial investigation of the claim or loss conducted by the insurer.

(b) Upon receipt of a report from an insurer made pursuant to (a) of this subsection, the local or tribal law enforcement agency shall timely share all information received from the insurer with the individual responsible for fire investigation under RCW 43.44.050(1), and shall coordinate with that individual consistent with RCW 43.44.050.

(c) Unless actual malice is shown, an insurer is immune from liability in any civil action or suit arising from its (i) report of information to law enforcement and the insurance commissioner pursuant to this subsection (2), or (ii) cooperation with a duly issued subpoena for a criminal investigation or prosecution.

(3) Except as provided in this subsection (3), documents, materials, reports, data, investigations, and other information described in subsections (1) and (2) of this section are confidential by law and privileged, are not subject to public disclosure under chapter 42.56 RCW, and are not subject to a civil matter subpoena directed to the insurance commissioner or any person who processes information received pursuant to this section. Neither the insurance commissioner, staff of the office of the insurance commissioner, nor anyone receiving or processing information pursuant to this section is permitted or required to testify in any private civil action concerning any information that is confidential and privileged under this subsection (3). Nothing in this subsection prohibits cooperation with subpoenas for documents or testimony in criminal matters. Nothing in this section prohibits the insurance commissioner from preparing and publishing reports, analysis, or other documents using the data received under subsection[s] (1) and (2) of this section so long as the data in the reports is in the aggregate form and does not permit the identification of information related to individual companies or consumers. Data in the aggregate form are deemed open records available for public inspection.

(a) The commissioner may share documents, materials, reports, data, investigations, and other information, including the confidential and privileged information received pursuant to this section, with: (i) The national association of insurance commissioners and its affiliates and subsidiaries; (ii) regulatory, law enforcement, and prosecutorial officials of other states and nations, the federal government, tribal governments, and international authorities; (iii) agencies of this state; (iv) rating bureaus; (v) the state fire marshal's office; and (vi) local or tribal law enforcement officials, prosecutors, or fire chiefs and fire marshals in this state. Except as provided in (b) through (e) of this subsection, the commissioner must require a recipient of information shared pursuant to this subsection

(3)(a) to maintain the confidentiality and privileged status of the information.

(b) The state fire marshal's office may use information shared under (a) of this subsection for wildfire and resiliency planning purposes, so long as it does not publicly disclose information that contains personally identifiable information about properties, property owners, policyholders, losses, claimants, or claims.

(c) Rating bureaus may use the information shared under (a) of this subsection to analyze and inform rating classifications, so long as they do not publicly disclose, other than to rating subscribers, information that contains personally identifiable information about property owners, policyholders, losses, claimants, claims, or properties, other than aggregated by zip code or fire district boundary.

(d) Local or tribal law enforcement officials, prosecutors, and fire chiefs and fire marshals in this state may use information shared under (a) of this subsection for public safety planning purposes, so long as they do not publicly disclose information that contains personally identifiable information about properties, property owners, policyholders, losses, claimants, or claims, other than aggregated by zip code.

(e) Local, tribal, state, or federal law enforcement officials, prosecutors, and fire chiefs and fire marshals in this state, and limited authority peace officers employed by the insurance commissioner may use information referenced under this section to investigate and prosecute crime, and in so doing, may release information received under this section as is necessary for investigative and prosecutorial purposes, to comply with all due process rights of criminally accused individuals, and to comply with public records obligations applicable to criminal investigations or prosecutions. Nothing in this section is intended to modify criminal investigative procedures or prosecutions or any authority, process, right, or obligation related to them.

(4) The insurance commissioner may adopt rules as necessary to implement this section. The reporting requirements in subsections (1) and (2) of this section may not be enforced against an insurer until one year after rules implementing this section are adopted by the insurance commissioner.

(5) Beginning 12 months after the reporting requirements in subsections (1) and (2) of this section are initiated, the insurance commissioner shall post a quarterly report on their website based on the aggregate findings by zip code of the previous 12 months of reports of fire loss or damage as required by subsection[s] (1) and (2) of this section. [2025 c 225 s 2; 1995 c 369 s 24; 1986 c 266 s 66; 1985 c 470 s 16; 1947 c 79 s .05.32; Rem. Supp. 1947 s 45.05.32.]

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—Effective date—1985 c 470: See notes following RCW 43.44.010.

RCW 48.05.330 Insurers—Combination of kinds of insurance authorized—Exceptions. An insurer which otherwise qualifies therefor

may be authorized to transact any one kind or combinations of kinds of insurance as defined in chapter 48.11 RCW, except:

(1) A life insurer may grant annuities and may be authorized to transact in addition only disability insurance; except, that the commissioner may, if the insurer otherwise qualifies therefor, continue so to authorize any life insurer which immediately prior to June 13, 1963 was lawfully authorized to transact in this state a kind or kinds of insurance in addition to life and disability insurances and annuity business.

(2) A reciprocal insurer shall not transact life insurance.

(3) A title insurer shall be a stock insurer and shall not transact any other kind of insurance. This provision shall not prohibit the ceding of reinsurance by a title insurer to insurers other than mutual or reciprocal insurers. [1963 c 195 s 6.]

RCW 48.05.340 Capital and surplus requirements. (1) Subject to RCW 48.05.350 to qualify for authority to transact any one kind of insurance as defined in chapter 48.11 RCW or combination of kinds of insurance as set forth in this subsection, a foreign or alien insurer, whether stock or mutual, or a domestic insurer must possess unimpaired paid-in capital stock, if a stock insurer, or unimpaired surplus if a mutual insurer, and additional funds in surplus, as follows, and must thereafter maintain unimpaired a combined total of: (a) The paid-in capital stock if a stock insurer or surplus if a mutual insurer, plus (b) additional funds in surplus equal to the total of the following initial requirements:

Kind or kinds of insurance	Paid-in capital stock or basic surplus	Additional surplus
Life	$2,000,000	$2,000,000
Disability	2,000,000	2,000,000
Life and disability . . .	2,400,000	2,400,000
Property	2,000,000	2,000,000
Marine & transportation . .	2,000,000	2,000,000
General casualty	2,400,000	2,400,000
Vehicle	2,000,000	2,000,000
Surety	2,000,000	2,000,000
Ocean marine and foreign trade . . .	2,000,000	2,000,000
Any two of the following kinds of insurance: Property, marine & transportation, general casualty, vehicle, surety, ocean marine and foreign trade, disability	3,000,000	3,000,000
Multiple lines (all insurances except life and title insurance)	3,000,000	3,000,000
Title	2,000,000	2,000,000

(2) Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer wherever it operates or proposes to operate, whether or not only a portion of the kinds are to be transacted in this state.

(3) Until December 31, 1996, a foreign or alien insurer holding a certificate of authority to transact insurance in this state immediately prior to June 9, 1994, may continue to be authorized to transact the same kinds of insurance as long as it is otherwise qualified for that authority. A domestic insurer, except a title insurer, holding a certificate of authority to transact insurance in this state immediately prior to June 9, 1994, may continue to be authorized to transact the same kinds of insurance as long as it is otherwise qualified for such an authority and thereafter maintains unimpaired the amount of paid-in capital stock, if a stock insurer, or basic surplus, if a mutual or reciprocal insurer, and special or additional surplus as required of it under laws in force immediately prior to June 9, 1994. A domestic insurer that is acquired or merged must, immediately after completion of an acquisition or merger, meet the capital and surplus requirements of subsection (1) of this section. A domestic insurer, upon attaining the capital and surplus requirements of subsection (1) of this section, may not return to the capital and surplus requirements existing before June 9, 1994. [2007 c 127 s 1; 2005 c 223 s 2; 1995 c 83 s 14; 1994 c 171 s 1; 1993 c 462 s 50; 1991 sp.s. c 5 s 1; 1982 c 181 s 3; 1980 c 135 s 1; 1967 c 150 s 5; 1963 c 195 s 7.]

Severability—Implementation—1993 c 462: See RCW 48.31B.901 and 48.31B.902.

Effective date—1991 sp.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 sp.s. c 5 s 3.]

Severability—1982 c 181: See note following RCW 48.03.010.

RCW 48.05.350 General casualty insurer combining disability, fidelity, insurance. An insurer authorized to transact general casualty insurance shall be authorized to transact disability insurance and fidelity insurance without requiring additional financial qualifications. [1963 c 195 s 8.]

RCW 48.05.370 Fiduciary relationship to insurer of officers, directors or corporation holding controlling interest. Officers and directors of an insurer or a corporation holding a controlling interest in an insurer shall be deemed to stand in a fiduciary relation to the insurer, and shall discharge the duties of their respective positions in good faith, and with that diligence, care and skill which ordinary prudent persons would exercise under similar circumstances in like positions. [2009 c 549 s 7020; 1969 ex.s. c 241 s 1.]

RCW 48.05.380 Reports by property and casualty insurers—Rules. The insurance commissioner shall adopt rules requiring insurers who are authorized to write property and casualty insurance in the state of Washington to record and report their Washington state loss and expense experiences and other data, as required by RCW 48.05.390.

These rules may not require a report to be submitted by any insurer that has no data or experience to report. [2002 c 22 s 1; 1986 c 148 s 1; 1985 c 238 s 1.]

Effective date—1985 c 238: "The requirements of RCW 48.05.380 and 48.05.390 shall commence with the year-end report for the reporting period ending December 31, 1986. In addition, the data required under RCW 48.05.390 shall be provided for the years 1975 through 1985 and shall be filed with the commissioner on or before March 1, 1986." [1985 c 238 s 3.]

Severability—1985 c 238: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 238 s 4.]

RCW 48.05.383 Statement of actuarial opinion—Property and casualty insurance. (1) Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an appointed actuary entitled "Statement of Actuarial Opinion." This opinion shall be filed in accordance with the property and casualty annual statement instructions as adopted by the national association of insurance commissioners.

(2) Every property and casualty insurance company domiciled in this state that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with the property and casualty annual statement instructions as adopted by the national association of insurance commissioners and shall be considered as a document supporting the actuarial opinion required in subsection (1) of this section.

(3) An insurance company authorized but not domiciled in this state shall provide the actuarial opinion summary upon request.

(4) An actuarial report and underlying work papers as required by the property and casualty annual statement instructions as adopted by the national association of insurance commissioners shall be prepared to support each actuarial opinion.

(5) If the insurance company fails to provide either a supporting actuarial report or work papers, or both, at the request of the commissioner or the commissioner determines that the supporting actuarial report or work papers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or work papers.

(6) The appointed actuary is not liable for damages to any person, other than the insurance company, the commissioner, or both, for any act, error, omission, decision, or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary. [2006 c 25 s 1.]

Short title—2006 c 25 ss 1-3: "Sections 1 through 3 of this act may be known and cited as the property and casualty actuarial opinion law." [2006 c 25 s 4.]

Effective date—2006 c 25 ss 1-4: "Sections 1 through 4 of this act take effect December 31, 2007." [2006 c 25 s 18.]

RCW 48.05.385 Statement of actuarial opinion—Property and casualty insurance—Confidentiality. (1) The statement of actuarial opinion shall be provided with the annual statement in accordance with the property and casualty annual statement instructions as adopted by the national association of insurance commissioners and shall be treated as a public document.

(2) Documents, materials or other information in the possession or control of the commissioner that are considered an actuarial report, work papers, or actuarial opinion summary provided in support of the opinion, and any other material provided by the insurance company to the commissioner in connection with the actuarial report, work papers, or actuarial opinion summary, is confidential by law and privileged, is not subject to chapter *42.17 or 42.56 RCW, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action.

(3) Subsection (2) of this section does not limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline so long as the material is required for the purpose of professional disciplinary proceedings and the board establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents. Subsection (2) of this section does not limit the commissioner's authority to use the documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(4) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (2) of this section.

(5) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (2) of this section with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality;

(b) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(c) May enter into agreements governing the sharing and use of information consistent with this subsection.

(6) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information may not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (5) of this section. [2006 c 25 s 2.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to public disclosure were recodified in chapter 42.56 RCW by 2005 c 274.

Short title—2006 c 25 ss 1-3: See note following RCW 48.05.383.

Effective date—2006 c 25 ss 1-4: See note following RCW 48.05.383.

RCW 48.05.390 Reports by various insurers—Contents. (1) The report required by RCW 48.05.380 shall include the types of insurance written by the insurer for policies pertaining to:

(a) Medical malpractice for physicians and surgeons, hospitals, other health care professions, and other health care facilities individually;

(b) Products liability. However, if comparable information is included in the annual statement required by RCW 48.05.250, products liability data must not be reported under RCW 48.05.380;

(c) Attorneys' malpractice;

(d) Architects' and engineers' malpractice;

(e) Municipal liability; and

(f) Day care center liability.

(2) The report shall include the following data by the type of insurance for the previous year ending on the thirty-first day of December:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Net investment income, including net realized capital gain and losses, using appropriate estimates where necessary;

(d) Incurred claims, development as the sum of the following:

(i) Dollar amount of claims closed with payments; plus

(ii) Reserves for reported claims at the end of the current year; minus

(iii) Reserves for reported claims at the end of the previous year; plus

(iv) Reserves for incurred but not reported claims at the end of the current year; minus

(v) Reserves for incurred but not reported claims at the end of the previous year; plus

(vi) Reserves for loss adjustment expense at the end of the current year; minus

(vii) Reserves for loss adjustment expense at the end of the previous year.

(e) Actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, advertising, general office expenses, taxes, licenses and fees, and all other expenses;

(f) Net underwriting gain or loss;

(g) Net operation gain or loss, including net investment income; and

(h) Other information requested by the insurance commissioner.

(3) The report shall be filed annually with the commissioner, no later than the first day of May. [1994 c 131 s 7; 1988 c 248 s 6; 1986 c 148 s 2; 1985 c 238 s 2.]

Effective date—Severability—1985 c 238: See notes following RCW 48.05.380.

RCW 48.05.400 Annual filing and fee to National Association of Insurance Commissioners—Penalty. (1) Each domestic, foreign, and alien insurer that is authorized to transact insurance in this state shall annually, on or before March 1 of each year, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with such additional filings as prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurate page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

(2) Coincident with the filing of its annual statement convention blank and other filings, each such insurer shall pay a reasonable fee directly to the National Association of Insurance Commissioners in an amount approved by the commissioner to cover the costs associated with the analysis of the annual statement convention blank.

(3) Foreign insurers that are domiciled in a state which has a law substantially similar to subsection (1) of this section shall be considered to be in compliance with this section.

(4) In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, National Association of Insurance Commissioners employees, and all other persons charged with the responsibility of collecting, reviewing, analyzing, and dissimilating the information developed from the filing of the annual statement convention blanks shall be acting as agents of the commissioner under the authority of this section and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissimilation of the data and information collected for the filings required under this section.

(5) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of any insurer failing to file its annual statement or pay the fees when due or within any extension of time which the commissioner, for good cause, may have granted. [1987 c 132 s 1.]

RCW 48.05.410 Health care practitioner risk management training. Effective July 1, 1994, each health care provider, facility, or health maintenance organization that self-insures for liability risks related to medical malpractice and employs physicians or other independent health care practitioners in Washington state shall condition each physician's and practitioner's liability coverage by that entity upon that physician's or practitioner's participation in risk management

training offered by the provider, facility, or health maintenance organization to its employees. The risk management training shall provide information related to avoiding adverse health outcomes resulting from substandard practice and minimizing damages associated with those adverse health outcomes that do occur. For purposes of this section, "independent health care practitioner" means those health care practitioner licensing classifications designated by the department of health in rule pursuant to *RCW 18.130.330. [1993 c 492 s 414.]

***Reviser's note:** RCW 18.130.330 was repealed by 1995 c 265 s 27, effective July 1, 1995.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 48.05.430 Definitions. As used in RCW 48.05.430 through *48.05.490, these terms have the following meanings:

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

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

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

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

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

(6) "Property and casualty insurer" means any insurance company authorized to write only property insurance, marine and transportation insurance, general casualty insurance, vehicle insurance, or any combination thereof, including disability insurance, as defined in chapter 48.11 RCW.

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

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

(9) "Adjusted RBC report" means an RBC report that has been adjusted by the commissioner in accordance with RCW 48.05.435(5).

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

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

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

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

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

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

(12) "RBC plan" means a comprehensive financial plan containing the elements specified in RCW 48.05.440(2). If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(13) "RBC report" means the report required in RCW 48.05.435.

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

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

(b) Other items, if any, as the RBC instructions may provide. [1995 c 83 s 1.]

***Reviser's note:** RCW 48.05.490 was repealed by 2006 c 25 s 11.

RCW 48.05.435 Report of RBC levels—Formula for determining levels—Inaccurate reports adjusted by commissioner. (1) Every domestic insurer shall, on or prior to the filing date, which is hereby established as March 1, prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing that information required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

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

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

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

(ii) The filing date.

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

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

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

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

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

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

(a) Asset risk;

(b) Credit risk;

(c) Underwriting risk; and

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

(4) An excess of capital over the amount produced by the RBC requirements and the formulas, schedules, and instructions under RCW 48.05.430 through *48.05.490 is desirable in the business of insurance. Accordingly, insurers should seek to maintain capital above the RBC levels required. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the RBC requirements.

(5) If a domestic insurer files an RBC report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. [1995 c 83 s 2.]

***Reviser's note:** RCW 48.05.490 was repealed by 2006 c 25 s 11.

RCW 48.05.440 Company action level event—Definition—RBC plan—Commissioner's review. (1) "Company action level event" means any of the following events:

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

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

(ii) If a life and disability insurer, the insurer has total adjusted capital that is greater than or equal to its company action level RBC, but less than the product of its authorized control level RBC and 3 and has a negative trend; or

(iii) If a property and casualty insurer, the insurer has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and met the trend test determined in accordance with the trend test calculation included in the RBC instructions;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates an event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under RCW 48.05.460; or

(c) If, under RCW 48.05.460, an insurer challenges an adjusted RBC report that indicates an event in (a) of this subsection, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

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

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

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

(c) Provides projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business might include separate projections

for each major line of business and separately identify each significant income, expense, and benefit component;

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

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

(3) The RBC plan shall be submitted:

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

(b) If the insurer challenges an adjusted RBC report under RCW 48.05.460, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

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

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

(b) If the insurer challenges the notification from the commissioner under RCW 48.05.460, within forty-five days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(5) In the event of a notification by the commissioner to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the commissioner may, subject to the insurer's rights to a hearing under RCW 48.05.460, specify in the notification that the notification constitutes a regulatory action level event.

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

(a) The state has an RBC provision substantially similar to RCW 48.05.465(1); and

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

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

(ii) The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section. [2012 c 211 s 2; 2006 c 25 s 6; 1995 c 83 s 3.]

RCW 48.05.445 Regulatory action level event—Definition—Commissioner's duties—Corrective actions. (1) "Regulatory action level event" means, with respect to any insurer, any of the following events:

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

(b) The notification by the commissioner to an insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under RCW 48.05.460;

(c) If, under RCW 48.05.460, the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

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

(e) The failure of the insurer to submit an RBC plan to the commissioner within the time period set forth in RCW 48.05.440(3);

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

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

(ii) The notification constitutes a regulatory action level event with respect to the insurer, provided the insurer has not challenged the determination under RCW 48.05.460;

(g) If, under RCW 48.05.460, the insurer challenges a determination by the commissioner under (f) of this subsection, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the challenge;

(h) Notification by the commissioner to the insurer that the insurer has failed to adhere to its RBC plan or revised RBC plan, but only if the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its RBC plan or revised RBC plan and the commissioner has so stated in the notification, provided the insurer has not challenged the determination under RCW 48.05.460; or

(i) If, under RCW 48.05.460, the insurer challenges a determination by the commissioner under (h) of this subsection, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the challenge.

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

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

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

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

(3) In determining corrective actions, the commissioner may take into account those factors deemed relevant with respect to the insurer based upon the commissioner's examination or analysis of the assets,

liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken under the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

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

(b) If the insurer challenges an adjusted RBC report under RCW 48.05.460, and the challenge is not frivolous in the judgment of the commissioner, within forty-five days after the notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge; or

(c) If the insurer challenges a revised RBC plan under RCW 48.05.460, and the challenge is not frivolous in the judgment of the commissioner, within forty-five days after the notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the insurer's RBC plan or revised RBC plan, examine or analyze the assets, liabilities, and operations of the insurer and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants shall be borne by the affected insurer or other party as directed by the commissioner. [1995 c 83 s 4.]

RCW 48.05.450 Authorized control level event—Definition—Commissioner's duties. (1) "Authorized control level event" means any of the following events:

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

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under RCW 48.05.460;

(c) If, under RCW 48.05.460, the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to respond, in a manner satisfactory to the commissioner, to a corrective order, provided the insurer has not challenged the corrective order under RCW 48.05.460; or

(e) If the insurer has challenged a corrective order under RCW 48.05.460 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner.

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

(a) Take those actions required under RCW 48.05.445 regarding an insurer with respect to which a regulatory action level event has occurred; or

(b) If the commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, take those actions necessary to cause the insurer to be placed under regulatory control under chapter 48.31 RCW. In the event the commissioner takes these actions, the authorized control level event is sufficient grounds for the commissioner to take action under chapter 48.31 RCW, and the commissioner has the rights, powers, and duties with respect to the insurer as are set forth in chapter 48.31 RCW. In the event the commissioner takes actions under this subsection pursuant to an adjusted RBC report, the insurer is entitled to those protections afforded to insurers under RCW 48.31.121 pertaining to summary proceedings. [1995 c 83 s 5.]

RCW 48.05.455 Mandatory control level event—Definition—Commissioner's duties. (1) "Mandatory control level event" means any of the following events:

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

(b) Notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under RCW 48.05.460; or

(c) If, under RCW 48.05.460, the insurer challenges an adjusted RBC report that indicates the event in (a) of this subsection, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

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

(a) With respect to a life and disability insurer, the commissioner shall take those actions necessary to place the insurer under regulatory control under chapter 48.31 RCW. In that event, the mandatory control level event is sufficient grounds for the commissioner to take action under chapter 48.31 RCW, and the commissioner has the rights, powers, and duties with respect to the insurer as are set forth in chapter 48.31 RCW. If the commissioner takes actions pursuant to an adjusted RBC report, the insurer is entitled to the protections of RCW 48.31.121 pertaining to summary proceedings. However, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

(b) With respect to a property and casualty insurer, the commissioner shall take those actions necessary to place the insurer under regulatory control under chapter 48.31 RCW, or, in the case of an insurer that is writing no business and that is running off its existing business, may allow the insurer to continue its runoff under the supervision of the commissioner. In either event, the mandatory control level event is sufficient grounds for the commissioner to take action under chapter 48.31 RCW and the commissioner has the rights, powers, and duties with respect to the insurer as are set forth in chapter 48.31 RCW. If the commissioner takes actions pursuant to an adjusted RBC report, the insurer is entitled to the protections of RCW 48.31.121 pertaining to summary proceedings. However, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable

expectation that the mandatory control level event may be eliminated within the ninety-day period. [1995 c 83 s 6.]

RCW 48.05.460 Insurer's right to a hearing—Request—Commissioner sets date. (1) Upon notification to an insurer by the commissioner of any of the following, the insurer shall have the right to a hearing, in accordance with chapters 48.04 and 34.05 RCW, at which the insurer may challenge any determination or action by the commissioner:

(a) Of an adjusted RBC report; or

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

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

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

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

(2) The insurer shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under this section. Upon receipt of the insurer's request for a hearing, the commissioner shall set a date for the hearing. The date shall be no less than ten nor more than thirty days after the date of the insurer's request. [1995 c 83 s 7.]

RCW 48.05.465 Confidentiality of RBC reports and plans—Use of information for comparative purposes—Use of information to monitor solvency. (1) All RBC reports, to the extent the information is not required to be set forth in a publicly available annual statement schedule, and RBC plans, including the results or report of any examination or analysis of an insurer and any corrective order issued by the commissioner, with respect to any domestic insurer or foreign insurer that are filed with the commissioner constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

(2) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer, and is not a means to rank insurers generally. Therefore, except as otherwise required under the provisions of RCW 48.05.430 through 48.05.485, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, insurance producer, title insurance agent, or other person engaged in any manner in the insurance business

would be misleading and is therefore prohibited. However, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels, or any of them, or an inappropriate comparison of any other amount to the insurer's RBC levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(3) The RBC instructions, RBC reports, adjusted RBC reports, RBC plans, and revised RBC plans are solely for use by the commissioner in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and shall not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance that an insurer or any affiliate is authorized to write. [2008 c 217 s 4; 1995 c 83 s 8.]

Severability—Effective date—2008 c 217: See notes following RCW 48.03.020.

RCW 48.05.470 Regulation of capital and surplus requirements is supplemental—Commissioner may grant exemptions. (1) The provisions of RCW 48.05.430 through *48.05.490 are supplemental to any other provisions of the laws of this state, and shall not preclude or limit any other powers or duties of the commissioner under those laws, including, but not limited to, chapter 48.31 RCW.

(2) The commissioner may exempt any domestic property and casualty insurer from RCW 48.05.430 through *48.05.490, if the insurer:

(a) Writes direct business only in this state;

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

(c) Assumes no reinsurance in excess of five percent of direct premiums written. [1995 c 83 s 9.]

***Reviser's note:** RCW 48.05.490 was repealed by 2006 c 25 s 11.

RCW 48.05.475 RBC report from foreign or alien insurers—Request of commissioner—Commissioner's options. (1) Any foreign or alien insurer shall, upon the written request of the commissioner, submit to the commissioner an RBC report as of the end of the calendar year just ended by the later of:

(a) The date an RBC report would be required to be filed by a domestic insurer under RCW 48.05.435; or

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

(2) In the event of a company action level event, regulatory action level event, or authorized control level event with respect to any foreign or alien insurer as determined under the RBC statute

applicable in the state of domicile of the insurer or, if no RBC statute is in force in that state, under the provisions of RCW 48.05.430 through *48.05.490, if the insurance commissioner of the state of domicile of the foreign or alien insurer fails to require the foreign or alien insurer to file an RBC plan in the manner specified under that state's RBC statute, the commissioner may require the foreign or alien insurer to file an RBC plan. In this event, the failure of the foreign or alien insurer to file an RBC plan is grounds to order the insurer to cease and desist from writing new insurance business in this state.

(3) In the event of a mandatory control level event with respect to any foreign or alien insurer, if no domiciliary receiver has been appointed with respect to the foreign or alien insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign or alien insurer, the commissioner may apply for an order under RCW 48.31.080 or 48.31.090 to conserve the assets within this state of foreign or alien insurers, and the occurrence of the mandatory control level event is considered adequate grounds for the application. [1995 c 83 s 10.]

***Reviser's note:** RCW 48.05.490 was repealed by 2006 c 25 s 11.

RCW 48.05.480 No liability for regulation of capital and surplus requirements. There is no liability on the part of, and no cause of action may arise against, the commissioner or insurance department or its employees or agents for any action taken by them in the performance of their powers and duties under RCW 48.05.430 through *48.05.490. [1995 c 83 s 11.]

***Reviser's note:** RCW 48.05.490 was repealed by 2006 c 25 s 11.

RCW 48.05.485 Notices by commissioner—When effective. All notices by the commissioner to an insurer that may result in regulatory action are effective upon dispatch if transmitted by registered or certified mail, or in the case of any other transmission are effective upon the insurer's receipt of the notice. [1995 c 83 s 12.]

RCW 48.05.510 Disclosure of certain material transactions—Insurer's report—Information is confidential. (1) Every insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements unless these acquisitions and dispositions of assets or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements have been submitted to the commissioner for review, approval, or information purposes under other provisions of this title or other requirements.

(2) The report required in subsection (1) of this section is due within fifteen days after the end of the calendar month in which any of the transactions occur.

(3) One complete copy of the report, including any exhibits or other attachments filed as part of the report, shall be filed with the:

(a) Commissioner; and

(b) National association of insurance commissioners.

(4) All reports obtained by or disclosed to the commissioner under this section and RCW 48.05.515 through 48.05.535 are exempt from public inspection and copying and are not subject to subpoena. These reports shall not be made public by the commissioner, the national association of insurance commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer that would be affected by disclosure notice and a hearing under chapter 48.04 RCW, determines that the interest of policyholders, shareholders, or the public will be served by the publication, in which event the commissioner may publish all or any part of the report in the manner he or she deems appropriate. [1995 c 86 s 1.]

RCW 48.05.515 Material acquisitions or dispositions. No acquisitions or dispositions of assets need be reported under RCW 48.05.510 if the acquisitions or dispositions are not material. For purposes of RCW 48.05.510 through 48.05.535, a material acquisition, or the aggregate of any series of related acquisitions during any thirty-day period; or disposition, or the aggregate of any series of related dispositions during any thirty-day period is an acquisition or disposition that is nonrecurring and not in the ordinary course of business and involves more than five percent of the reporting insurer's total assets as reported in its most recent statutory statement filed with the commissioner. [1995 c 86 s 2.]

RCW 48.05.520 Asset acquisitions—Asset dispositions. (1) Asset acquisitions subject to RCW 48.05.510 through 48.05.535 include every purchase, lease, exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such a purpose.

(2) Asset dispositions subject to RCW 48.05.510 through 48.05.535 include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, abandonment, destruction, other disposition, or assignment, whether the assignment is for the benefit of creditors or otherwise. [1995 c 86 s 3.]

RCW 48.05.525 Report of a material acquisition or disposition of assets—Information required. (1) The following information is required to be disclosed in any report of a material acquisition or disposition of assets:

(a) Date of the transaction;

(b) Manner of acquisition or disposition;

(c) Description of the assets involved;

(d) Nature and amount of the consideration given or received;

(e) Purpose of or reason for the transaction;

(f) Manner by which the amount of consideration was determined;

(g) Gain or loss recognized or realized as a result of the transaction; and

(h) Names of the persons from whom the assets were acquired or to whom they were disposed.

(2) Insurers are required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that utilizes a pooling arrangement or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such an insurer ceded substantially all of its direct and assumed business to the pool. An insurer has ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus. [1995 c 86 s 4.]

RCW 48.05.530 Material nonrenewals, cancellations, or revisions of ceded reinsurance agreements. (1) No nonrenewals, cancellations, or revisions of ceded reinsurance agreements need be reported under RCW 48.05.510 if the nonrenewals, cancellations, or revisions are not material. For purposes of RCW 48.05.510 through 48.05.535, a material nonrenewal, cancellation, or revision is one that affects:

(a) More than fifty percent of a property and casualty insurer's total ceded written premium;

(b) More than fifty percent of the property and casualty insurer's total ceded indemnity and loss adjustment reserves;

(c) More than fifty percent of a nonproperty and casualty insurer's total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement;

(d) More than ten percent of an insurer's total cession when it is replaced by one or more unauthorized reinsurers; or

(e) Previously established collateral requirements, when they have been reduced or waived as respects one or more unauthorized reinsurers representing collectively more than ten percent of a total cession.

(2) However, a filing is not required if:

(a) A property and casualty insurer's total ceded written premium represents, on an annualized basis, less than ten percent of its total written premium for direct and assumed business; or

(b) A nonproperty and casualty insurer's total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent of the statutory reserve requirement prior to any cession. [1995 c 86 s 5.]

RCW 48.05.535 Report of a material nonrenewal, cancellation, or revision of ceded reinsurance agreements—Information required. (1) The following is required to be disclosed in any report of a material nonrenewal, cancellation, or revision of ceded reinsurance agreements:

(a) The effective date of the nonrenewal, cancellation, or revision;

(b) The description of the transaction with an identification of the initiator;

(c) The purpose of or reason for the transaction; and

(d) If applicable, the identity of the replacement reinsurers.

(2) Insurers are required to report all material nonrenewals, cancellations, or revisions of ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that utilizes a pooling arrangement or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer has ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus. [1995 c 86 s 6.]