

RCW 48.17.595 Termination of business relationship with an insurance producer or title insurance agent—Notice—Confidentiality of information—Immunity from civil liability.

(1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer or title insurance agent shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in RCW 48.17.530 or the insurer has knowledge the insurance producer or title insurance agent was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in RCW 48.17.530. Upon the written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the insurance producer or title insurance agent.

(2) An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with an insurance producer or title insurance agent for any reason not set forth in RCW 48.17.530, shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

(3) The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a format acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the commissioner in accordance with subsection (1) of this section had the insurer then known of its existence.

(4) A copy of the notification to the commissioner shall be provided to the insurance producer or title insurance agent.

(a) Within fifteen days after making the notification required by subsections (1), (2), and (3) of this section, the insurer shall mail a copy of the notification to the insurance producer or title insurance agent at the insurance producer's or title insurance agent's last known address. If the insurance producer or title insurance agent is terminated for cause for any of the reasons listed in RCW 48.17.530, the insurer shall provide a copy of the notification to the insurance producer or title insurance agent at the insurance producer's or title insurance agent's last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(b) Within thirty days after the insurance producer or title insurance agent has received the original or additional notification, the insurance producer or title insurance agent may file written comments concerning the substance of the notification with the commissioner. The insurance producer or title insurance agent shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the insurance producer or title insurance agent as permitted under subsection (6) of this section.

(5) Immunities shall apply as follows:

(a) In the absence of actual malice, an insurer, the authorized representative of the insurer, an insurance producer, title insurance agent, the commissioner, or an organization of which the commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided under this section, or any information relating to any statement that may be requested in writing by the commissioner, from an insurer, insurance producer, or title insurance agent; or a statement by a terminating insurer, insurance producer, or title insurance agent limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the commissioner, provided that the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer, insurance producer, or title insurance agent terminating the relationship.

(b) In any action brought against a person that may have immunity under (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

(c) Subsection (5)(a) or (b) of this section shall not abrogate or modify any existing statutory or common law privileges or immunities.

(6) Information provided under this section is confidential.

(a) Any documents, materials, or other information in the control or possession of the commissioner that is furnished by an insurer, insurance producer, title insurance agent, or an employee or agent thereof acting on behalf of the insurer, insurance producer, or title insurance agent, or obtained by the commissioner in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to disclosure under chapter 42.56 RCW, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(b) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential or privileged documents, materials, or information subject to (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties under chapter 117, Laws of 2007 and in accordance with RCW 48.02.065, the commissioner:

(i) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to (a) of this subsection, with other state, federal, and international regulatory agencies, with the NAIC, its affiliates, or 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;

(ii) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC, its affiliates, or 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

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

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (5)(c) of this section.

(e) Nothing in this chapter shall prohibit the commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to chapter 42.56 RCW to a database or other clearinghouse service maintained by the NAIC, its affiliates, or subsidiaries.

(7) An insurer, the authorized representative of the insurer, insurance producer, or title insurance agent that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked, and may be fined in accordance with this title.
[2007 c 117 s 32.]