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HOUSE BILL 2870

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By Representatives R. Johnson, Scott, Ludwig, Dellwo, Paris, G. Fisher, Franklin, Brekke, Bray, Fraser and Spanel; by request of Insurance Commissioner

Read first time 01/29/92. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the availability of health insurance for the  
2 small employer; adding a new chapter to Title 48 RCW; prescribing  
3 penalties; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter shall be known  
6 and may be cited as the small employer health insurance availability  
7 act.

8 NEW SECTION. **Sec. 2.** PURPOSE. The purpose and intent of this  
9 chapter is to promote the availability of health insurance coverage to  
10 small employers regardless of health status or claims experience, to  
11 prevent abusive rating practices, to require disclosure of rating  
12 practices to purchasers, to establish rules regarding renewability of  
13 coverage, to establish limitation on the use of preexisting condition

1 exclusions, to provide for development of a basic health benefit plan  
2 to be offered to all small employers, to provide for establishment of  
3 a reinsurance program, and to improve the overall fairness and  
4 efficiency of the small group health insurance market.

5 This chapter is not intended to provide a solution to the problem  
6 of affordability of health care or health insurance.

7 NEW SECTION. **Sec. 3.** DEFINITIONS. As used in this chapter:

8 (1) "Actuarial certification" means a written statement by a member  
9 of the American academy of actuaries, or other individual acceptable to  
10 the commissioner, that a small employer carrier is in compliance with  
11 the provisions of section 6 of this act, based upon the person's  
12 examination, including a review of the appropriate records and of the  
13 actuarial assumptions and methods used by the small employer carrier in  
14 establishing premium rates for applicable health benefit plans.

15 (2) "Association" means an organization organized and maintained in  
16 good faith for purposes other than that of obtaining health benefits  
17 coverage. Associations shall have constitutions and by-laws or other  
18 analogous governing documents and shall have been in active existence  
19 for at least five years, unless they are based on participation in a  
20 certain industry, in which case they shall have been in active  
21 existence for two years.

22 (3) "Base premium rate" means, for each class of business, as to a  
23 rating period, the lowest premium rate charged or that could have been  
24 charged under the rating system for that class of business by the small  
25 employer carrier to small employers with similar case characteristics  
26 for health benefit plans with the same or similar coverage.

27 (4) "Basic health benefit plan" means a lower cost health benefit  
28 plan developed under section 11 of this act.

1 (5) "Board" means the board of directors of the program established  
2 under section 10 of this act.

3 (6) "Carrier" means any entity that provides health insurance in  
4 Washington state. For the purposes of this chapter, carrier includes  
5 an insurance company, health care service contractor, fraternal benefit  
6 society, health maintenance organization, multiple employer welfare  
7 arrangements, or any person or entity that writes, issues, or  
8 administers health benefit plans in Washington state.

9 (7) "Case characteristics" means demographic or other objective  
10 characteristics of a small employer that are considered by the small  
11 employer carrier in the determination of premium rates for the small  
12 employer, provided that claim experience, health status, and duration  
13 of coverage shall not be case characteristics for the purposes of this  
14 chapter.

15 (8) "Commissioner" means the insurance commissioner as defined in  
16 RCW 48.02.010.

17 (9) "Committee" means the health benefit plan committee created  
18 under section 11 of this act.

19 (10) "Dependent" means the spouse or an unmarried child under the  
20 age of nineteen years or an unmarried child who is a full-time student  
21 under the age of twenty-three years who is financially dependent upon  
22 an eligible employee or a child of any age who is medically certified  
23 as disabled and dependent of an eligible employee.

24 (11) "Eligible employee" means an employee who works on a full-time  
25 basis and has a normal work week of thirty or more hours, who has met  
26 any applicable requirement of the employer as to the period of  
27 employment before an employee is eligible for health benefits coverage.  
28 The term includes a sole proprietor, a partner of a partnership, and an  
29 independent contractor, if the sole proprietary, partner, or  
30 independent contractor is included as an employee under a health

1 benefit plan of a small employer, but does not include an employee who  
2 works on a part-time, temporary, or substitute basis.

3 (12) "Established geographic service area" means a geographical  
4 area, as approved by the commissioner and based on the carrier's  
5 certificate of authority to transact business in Washington state,  
6 within which the carrier is authorized to provide coverage.

7 (13) "Health benefit plan" means any hospital or medical policy or  
8 certificate, health care service contract, health maintenance  
9 organization subscriber contract, plan provided by a multiple employer  
10 welfare arrangement, or plan provided by any other benefit arrangement  
11 subject to this chapter. The term does not include accident only,  
12 credit, dental, vision, medicare supplement, long-term care, or  
13 disability income insurance, coverage issued as a supplement to  
14 liability insurance, workers' compensation or similar insurance, or  
15 automobile medical payment insurance.

16 (14) "Index rate" means for each class of business as to a rating  
17 period for small employers with similar case characteristics, the  
18 arithmetic average of the applicable base premium rate and  
19 corresponding highest premium rate.

20 (15) "Late enrollee" means an eligible employee or dependent who  
21 requests enrollment in a health benefit plan of a small employer  
22 following the initial enrollment period provided under the terms of the  
23 health benefit plan, provided that such initial enrollment period is a  
24 period of at least thirty days. However, an eligible employee or  
25 dependent shall not be considered a late enrollee if:

26 (a) The individual meets each of the following:

27 (i) The individual was covered under qualifying previous coverage  
28 at the time the individual was eligible to enroll;

29 (ii) The individual lost coverage under qualifying previous  
30 coverage as a result of termination of employment or eligibility, the

1 involuntary termination of the qualifying previous coverage, death of  
2 a spouse, or divorce;

3 (iii) The individual requests enrollment within thirty days after  
4 termination of the qualifying previous coverage;

5 (b) The individual is employed by an employer that offers multiple  
6 health benefit plans and the individual elects a different plan during  
7 an open enrollment period; or

8 (c) A court has ordered coverage be provided for a spouse or minor  
9 or dependent child under a covered employee's health benefit plan and  
10 request for enrollment is made within thirty days after issuance of the  
11 court order.

12 (16) "New business premium rate" means, as to a rating period, the  
13 lowest premium rate charged or offered, or which could have been  
14 charged or offered, by the small employer carrier to small employers  
15 with similar case characteristics for newly issued health benefit plans  
16 with the same or similar coverage.

17 (17) "Plan of operation" means the plan of operation of the  
18 reinsurance program established under section 10 of this act.

19 (18) "Premium" means all moneys paid by a small employer and  
20 eligible employees as a condition of receiving coverage from a small  
21 employer carrier, including any fees or other contributions associated  
22 with the health benefit plan.

23 (19) "Program" means the Washington small employer reinsurance  
24 program established under section 10 of this act.

25 (20) "Rating period" means the calendar year period for which  
26 premium rates established by a small employer carrier are presumed to  
27 be in effect.

28 (21) "Reinsuring carrier" means a small employer carrier  
29 participating in the reinsurance program under section 10 of this act.

1 (22) "Restricted network provision" means any provision of a health  
2 benefit plan that conditions the payment of benefits, in whole or in  
3 part, on the use of health care providers that have entered into a  
4 contractual arrangement with the carrier pursuant to chapter 48.44 or  
5 48.46 RCW to provide health care services to covered individuals.

6 (23) "Risk assuming carrier" means a small employer carrier whose  
7 application is approved by the commissioner under section 9 of this  
8 act.

9 (24) "Small employer" means any person, firm, corporation,  
10 partnership, or association that is actively engaged in business that,  
11 on at least fifty percent of its working days during the preceding  
12 calendar quarter, employed at least three unrelated eligible employees  
13 but no more than forty-nine eligible employees, the majority of whom  
14 were employed within Washington state. In determining the number of  
15 eligible employees, companies that are affiliated companies, or that  
16 are eligible to file a combined tax return for purposes of state  
17 taxation, shall be considered one employer.

18 (25) "Small employer carrier" means any carrier that offers health  
19 benefit plans covering eligible employees of one or more small  
20 employers in Washington state.

21 (26) "Affiliate" or "affiliated" means any entity or person who  
22 directly or indirectly through one or more intermediaries, controls or  
23 is controlled by, or is under common control with, a specified entity  
24 or person.

25 (27) "Qualifying previous coverage" and "qualifying existing  
26 coverage" mean benefits or coverage provided under:

27 (a) Medicare or medicaid;

28 (b) An employer-based health insurance or health benefit  
29 arrangement that provides benefits similar to or exceeding benefits

1 provided under the basic health benefit plan which are subject to the  
2 laws of Washington state regulating insurance; or

3 (c) An individual health insurance policy, including coverage  
4 issued by an insurance company, health care service contractor,  
5 fraternal benefit society, health maintenance organization, multiple  
6 employer welfare arrangement, or any person or entity that writes,  
7 issues, or administers health benefit plans in Washington state, that  
8 provides benefits similar to or exceeding benefits provided under the  
9 basic health benefit plan, provided that such policy has been in effect  
10 for a period of at least six months.

11 NEW SECTION. **Sec. 4.** APPLICABILITY AND SCOPE. This chapter shall  
12 apply to any health benefit plan that provides coverage to the  
13 employees of a small employer in Washington state if any of the  
14 following conditions are met:

15 (1) Any portion of the premium or benefits is paid by or on behalf  
16 of the small employer;

17 (2) An eligible employee or dependent is reimbursed, whether  
18 through wage adjustments or otherwise, by or on behalf of the small  
19 employer for any portion of the premium; or

20 (3) The health benefit plan is treated by the employer or any of  
21 the eligible employees or dependents as part of a plan or program for  
22 the purposes of section 162, section 125, or section 106 of the United  
23 States Internal Revenue Code.

24 (4)(a) Except as provided in (b) of this subsection, for the  
25 purposes of this chapter, carriers that are affiliated companies or  
26 that are eligible to file a consolidated tax return shall be treated as  
27 one carrier and any restrictions or limitations imposed by this chapter  
28 shall apply as if all health benefit plans issued to small employers in

1 Washington state by such affiliated carriers were issued by one  
2 carrier.

3 (b) An affiliated carrier that is a health maintenance organization  
4 having a certificate of authority under chapter 48.44 RCW may be  
5 considered a separate carrier for the purposes of this chapter.

6 (c) Unless otherwise authorized by the commissioner, a small  
7 employer carrier shall not enter into one or more ceding arrangements  
8 with respect to health benefit plans issued to small employers in  
9 Washington state if such arrangements would result in less than fifty  
10 percent of the insurance obligation or risk for such health benefit  
11 plans being retained by the ceding carrier.

12 NEW SECTION. **Sec. 5.** RESTRICTIONS RELATING TO PREMIUM RATES. (1)  
13 Premium rates for health benefit plans subject to this chapter shall be  
14 subject to the following provisions:

15 (a) The premium rates charged during a rating period to small  
16 employers with similar case characteristics for the same or similar  
17 coverage, or the rates that could be charged to such employers under  
18 the rating system, shall not vary from the index rate by more than  
19 twenty-five percent of the index rate.

20 (b) The percentage increase in the premium rate charged to a small  
21 employer for a new rating period may not exceed the sum of the  
22 following:

23 (i) The percentage change in the new business premium rate measured  
24 from the first day of the prior rating period to the first day of the  
25 new rating period. In the case of a health benefit plan into which the  
26 small employer carrier is no longer enrolling new small employers, the  
27 small employer carrier shall use the percentage change in the base  
28 premium rate, provided that such change does not exceed, on a  
29 percentage basis, the change in the new business premium rate for the



1 most similar health benefit plan into which the small employer carrier  
2 is actively enrolling new small employers;

3 (ii) Any adjustment, not to exceed fifteen percent annually and  
4 adjusted pro rata for rating periods of less than one year, due to the  
5 claim experience, health status, and duration of coverage of the  
6 employees or dependents of the small employer, as determined from the  
7 small employer carrier's rate manual; and

8 (iii) Any adjustment due to change in coverage or change in the  
9 case characteristics of the small employer, as determined from the  
10 small employer carrier's rate manual.

11 (c) Adjustments in rates for claim experience, health status, and  
12 duration of coverage shall not be charged to individual employees or  
13 dependents. Any such adjustment shall be applied uniformly to the  
14 rates charged for all employees and dependents of the small employer.

15 (d) Premium rates for health benefit plans shall comply with the  
16 requirements of this section notwithstanding any assessments paid or  
17 payable by small employer carriers pursuant to section 10 of this act.

18 (e) A small employer carrier may utilize industry as a case  
19 characteristic in establishing premium rates, provided that the highest  
20 rate factor associated with any industry classification shall not  
21 exceed the lowest rate factor associated with any industry  
22 classification by more than fifteen percent.

23 (f) In the case of health benefit plans issued prior to the  
24 effective date of this act, a premium rate for a rating period may  
25 exceed the ranges set forth in (a) and (b) of this subsection for a  
26 period of three years following the effective date of this act. In  
27 such cases, the percentage increase in the premium rate charged to a  
28 small employer for a new rating period shall not exceed the sum of the  
29 following:

1 (i) The percentage change in the new business premium rate measured  
2 from the first day of the prior rating period to the first day of the  
3 new rating period. In the case of a health benefit plan into which the  
4 small employer carrier is no longer enrolling new small employers, the  
5 small employer carrier shall use the percentage change in the base  
6 premium rate, provided that such change does not exceed, on a  
7 percentage basis, the change in the new business premium rate for the  
8 most similar health benefit plan into which the small employer carrier  
9 is actively enrolling new small employers;

10 (ii) Any adjustment due to change in coverage or change in the case  
11 characteristics of the small employer, as determined from the small  
12 employer carrier's rate manual.

13 (g)(i) Small employer carriers shall apply rating factors,  
14 including case characteristics, consistently with respect to all small  
15 employers. Rating factors shall produce premiums for identical groups  
16 that differ only by amounts attributable to plan design and do not  
17 reflect differences due to the nature of the groups assumed to select  
18 particular health benefit plans.

19 (ii) A small employer carrier shall treat all health benefit plans  
20 issued or renewed in the same calendar month as having the same rating  
21 period.

22 (h) For the purposes of this subsection, a health benefit plan that  
23 utilizes a restricted provider network shall not be considered similar  
24 coverage to a health benefit plan that does not utilize such a network,  
25 provided that utilization of the restricted provider network results in  
26 substantial differences in claims costs.

27 (i) A small employer carrier shall not use case characteristics  
28 other than age, gender, industry, geographic area, family composition,  
29 and group size without prior approval of the commissioner.

1 (j) The commissioner may establish regulations to implement the  
2 provisions of this section and to assure that rating practices used by  
3 small employer carriers are consistent with the purposes of this  
4 chapter, including:

5 (i) Assuring that differences in rates charged for health benefit  
6 plans by small employer carriers are reasonable and reflect objective  
7 differences in plan design, not including differences due to the nature  
8 of the groups assumed to select particular health benefit plans; and

9 (ii) Prescribing the manner in which case characteristics may be  
10 used by small employer carriers.

11 (2) A small employer carrier shall not transfer a small employer  
12 involuntarily into or out of a health benefit plan design. A small  
13 employer carrier shall not offer to transfer a small employer into or  
14 out of a health benefit plan design unless such offer is made to  
15 transfer all small employers with the same health benefit plan design  
16 without regard to case characteristics, claim experience, health  
17 status, or duration of coverage.

18 (3) The commissioner may suspend for a specified period the  
19 application of subsection (1)(a) of this section as to the premium  
20 rates applicable to one or more small employers with a small employer  
21 carrier for one or more rating periods upon a finding by the small  
22 employer carrier and a finding by the commissioner either that the  
23 suspension is reasonable in light of the financial condition of the  
24 small employer carrier or that the suspension would enhance the  
25 efficiency and fairness of the marketplace for small employer health  
26 insurance.

27 (4) In connection with the offering for sale of any health benefit  
28 plan to a small employer, a small employer carrier shall make a  
29 reasonable disclosure, as part of its solicitation and sales materials,  
30 of all of the following:

1 (a) The extent to which premium rates for a specified small  
2 employer are established or adjusted based upon the actual or expected  
3 variation in claims costs or actual or expected variation in health  
4 status of the employees of the small employer and their dependents;

5 (b) The provisions of the health benefit plan concerning the small  
6 employer carrier's right to change premium rates and factors, other  
7 than claim experience, that affect changes in premium rates;

8 (c) The provision relating to renewability of policies and  
9 contracts; and

10 (d) The provisions relating to any preexisting condition.

11 (5)(a) Each small employer carrier shall maintain at its principal  
12 place of business a complete and detailed description of its rating  
13 practices and renewal underwriting practices, including information and  
14 documentation that demonstrate that its rating methods and practices  
15 are based upon commonly accepted actuarial assumptions and are in  
16 accordance with sound actuarial principles.

17 (b) Each small employer carrier shall file with the commissioner  
18 annually on or before March 15 an actuarial certification certifying  
19 that the carrier is in compliance with this chapter and that the rating  
20 methods of the small employer carrier are actuarially sound. Such  
21 certification shall be in a form and manner, and shall contain such  
22 information, as specified by the commissioner. A copy of the  
23 certification shall be retained by the small employer carrier at its  
24 principal place of business.

25 (c) A small employer carrier shall make the information and  
26 documentation described in (a) of this subsection available to the  
27 commissioner upon request. Except in cases of violations of this  
28 chapter, the information shall be considered proprietary and trade  
29 secret information and shall not be subject to disclosure by the  
30 commissioner to persons outside of the office except as agreed to by

1 the small employer carrier or as ordered by a court of competent  
2 jurisdiction.

3 NEW SECTION. **Sec. 6.** RENEWABILITY OF COVERAGE. (1) A health  
4 benefit plan subject to this chapter shall be renewable with respect to  
5 all eligible employees and dependents, except in any of the following  
6 cases:

7 (a) Nonpayment of required premiums;

8 (b) Fraud or misrepresentation by the small employer or, with  
9 respect to coverage of individual insureds, the insureds or their  
10 representatives;

11 (c) Noncompliance with the carrier's minimum participation  
12 requirements;

13 (d) Noncompliance with the carrier's employer contribution  
14 requirements;

15 (e) Repeated misuse of a provider network provision; or

16 (f) The small employer carrier elects to not renew all of its  
17 health benefit plans issued to small employers in Washington state. In  
18 such a case the carrier shall:

19 (i) Provide advance notice of its decision under this subsection  
20 (1)(f)(i) to the commissioner; and

21 (ii) Provide notice of the decision not to renew coverage to all  
22 affected small employers and to the commissioner in each state in which  
23 an affected covered individual is known to reside at least one hundred  
24 eighty days prior to the nonrenewal of any health benefit plan by the  
25 carrier. Notice to the commissioner under this subsection (1)(f)(ii)  
26 shall be provided at least three working days prior to the notice to  
27 the affected small employers.

28 (g) The commissioner finds that the continuation of the coverage  
29 would:

1 (i) Not be in the best interests of the policyholders or  
2 certificate holders; or

3 (ii) Impair the carrier's ability to meet its contractual  
4 obligations.

5 In such instance the commissioner shall assist affected small  
6 employers in finding replacement coverage.

7 (2) A small employer carrier that elects not to renew a health  
8 benefit plan under subsection (1)(f) of this section shall be  
9 prohibited from writing new business in the small employer market in  
10 Washington state for a period of five years from the date of notice to  
11 the commissioner.

12 (3) In the case of a small employer carrier doing business in one  
13 established geographic service area of the state, the rules set forth  
14 in this section shall apply only to the carrier's operations in such  
15 service area.

16 NEW SECTION. **Sec. 7.** AVAILABILITY OF COVERAGE. (1)(a) Every  
17 small employer carrier shall, as a condition of transacting business in  
18 Washington state with small employers, actively offer to small  
19 employers at least a basic health benefit plan.

20 (b) An employer carrier shall issue at least a basic health benefit  
21 plan to any eligible small employer that applies to such a plan and  
22 agrees to make the required premium payments and to satisfy the other  
23 reasonable provisions of the health benefit plan not inconsistent with  
24 this chapter, unless the carrier is a federally qualified health  
25 maintenance organization, in which case the carrier's minimum offering  
26 shall comply with federal statutes and regulations.

27 (c) A small employer is eligible under (b) of this subsection if it  
28 employed at least three unrelated eligible employees within Washington

1 state on at least fifty percent of its working days during the  
2 preceding calendar quarter.

3 (d) For purposes of establishing continued small employer  
4 eligibility under this chapter, a small employer carrier may reassess  
5 the size of the covered employer on the anniversary date of the  
6 employer's policy. Coverage under this chapter may be discontinued if  
7 the small employer no longer meets the size requirements provided for  
8 in this chapter. However, if a small employer falls below the minimum  
9 size, coverage must be continued for a period of at least one year  
10 before the small employer carrier can discontinue coverage under this  
11 chapter, provided that the small employer continues to fall below the  
12 minimum group size requirements of this chapter.

13 (e) The provisions of this subsection shall be effective one  
14 hundred eighty days after the commissioner's approval of the basic  
15 health benefit plan developed under section 11 of this act, provided  
16 that if the small employer reinsurance program created under section 10  
17 of this act is not yet in operation on such date, the provisions of  
18 this subsection shall be effective on the date that such program begins  
19 operation.

20 (2)(a) A small employer carrier shall file with the commissioner,  
21 in a form and manner prescribed by the commissioner, the basic health  
22 benefit plans to be used by the carrier. A health benefit plan filed  
23 pursuant to this subsection (2)(a) may be used by a small employer  
24 carrier beginning thirty days after it is filed unless the commissioner  
25 disapproves its use.

26 (b) The commissioner at any time may, after providing notice and an  
27 opportunity for a hearing to a small employer carrier, disapprove the  
28 continued use by the small employer carrier of a basic health benefit  
29 plan on the grounds that such plan does not meet the requirements of  
30 this chapter.

1 (3) A health benefit plan covering small employers shall comply  
2 with the following provisions:

3 (a) A health benefit plan shall not deny, exclude, or limit  
4 benefits for a covered individual for losses incurred more than six  
5 months following the effective date of the individual's coverage due to  
6 a preexisting condition. A health benefit plan shall not define a  
7 preexisting condition more restrictively than:

8 (i) A condition that would have caused an ordinarily prudent person  
9 to seek medical advice, diagnosis, care, or treatment during the six  
10 months immediately preceding the effective date of coverage;

11 (ii) A condition for which medical advice, diagnosis, care, or  
12 treatment was recommended or received during the six months immediately  
13 preceding the effective date of coverage; or

14 (iii) A pregnancy existing on the effective date of coverage.

15 (b) A health benefit plan shall waive any time period applicable to  
16 a preexisting condition exclusion or limitation period with respect to  
17 particular services for the period of time an individual was previously  
18 covered by qualifying previous coverage that provided benefits with  
19 respect to such services, provided that the qualifying previous  
20 coverage was continuous to a date not less than thirty days prior to  
21 the effective date of the new coverage. This subsection (3)(b) does  
22 not preclude application of any waiting period applicable to all new  
23 enrollees under the health benefit plan.

24 (c) A health benefit plan may exclude coverage for late enrollees  
25 for the greater of twelve months or for a twelve-month preexisting  
26 condition exclusion, provided that if both a period of exclusion from  
27 coverage and a preexisting condition exclusion are applicable to a late  
28 enrollee, the combined period shall not exceed twelve months from the  
29 date the individual enrolls for coverage under the health benefit plan.



1 (d)(i) Except as provided in (iv) of this subsection (3)(d),  
2 requirements used by a small employer carrier in determining whether to  
3 provide coverage to a small employer, including requirements for  
4 minimum participation of eligible employees and minimum employer  
5 contributions, shall be applied uniformly among all small employers  
6 with the same number of eligible employees applying for coverage or  
7 receiving coverage from the small employer carrier.

8 (ii) A small employer carrier may vary application of minimum  
9 participation requirements and minimum employer contribution  
10 requirements only by the size of the small employer group.

11 (iii)(A) Except as provided in (iii)(B) of this subsection (3)(d),  
12 in applying minimum participation requirements with respect to a small  
13 employer, a small employer carrier shall not consider employees or  
14 dependents who have qualifying existing coverage in determining whether  
15 the applicable percentage of participation is met.

16 (B) With respect to a small employer with ten or fewer eligible  
17 employees, a small employer carrier may consider employees or  
18 dependents who have coverage under another health benefit plan  
19 sponsored by such small employer in applying minimum participation  
20 requirements.

21 (iv) A small employer carrier shall not increase any requirement  
22 for minimum employee participation or any requirement for minimum  
23 employer contribution applicable to a small employer at any time after  
24 the small employer has been accepted for coverage.

25 (e)(i) If a small employer carrier offers coverage to a small  
26 employer, the small employer carrier shall offer coverage to all of the  
27 eligible employees of the small employer and their dependents. A small  
28 employer carrier shall not offer coverage to only certain individuals  
29 in a small employer group or to only part of the group, except in the

1 case of late enrollees as provided in subsection (3)(d) of this  
2 section.

3 (ii) A small employer carrier shall not modify a basic health  
4 benefit plan with respect to a small employer or any eligible employee  
5 or dependent through riders, endorsements, or otherwise, to restrict or  
6 exclude coverage for certain diseases or medical conditions otherwise  
7 covered by the basic health benefit plan.

8 (4)(a) A small employer carrier shall not be required to offer  
9 coverage or accept applications pursuant to this subsection in the case  
10 of the following:

11 (i) To a small employer, where the small employer is not physically  
12 located in the carrier's established geographic service area;

13 (ii) To an employee, where the employee does not work or reside  
14 within the carrier's established geographic service area; or

15 (iii) Within an area where the small employer carrier reasonably  
16 anticipates, and demonstrates to the satisfaction of the commissioner,  
17 that it will not have the capacity within its established service area  
18 to delivery service adequately to the members of such groups because of  
19 its obligations to existing group policyholders and enrollees.

20 (b) A small employer carrier that cannot offer coverage pursuant to  
21 (a)(iii) of this subsection may not offer coverage in the applicable  
22 area to new cases of employer groups with more than forty-nine eligible  
23 employees or to any small employer groups until the later of one  
24 hundred eighty days following each such refusal or the date on which  
25 the carrier notifies the commissioner that it has regained capacity to  
26 deliver services to small employer groups.

27 (5) A small employer carrier shall not be required to provide  
28 coverage to small employers pursuant to subsection (1) of this section  
29 for any period of time for which the commissioner determines that  
30 requiring the acceptance of small employers in accordance with the

1 provisions of subsection (1) of this section would place the small  
2 employer carrier in a financially impaired position.

3 NEW SECTION. **Sec. 8.** NOTICE OF INTENT TO OPERATE AS A RISK-  
4 ASSUMING CARRIER OR ALLOCATION CARRIER. (1) Each small employer  
5 carrier shall notify the commissioner within thirty days of the  
6 effective date of this act of the carrier's intention to operate as  
7 either a risk-assuming carrier or an allocation carrier. A small  
8 employer carrier seeking to operate as a risk-assuming carrier shall  
9 make an application pursuant to section 10 of this act.

10 (2) The decision shall be binding for a five-year period except  
11 that the initial decision shall be made within thirty days of the  
12 effective date of this act and shall be made for two years. The  
13 commissioner may permit a carrier to modify its decision at any time  
14 for good cause shown.

15 (3) The commissioner shall establish an application process for  
16 small employer carriers seeking to change their status under this  
17 section.

18 (4) A reinsuring carrier that applies and is approved to operate as  
19 a risk-assuming carrier shall not be permitted to continue to reinsure  
20 any health benefit plan with the program. Such a carrier shall pay a  
21 prorated assessment based upon business issued as a reinsuring carrier  
22 for any portion of the year that the business was reinsured.

23 NEW SECTION. **Sec. 9.** APPLICATION TO BECOME A RISK-ASSUMING  
24 CARRIER. (1) A small employer carrier may apply to become a risk-  
25 assuming carrier by filing an application with the commissioner in a  
26 form and manner prescribed by the commissioner.

27 (2) The commissioner shall consider the following factors in  
28 evaluating an application filed under subsection (1) of this section:

1 (a) The carrier's financial condition;

2 (b) The carrier's history of rating and underwriting small employer  
3 groups;

4 (c) The carrier's commitment to market fairly to all small  
5 employers in Washington state or its established geographic area, as  
6 applicable; and

7 (d) The carrier's experience with managing the risk of small  
8 employer groups.

9 (3) The commissioner shall provide public notice of an application  
10 by a small employer carrier to be a risk-assuming carrier and shall  
11 provide at least a sixty-day period for public comment prior to making  
12 a decision on the application. If the application is not acted upon  
13 within ninety days of the receipt of the application by the  
14 commissioner, the carrier may request a hearing.

15 (4) The commissioner may rescind the approval granted to a risk-  
16 assuming carrier under this section if the commissioner finds that:

17 (a) The carrier's financial condition will no longer support the  
18 assumption of risk from issuing coverage to small employers in  
19 compliance with subsection (5) of this section;

20 (b) The carrier has failed to market fairly to all small employers  
21 in Washington state or its established geographic service area, as  
22 applicable; or

23 (c) The carrier has failed to provide coverage to eligible small  
24 employers as required in subsection (5) of this section.

25 (5) A small employer carrier electing to be a risk-assuming carrier  
26 shall not be subject to the provisions of section 10 of this act.

27 NEW SECTION. **Sec. 10.** SMALL EMPLOYER CARRIER REINSURANCE PROGRAM.

28 (1) A reinsurance carrier shall be subject to the provisions of this  
29 section.

1 (2) There is hereby created a nonprofit entity to be known as the  
2 Washington small employer reinsurance program.

3 (3)(a) The program shall operate subject to the supervision and  
4 control of the board. Subject to the provisions of (b) of this  
5 subsection, the board shall consist of eight persons plus the  
6 commissioner or his or her designated representative, who shall serve  
7 as an ex-officio member of the board.

8 (b) Within sixty days of the effective date of this act, the  
9 commissioner shall give notice to all reinsuring carriers of the time  
10 and place for an initial organization meeting of the small employer  
11 reinsurance program, which shall take place within one hundred twenty  
12 days of the effective date of this act. The purpose of the meeting  
13 shall be for the reinsuring small employer carriers to recommend up to  
14 five members for the board, subject to approval by the commissioner.  
15 The commissioner shall appoint up to three additional members which  
16 shall include representatives of small employers and such other  
17 individuals determined to be qualified by the commissioner.

18 (c) The initial board members shall be appointed as follows: One-  
19 third of the members to serve a term of two years; one-third of the  
20 members to serve a term of four years; and one-third of the members to  
21 serve a term of six years. Subsequent board members shall serve for  
22 terms of three years. A board member's term shall continue until his  
23 or her successor is appointed.

24 (d) No one carrier or other benefit arrangement shall be  
25 represented by more than one member of the board. The commissioner  
26 shall send notice to all reinsuring carriers on an annual basis for an  
27 annual meeting to recommend members for the board to the commissioner  
28 for those members whose terms are expiring. In approving the selection  
29 of the board, the commissioner shall assure that all reinsuring  
30 carriers are fairly represented.

1 (e) A vacancy in the board shall be filled by the commissioner. A  
2 board member may be removed by the commissioner for cause.

3 (4) Within sixty days of the effective date of this act, each small  
4 employer carrier shall make a filing with the commissioner containing  
5 the carrier's net health insurance premium derived from health benefit  
6 plans issued to small employers in this state in the previous calendar  
7 year.

8 (5) Within one hundred eighty days after the appointment of the  
9 initial board, the board shall submit to the commissioner a plan of  
10 operation and thereafter any amendments thereto necessary or suitable,  
11 to assure the fair, reasonable, and equitable administration of the  
12 program. The commissioner may, after notice and hearing, approve the  
13 plan of operation if the commissioner determines it to be suitable to  
14 assure the fair, reasonable, and equitable administration of the  
15 program and provides for the sharing of program gains or losses on an  
16 equitable and proportionate basis in accordance with the provisions of  
17 this section. The plan of operation shall become effective upon  
18 approval in writing by the commissioner.

19 (6) If the board fails to submit a suitable plan of operation  
20 within one hundred eighty days after its appointment, the commissioner  
21 shall, after notice and hearing, adopt and promulgate a temporary plan  
22 of operation. The commissioner shall amend or rescind any plan adopted  
23 under this section at the time a plan of operation is submitted by the  
24 board and approved by the commissioner.

25 (7) The plan of operation shall:

26 (a) Establish procedures for handling and accounting of program  
27 assets and moneys and for an annual fiscal reporting to the  
28 commissioner;

29 (b) Establish procedures for selecting an administering carrier  
30 and setting forth the powers and duties of the administering carrier;

1 (c) Establish procedures for reinsuring risks in accordance with  
2 the provisions of this section;

3 (d) Establish procedures for collecting assessments from all  
4 reinsuring carriers to fund claims and administrative expenses incurred  
5 or estimated to be incurred by the program; and

6 (e) Provide for any additional matters necessary for the  
7 implementation and administration of the program.

8 (8) The program shall have the general powers and authority granted  
9 under the laws of Washington state to insurance companies, health care  
10 service contractors, and health maintenance organizations licensed to  
11 transact business, except the power to issue health benefit plans  
12 directly to either groups or individuals. In addition, the program  
13 shall have the specific authority to:

14 (a) Enter into contracts as are necessary or proper to carry out  
15 the provisions and purposes of this section, including the authority,  
16 with the approval of the commissioner, to enter into contracts with  
17 similar programs of other states for the joint performance of common  
18 functions or with persons or other organizations for the performance of  
19 administrative functions;

20 (b) Sue or be sued, including taking any legal actions necessary  
21 or proper for recovering any assessments and penalties for, on behalf  
22 of, or against the program or any reinsuring carriers;

23 (c) Take any legal action necessary to avoid the payment of  
24 improper claims against the program;

25 (d) Define the health benefit plans for which the reinsurance will  
26 be provided, and to issue reinsurance policies, in accordance with the  
27 requirements of this chapter;

28 (e) Establish rules, conditions, and procedures for reinsuring  
29 risks under the program;

1 (f) Establish actuarial functions as appropriate for the operation  
2 of the program;

3 (g) Assess reinsuring carriers in accordance with the provisions of  
4 subsection (12) of this section, and to make advance interim  
5 assessments as may be reasonable and necessary to organization and  
6 interim operating expenses. Any interim assessments shall be credited  
7 as offsets against any regular assessments due following the close of  
8 the calendar year;

9 (h) Appoint appropriate legal, actuarial, and other committees as  
10 necessary to provide technical assistance in the operation of the  
11 program, policy, and other contract design, and any other function  
12 within the authority of the program; and

13 (i) Borrow money to effect the purposes of the program. Any notes  
14 or other evidence of indebtedness of the program not in default shall  
15 be legal investments for carriers and may be carried as admitted  
16 assets.

17 (9) A reinsuring carrier may reinsure with the program as provided  
18 for in this subsection:

19 (a) With respect to a basic health benefit plan, the program shall  
20 reinsure the level of coverage provided and, with respect to other  
21 plans, the program shall reinsure up to the level of coverage provided  
22 in the basic health benefit plan;

23 (b) A small employer may reinsure an entire employer group within  
24 sixty days of the commencement of the group's coverage under a health  
25 benefit plan;

26 (c) A reinsuring carrier may reinsure an eligible employee or  
27 dependent within a period of sixty days following the commencement of  
28 the coverage with the small employer. A newly eligible employee or  
29 dependent of a reinsured small employer may be reinsured within sixty  
30 days of the commencement of his or her coverage;



1 (d)(i) The program shall not reimburse a reinsuring carrier with  
2 respect to the claims of a reinsured employee or dependent until the  
3 carrier has incurred an initial level of claims for such employee or  
4 dependent of five thousand dollars in a calendar year for benefits  
5 covered by the program. In addition, the reinsuring carrier shall be  
6 responsible for fifteen percent of the next one hundred thousand  
7 dollars of incurred claims during a calendar year. A reinsuring  
8 carrier's liability under this subsection (9)(d)(i) shall not exceed a  
9 maximum limit of twenty thousand dollars in any one calendar year with  
10 respect to any reinsured individual;

11 (ii) The board annually shall adjust the initial level of claims  
12 and the maximum limit to be retained by the carrier to reflect  
13 increases in costs and utilization within the standard market for  
14 health benefit plans within Washington state. The adjustment shall not  
15 be less than the annual change in medical component of the "Consumer  
16 Price Index of All Urban Consumers" of the department of labor, bureau  
17 of labor statistics, unless the board proposes and the commissioner  
18 approves a lower adjustment factor;

19 (e) A small employer carrier may terminate reinsurance for one or  
20 more of the reinsured employees or dependents of a small employer on  
21 any plan anniversary.

22 (10)(a) The board, as part of the plan of operation, shall  
23 establish a methodology for determining premium rates to be charged by  
24 the program for reinsuring small employers and individuals pursuant to  
25 this section. The methodology shall include a system for  
26 classification of small employers that reflects the types of case  
27 characteristics commonly used by small employer carriers in Washington  
28 state. The methodology shall provide for the development of base  
29 reinsurance premium rates, which shall be multiplied by the factors set  
30 forth in (b) of this subsection to determine the premium rates for the

1 program. The base reinsurance premium rates shall be established by  
2 the board, subject to the approval of the commissioner, and shall be  
3 set at levels which reasonably approximate gross premiums charged to  
4 small employers by small employer carriers for health benefit plans  
5 with benefits similar to the basic benefit plan.

6 (b) Premiums for the program shall be as follows:

7 (i) An entire small employer group may be reinsured for a rate that  
8 is one and one-half times the base reinsurance premium rate for the  
9 group established pursuant to this subsection (10)(b)(i).

10 (ii) An eligible employee or dependent may be reinsured for a rate  
11 that is five times the base reinsurance premium rate for the individual  
12 established pursuant to this subsection (10)(b)(ii).

13 (c) The board periodically shall review the methodology established  
14 under (a) of this subsection, including the system of classification  
15 and any rating factors, to assure that it reasonably reflects the  
16 claims experience of the program. The board may propose changes to the  
17 methodology which shall be subject to the approval of the commissioner.

18 (11) If a health benefit plan for a small employer is entirely or  
19 partially reinsured with the program, the premium charged to the small  
20 employer for any rating period for the coverage issued shall meet the  
21 requirements relating to premium rates set forth in section 6 of this  
22 act.

23 (12)(a) Prior to March 1 of each year, the board shall determine  
24 and report to the commissioner the program net loss for the previous  
25 calendar year, including administrative expenses and incurred losses  
26 for the year, taking into account investment income and other  
27 appropriate gains and losses.

28 (b) Any net loss for the year shall be recouped by assessments of  
29 reinsuring carriers.

1 (i) The board shall establish, as part of the plan of operation, a  
2 formula by which to make assessments against reinsuring carriers. The  
3 assessment formula shall be based on:

4 (A) Each reinsuring carrier's share of total premiums earned in the  
5 preceding calendar year from health benefit plans issued to small  
6 employers in this state by reinsuring carriers; and

7 (B) Each reinsuring carrier's share of the premiums earned in the  
8 preceding calendar year from newly issued health benefit plans issued  
9 during such calendar year to small employers in Washington state by  
10 reinsuring carriers.

11 (ii) The formula established pursuant to (b)(i) of this subsection  
12 shall not result in any reinsuring carrier having an assessment share  
13 that is less than fifty percent nor more than one hundred fifty percent  
14 of an amount which is based on the proportion of the reinsuring  
15 carrier's total premiums earned in the preceding calendar year from  
16 health benefit plans issued to small employers in Washington state by  
17 reinsuring carriers to total premiums earned in the preceding calendar  
18 year from health benefit plans issued to small employers in this state  
19 by all reinsuring carriers.

20 (iii) The board may, with approval of the commissioner, change the  
21 assessment formula established pursuant to (b)(i) of this subsection  
22 from time to time as appropriate. The board may provide for the shares  
23 of the assessment base attributable to premiums from all health benefit  
24 plans and to premiums from newly issued health benefit plans to vary  
25 during a transition period.

26 (iv) Subject to approval of the commissioner, the board shall make  
27 an adjustment to the assessment formula for reinsuring carriers that  
28 are approved health maintenance organizations which are federally  
29 qualified under 42 U.S.C. Sec. 300, et seq., to the extent, if any,

1 that restrictions are placed on them that are not imposed on other  
2 small employer carriers.

3 (v) Premiums and benefits paid by a reinsuring carrier that are  
4 less than an amount determined by the board to justify the cost of  
5 collection shall not be considered for purposes of determining  
6 assessments.

7 (c)(i) Prior to March 1 of each year, the board shall determine and  
8 file with the commissioner an estimate of the assessments needed to  
9 fund the losses incurred by the program in the previous calendar year.

10 (ii) If the board determines that the assessments needed to fund  
11 the losses incurred by the program in the previous calendar year will  
12 exceed the amount specified in (b)(iii) of this subsection, the board  
13 shall evaluate the operation of the program and report its findings,  
14 including recommendations for changes to the plan of operation, to the  
15 commissioner within ninety days following the end of the calendar year  
16 in which the losses were incurred. The evaluation shall include an  
17 estimate of future assessments, the administrative costs of the  
18 program, the appropriateness of the premiums charged and the level of  
19 insurer retention under the program, and the costs of coverage for  
20 small employers. If the board fails to file a report with the  
21 commissioner within ninety days following the end of the applicable  
22 calendar year, the commissioner may evaluate the operations of the  
23 program and implement such amendments to the plan of operation the  
24 commissioner deems necessary to reduce future losses and assessments.

25 (iii) For any calendar year, the amount specified in this  
26 subsection is five percent of total premiums earned in the previous  
27 year from health benefit plans issued to small employers in Washington  
28 state by reinsuring carriers.

29 (d) If assessments exceed net losses of the program, the excess  
30 shall be held at interest and used by the board to offset future losses

1 or to reduce program premiums. As used in this subsection, "future  
2 losses" includes reserves for incurred but not reported claims.

3 (e) Each reinsuring carrier's proportion of the assessment shall be  
4 determined annually by the board based on annual statements and other  
5 reports deemed necessary by the board and filed by the reinsuring  
6 carriers with the board.

7 (f) The plan of operation shall provide for the imposition of an  
8 interest penalty for late payment of assessments.

9 (g) A reinsuring carrier may seek from the commissioner a deferment  
10 from all or part of an assessment imposed by the board. The  
11 commissioner may defer all or part of the assessment of a reinsuring  
12 carrier if the commissioner determines that the payment of the  
13 assessment would place the reinsuring carrier in a financially impaired  
14 condition. If all or part of an assessment against a reinsuring  
15 carrier is deferred, the amount deferred shall be assessed against the  
16 other reinsuring carriers in a manner consistent with the basis for  
17 assessment set forth in this subsection. The reinsuring carrier  
18 receiving such deferment shall remain liable to the program for the  
19 amount deferred and shall be prohibited from reinsuring any individuals  
20 or groups in the program until such time as it pays the deferred  
21 assessments.

22 (13) Neither the participation in the program as reinsuring  
23 carriers, the establishment of rates, forms, or procedures, nor any  
24 other joint or collective actions required by this chapter shall be the  
25 basis for any legal action, criminal or civil liability, or penalty  
26 against the program or any of its reinsuring carriers jointly or  
27 separately.

28 (14) The board, as part of the plan of operation, shall develop  
29 standards setting forth the manner and levels of compensation to be  
30 paid to producers for the sale of basic health benefit plans. In

1 establishing such standards, the board shall take into consideration  
2 the need to assure the broad availability of coverages, the objectives  
3 of the program, the time and effort expended in placing the coverage,  
4 the need to provide ongoing service to the small employer, the levels  
5 of compensation currently used in the industry, and the overall costs  
6 of coverage to small employers selecting these plans.

7 (15) The board shall commission an actuarial study, by an  
8 independent actuary approved by the commissioner, within the first two  
9 years of the operation of the program to evaluate and measure the  
10 relative risks being assumed by differing types of small employer  
11 carriers as a result of this chapter and the availability of coverage  
12 to small employers.

13 (16) The program shall be exempt from any and all taxes.

14 NEW SECTION. **Sec. 11.** HEALTH BENEFIT PLAN COMMITTEE. (1) The  
15 commissioner shall appoint a health benefit plan committee. The  
16 committee shall be composed of representatives from small employer  
17 carriers, including insurance companies, health care service  
18 contractors, health maintenance organizations, other carriers, small  
19 employers, employees, health care providers, and producers.

20 (2) The committee shall recommend the form and level of coverage to  
21 be made available by small employer carriers under section 7 of this  
22 act.

23 (3)(a) The committee shall recommend benefit levels, cost sharing  
24 levels, exclusions, and limitations for the basic health benefit plan.  
25 The committee shall also design a basic health benefit plan that  
26 contains benefit and cost sharing levels that are consistent with the  
27 basic method of operation and benefits of health maintenance  
28 organizations, including any restrictions imposed by federal law.

1 (b) The committee shall submit the health benefit plan described in  
2 (a) of this subsection to the commissioner for approval within one  
3 hundred eighty days after the appointment of the committee.

4 (c)(i) A small employer carrier shall file with the commissioner,  
5 in a format and manner prescribed by the commissioner, the basic health  
6 benefit plan to be used by the carrier. A health benefit plan filed  
7 pursuant to this subsection (3)(c)(i) may be used by a small employer  
8 carrier beginning thirty days after it is filed unless the commissioner  
9 disapproves its use.

10 (ii) The commissioner at any time may, after providing written  
11 notice and an opportunity for a hearing to the small employer carrier,  
12 disapprove the continued use by a small employer carrier of a basic  
13 health benefit plan on the grounds that the plan does not meet the  
14 requirements of this subsection.

15 NEW SECTION. **Sec. 12.** PERIODIC MARKET EVALUATION. The board, in  
16 consultation with members of the committee, shall study and report at  
17 least every three years to the commissioner on the effectiveness of  
18 this chapter. The report shall analyze the effectiveness of the  
19 chapter in promoting rate stability, product availability, and coverage  
20 affordability. The report may contain recommendations for actions to  
21 improve the overall effectiveness, efficiency, and fairness of the  
22 small group health insurance market place. The report shall address  
23 whether carriers and producers are fairly and actively marketing and  
24 issuing health benefit plans to small employers in fulfillment of the  
25 purposes of this chapter. The report may contain recommendations for  
26 market conduct or other regulatory standards or actions.

27 NEW SECTION. **Sec. 13.** WAIVER OF CERTAIN STATE LAWS. No law  
28 requiring the coverage of a health care service or benefit, or

1 requiring the reimbursement, utilization, or inclusion of a specific  
2 category of licensed health care practitioner, shall apply to a basic  
3 health benefit plan issued pursuant to this chapter.

4 NEW SECTION. **Sec. 14.** ADMINISTRATIVE PROCEDURES. The  
5 commissioner may issue rules in accordance with the small employer  
6 health coverage reform act.

7 NEW SECTION. **Sec. 15.** STANDARDS TO ASSURE FAIR MARKETING. (1)  
8 Each small employer carrier shall actively market health benefit plan  
9 coverage, including basic health benefit plans, to eligible small  
10 employers in Washington state. If a small employer carrier denies  
11 coverage to a small employer on the basis of the health status or  
12 claims experience of the small employer or its employees or dependents,  
13 the small employer carrier shall offer the small employer the  
14 opportunity to purchase a basic health benefit plan.

15 (2)(a) Except as provided in (b) of this subsection, no small  
16 employer carrier or producer shall, directly or indirectly, engage in  
17 the following activities:

18 (i) Encourage or direct small employers to refrain from filing an  
19 application for coverage with the small employer carrier because of the  
20 health status, claims experience, industry, occupation, or geographic  
21 location of the small employer;

22 (ii) Encourage or direct small employers to seek coverage from  
23 another carrier because of the health status, claims experience,  
24 industry, occupation, or geographic location of the small employer.

25 (b) The provisions of (a) of this subsection shall not apply with  
26 respect to information provided by a small employer carrier or producer  
27 to a small employer regarding the established geographic service area  
28 or a restricted provider network provision of a small employer carrier.



1 (3)(a) Except as provided in (b) of this subsection, no small  
2 employer carrier shall, directly or indirectly, enter into any  
3 contract, agreement, or arrangement with a producer that provides for  
4 or results in the compensation paid to a producer for the sale of a  
5 health benefit plan to be varied because of the health status, claims  
6 experience, industry, occupation, or geographic location of the small  
7 employer.

8 (b) Subsection (3)(a) of this section shall not apply with respect  
9 to a compensation arrangement that provides compensation to a producer  
10 on the basis of premium, provided that the percentage shall not vary  
11 because of the health status, claims experience, industry, occupation,  
12 or geographic location of the small employer.

13 (4) A small employer carrier shall provide reasonable compensation,  
14 as provided under the plan of operation of the program, to a producer,  
15 if any, for the sale of a basic health benefit plan.

16 (5) No small employer carrier shall terminate, fail to renew, or  
17 limit its contract or agreement of representation with a producer for  
18 any reason related to the health status, claims experience, industry,  
19 occupation, or geographic location of the small employers placed by the  
20 producer with the small employer carrier.

21 (6) No small employer carrier or producer shall induce or otherwise  
22 encourage a small employer to separate or otherwise exclude an employee  
23 from health coverage or benefits provided in connection with the  
24 employee's employment.

25 (7) Denial by a small employer carrier of an application for  
26 coverage from a small employer shall be in writing and shall state the  
27 reason or reasons for the denial.

28 (8) The commissioner may adopt by rule additional standards to  
29 provide for the fair marketing and broad availability of health benefit  
30 plans to small employers in Washington state.

1 (9)(a) A violation of this section by a small employer carrier or  
2 producer shall be an unfair trade practice under chapter 48.30 RCW.

3 (b) If a small employer carrier enters into a contract, agreement,  
4 or other arrangement with a third-party administrator to provide  
5 administrative, marketing, or other services related to the offering of  
6 health benefit plans to small employers in Washington state, the third-  
7 party administrator shall be subject to this section as if it were a  
8 small employer carrier.

9 NEW SECTION. **Sec. 16.** CAPTIONS. Captions as used in this act  
10 constitute no part of the law.

11 NEW SECTION. **Sec. 17.** SEVERABILITY. If any provision of this act  
12 or its application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 18.** EFFECTIVE DATE. This act shall take effect  
16 July 1, 1993.

17 NEW SECTION. **Sec. 19.** Sections 1 through 18 of this act shall  
18 constitute a new chapter in Title 48 RCW.