

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2678

Chapter 276, Laws of 2006

59th Legislature
2006 Regular Session

POLLUTION LIABILITY INSURANCE AGENCY

EFFECTIVE DATE: 6/7/06

Passed by the House March 6, 2006
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 3, 2006
Yeas 43 Nays 0

BRAD OWEN

President of the Senate

Approved March 28, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2678** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 28, 2006 - 2:47 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2678

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kagi, Kretz, B. Sullivan and Ericks; by request of Pollution Liability Insurance Agency)

READ FIRST TIME 02/08/06.

1 AN ACT Relating to the pollution liability insurance agency;
2 amending RCW 70.148.020, 70.148.050, 70.148.900, 70.149.900, and
3 82.23A.902; repealing 2000 c 16 s 4 and 1998 c 245 s 178 (uncodified);
4 repealing 2000 c 16 s 5 and 1997 c 8 s 3 (uncodified); repealing 2005
5 c 428 s 4 (uncodified); and providing an expiration date.

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

7 **Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to
8 read as follows:

9 (1) The pollution liability insurance program trust account is
10 established in the custody of the state treasurer. All funds
11 appropriated for this chapter and all premiums collected for
12 reinsurance shall be deposited in the account. Expenditures from the
13 account shall be used exclusively for the purposes of this chapter
14 including payment of costs of administering the pollution liability
15 insurance and underground storage tank community assistance programs.
16 Expenditures for payment of administrative and operating costs of the
17 agency are subject to the allotment procedures under chapter 43.88 RCW
18 and may be made only after appropriation by statute. No appropriation
19 is required for other expenditures from the account.

1 (2) Each calendar quarter, the director shall report to the
2 insurance commissioner the loss and surplus reserves required for the
3 calendar quarter. The director shall notify the department of revenue
4 of this amount by the fifteenth day of each calendar quarter.

5 (3) Each calendar quarter the director shall determine the amount
6 of reserves necessary to fund commitments made to provide financial
7 assistance under RCW 70.148.130 to the extent that the financial
8 assistance reserves do not jeopardize the operations and liabilities of
9 the pollution liability insurance program. The director shall notify
10 the department of revenue of this amount by the fifteenth day of each
11 calendar quarter. The director may immediately establish an initial
12 financial assistance reserve of five million dollars from available
13 revenues. The director may not expend more than fifteen million
14 dollars for the financial assistance program.

15 (4) During the 2005-2007 fiscal biennium, the legislature may
16 transfer from the pollution liability insurance program trust account
17 to the state general fund such amounts as reflect the excess fund
18 balance of the account.

19 (5) This section expires June 1, (~~2007~~) 2013.

20 **Sec. 2.** RCW 70.148.050 and 1998 c 245 s 115 are each amended to
21 read as follows:

22 The director has the following powers and duties:

23 (1) To design and from time to time revise a reinsurance contract
24 providing coverage to an insurer meeting the requirements of this
25 chapter. Before initially entering into a reinsurance contract, the
26 director shall prepare an actuarial report describing the various
27 reinsurance methods considered by the director and describing each
28 method's costs. In designing the reinsurance contract the director
29 shall consider common insurance industry reinsurance contract
30 provisions and shall design the contract in accordance with the
31 following guidelines:

32 (a) The contract shall provide coverage to the insurer for the
33 liability risks of owners and operators of underground storage tanks
34 for third party bodily injury and property damage and corrective action
35 that are underwritten by the insurer.

36 (b) In the event of an insolvency of the insurer, the reinsurance
37 contract shall provide reinsurance payable directly to the insurer or

1 to its liquidator, receiver, or successor on the basis of the liability
2 of the insurer in accordance with the reinsurance contract. In no
3 event may the program be liable for or provide coverage for that
4 portion of any covered loss that is the responsibility of the insurer
5 whether or not the insurer is able to fulfill the responsibility.

6 (c) The total limit of liability for reinsurance coverage shall not
7 exceed one million dollars per occurrence and two million dollars
8 annual aggregate for each policy underwritten by the insurer less the
9 ultimate net loss retained by the insurer as defined and provided for
10 in the reinsurance contract.

11 (d) Disputes between the insurer and the insurance program shall be
12 settled through arbitration.

13 (2) To design and implement a structure of periodic premiums due
14 the director from the insurer that takes full advantage of revenue
15 collections and projected revenue collections to ensure affordable
16 premiums to the insured consistent with sound actuarial principles.

17 (3) To periodically review premium rates for reinsurance to
18 determine whether revenue appropriations supporting the program can be
19 reduced without substantially increasing the insured's premium costs.

20 (4) To solicit bids from insurers and select an insurer to provide
21 pollution liability insurance to owners and operators of underground
22 storage tanks for third party bodily injury and property damage and
23 corrective action.

24 (5) To monitor the activities of the insurer to ensure compliance
25 with this chapter and protect the program from excessive loss exposure
26 resulting from claims mismanagement by the insurer.

27 (6) To monitor the success of the program and periodically make
28 such reports and recommendations to the legislature as the director
29 deems appropriate, and to annually publish a financial report on the
30 pollution liability insurance program trust account showing, among
31 other things, administrative and other expenses paid from the fund.

32 (7) To annually report the financial and loss experience of the
33 insurer as to policies issued under the program and the financial and
34 loss experience of the program to the legislature.

35 ~~(8) ((To evaluate the effects of the program upon the private
36 market for liability insurance for owners and operators of underground
37 storage tanks and make recommendations to the legislature on the~~

1 ~~necessity for continuing the program to ensure availability of such~~
2 ~~coverage.~~

3 ~~(9))~~ To enter into contracts with public and private agencies to
4 assist the director in his or her duties to design, revise, monitor,
5 and evaluate the program and to provide technical or professional
6 assistance to the director.

7 ~~((10))~~ (9) To examine the affairs, transactions, accounts,
8 records, documents, and assets of insurers as the director deems
9 advisable.

10 **Sec. 3.** RCW 70.148.900 and 2000 c 16 s 1 are each amended to read
11 as follows:

12 This chapter shall expire June 1, ~~((2007))~~ 2013.

13 **Sec. 4.** RCW 70.149.900 and 2000 c 16 s 2 are each amended to read
14 as follows:

15 Sections 1 through 11 of this act shall expire June 1, ~~((2007))~~
16 2013.

17 **Sec. 5.** RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read
18 as follows:

19 This chapter shall expire on June 1, ~~((2007))~~ 2013, coinciding with
20 the expiration of chapter 70.148 RCW.

21 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
22 repealed:

- 23 (1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);
24 (2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and
25 (3) 2005 c 428 s 4 (uncodified).

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.