

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6591

60th Legislature
2008 Regular Session

Passed by the Senate February 19, 2008
YEAS 49 NAYS 0

President of the Senate

Passed by the House March 4, 2008
YEAS 94 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6591** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6591

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senators Benton and Berkey; by request of Insurance Commissioner

Read first time 01/18/08. Referred to Committee on Financial
Institutions Insurance.

1 AN ACT Relating to insurance producers; amending RCW 48.03.020,
2 48.05.140, 48.05.180, 48.05.465, 48.13.220, 48.14.020, 48.14.040,
3 48.14.095, 48.15.080, 48.15.140, 48.15.160, 48.18.100, 48.18.180,
4 48.18.220, 48.18.240, 48.18.289, 48.18.292, 48.18.543, 48.18A.035,
5 48.18A.060, 48.20.013, 48.20.042, 48.20.072, 48.21A.040, 48.23.380,
6 48.23.420, 48.23A.040, 48.23A.070, 48.23A.080, 48.24.080, 48.25.140,
7 48.30.100, 48.30.140, 48.30.150, 48.30.157, 48.30.170, 48.30.200,
8 48.30.240, 48.30.260, 48.30.270, 48.31.111, 48.31.141, 48.36A.310,
9 48.36A.330, 48.41.060, 48.43.105, 48.43.335, 48.44.011, 48.44.020,
10 48.44.164, 48.44.230, 48.46.023, 48.46.170, 48.46.243, 48.46.260,
11 48.46.340, 48.50.070, 48.56.020, 48.56.080, 48.62.121, 48.62.151,
12 48.66.055, 48.66.120, 48.76.090, 48.84.050, 48.84.060, 48.92.040,
13 48.92.090, 48.92.095, 48.92.120, 48.94.005, 48.94.040, 48.97.005,
14 48.97.015, 48.97.020, 48.97.025, 48.97.900, 48.98.010, 48.98.015,
15 48.98.020, 48.98.030, 48.99.030, 48.115.001, 48.115.005, 48.115.010,
16 48.115.015, 48.115.020, 48.115.025, 48.115.030, 48.115.035, 48.115.040,
17 48.120.005, 48.120.010, 48.125.030, 48.135.010, 51.12.020, and
18 70.47.015; reenacting and amending RCW 82.04.260; adding a new section
19 to chapter 48.20 RCW; adding a new section to chapter 48.23A RCW; and
20 providing an effective date.

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

2 **Sec. 1.** RCW 48.03.020 and 1947 c 79 s .03.02 are each amended to
3 read as follows:

4 For the purpose of ascertaining its condition, or compliance with
5 this code, the commissioner may as often as he or she deems advisable
6 examine the accounts, records, documents, and transactions of:

7 (1) Any insurance (~~agent, solicitor, broker or adjuster~~)
8 producer, adjuster, or title insurance agent.

9 (2) Any person having a contract under which he or she enjoys in
10 fact the exclusive or dominant right to manage or control a stock or
11 mutual insurer.

12 (3) Any person holding the shares of capital stock or policyholder
13 proxies of a domestic insurer for the purpose of control of its
14 management either as voting trustee or otherwise.

15 (4) Any person engaged in or proposing to be engaged in or
16 assisting in the promotion or formation of a domestic insurer, or an
17 insurance holding corporation, or a stock corporation to finance a
18 domestic mutual insurer or the production of its business, or a
19 corporation to be attorney-in-fact for a domestic reciprocal insurer.

20 **Sec. 2.** RCW 48.05.140 and 1973 1st ex.s. c 152 s 1 are each
21 amended to read as follows:

22 The commissioner may refuse, suspend, or revoke an insurer's
23 certificate of authority, in addition to other grounds therefor in this
24 code, if the insurer:

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

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

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

35 (4) Usually compels claimants under policies either to accept less

1 than the amount due them or to bring suit against it to secure full
2 payment of the amount due.

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

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

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

18 (8) Is found by the commissioner, after investigation or upon
19 receipt of reliable information, to be managed by persons, whether by
20 its directors, officers, or by any other means, who are incompetent or
21 untrustworthy or so lacking in insurance company managerial experience
22 as to make a proposed operation hazardous to the insurance-buying
23 public; or that there is good reason to believe it is affiliated
24 directly or indirectly through ownership, control, reinsurance or other
25 insurance or business relations, with any person or persons whose
26 business operations are or have been marked, to the detriment of
27 policyholders or stockholders or investors or creditors or of the
28 public, by bad faith or by manipulation of assets, or of accounts, or
29 of reinsurance.

30 (9) Does business through (~~agents or brokers~~) insurance producers
31 or title insurance agents in this state or in any other state who are
32 not properly licensed under applicable laws and duly enacted
33 regulations adopted pursuant thereto.

34 **Sec. 3.** RCW 48.05.180 and 1947 c 79 s .05.18 are each amended to
35 read as follows:

36 Upon the suspension, revocation or refusal of an insurer's
37 certificate of authority, the commissioner shall give notice thereof to

1 the insurer and shall likewise suspend, revoke or refuse the authority
2 of its appointed insurance producers or title insurance agents to
3 represent it in this state and give notice thereof to ((the)) these
4 insurance producers or title insurance agents.

5 **Sec. 4.** RCW 48.05.465 and 1995 c 83 s 8 are each amended to read
6 as follows:

7 (1) All RBC reports, to the extent the information is not required
8 to be set forth in a publicly available annual statement schedule, and
9 RBC plans, including the results or report of any examination or
10 analysis of an insurer and any corrective order issued by the
11 commissioner, with respect to any domestic insurer or foreign insurer
12 that are filed with the commissioner constitute information that might
13 be damaging to the insurer if made available to its competitors, and
14 therefore shall be kept confidential by the commissioner. This
15 information shall not be made public or be subject to subpoena, other
16 than by the commissioner and then only for the purpose of enforcement
17 actions taken by the commissioner.

18 (2) The comparison of an insurer's total adjusted capital to any of
19 its RBC levels is a regulatory tool that may indicate the need for
20 possible corrective action with respect to the insurer, and is not a
21 means to rank insurers generally. Therefore, except as otherwise
22 required under the provisions of RCW 48.05.430 through ((48.05.490))
23 48.05.485, the making, publishing, disseminating, circulating, or
24 placing before the public, or causing, directly or indirectly to be
25 made, published, disseminated, circulated, or placed before the public,
26 in a newspaper, magazine, or other publication, or in the form of a
27 notice, circular, pamphlet, letter, or poster, or over any radio or
28 television station, or in any other way, an advertisement,
29 announcement, or statement containing an assertion, representation, or
30 statement with regard to the RBC levels of any insurer, or of any
31 component derived in the calculation, by any insurer, insurance
32 producer, title insurance agent, ((broker,)) or other person engaged in
33 any manner in the insurance business would be misleading and is
34 therefore prohibited. However, if any materially false statement with
35 respect to the comparison regarding an insurer's total adjusted capital
36 to its RBC levels, or any of them, or an inappropriate comparison of
37 any other amount to the insurer's RBC levels is published in any

1 written publication and the insurer is able to demonstrate to the
2 commissioner with substantial proof the falsity of such statement, or
3 the inappropriateness, as the case may be, then the insurer may publish
4 an announcement in a written publication if the sole purpose of the
5 announcement is to rebut the materially false statement.

6 (3) The RBC instructions, RBC reports, adjusted RBC reports, RBC
7 plans, and revised RBC plans are solely for use by the commissioner in
8 monitoring the solvency of insurers and the need for possible
9 corrective action with respect to insurers and shall not be used by the
10 commissioner for ratemaking nor considered or introduced as evidence in
11 any rate proceeding nor used by the commissioner to calculate or derive
12 any elements of an appropriate premium level or rate of return for any
13 line of insurance that an insurer or any affiliate is authorized to
14 write.

15 **Sec. 5.** RCW 48.13.220 and 1982 c 218 s 3 are each amended to read
16 as follows:

17 (1) After satisfying the requirements of RCW 48.13.260, an insurer
18 may invest any of its funds in common shares of stock in solvent United
19 States corporations that qualify as a sound investment; except, that as
20 to life insurers such investments shall further not aggregate an amount
21 in excess of fifty percent of the insurer's surplus over its minimum
22 required surplus.

23 (2) The insurer shall not invest in or loan upon the security of
24 more than ten percent of the outstanding common shares of any one such
25 corporation, subject further to the aggregate investment limitation of
26 RCW 48.13.030.

27 (3) The limitations of subsection (2) of this section shall not
28 apply to investment in the securities of any subsidiary corporations of
29 the insurer which are engaged or organized to engage exclusively in one
30 or more of the following businesses:

31 (a) Acting as an insurance producer or title insurance agent for
32 its parent or for any of its parent's insurer subsidiaries or
33 affiliates;

34 (b) Investing, reinvesting, or trading in securities or acting as
35 a securities broker or dealer for its own account, that of its parent,
36 any subsidiary of its parent, or any affiliate or subsidiary;

1 (c) Rendering management, sales, or other related services to any
2 investment company subject to the Federal Investment Company Act of
3 1940, as amended;

4 (d) Rendering investment advice;

5 (e) Rendering services related to the functions involved in the
6 operation of an insurance business including, but not limited to,
7 actuarial, loss prevention, safety engineering, data processing,
8 accounting, claims appraisal, and collection services;

9 (f) Acting as administrator of employee welfare benefit and pension
10 plans for governments, government agencies, corporations, or other
11 organizations or groups;

12 (g) Ownership and management of assets which the parent could
13 itself own and manage: PROVIDED, That the aggregate investment by the
14 insurer and its subsidiaries acquired pursuant to this paragraph shall
15 not exceed the limitations otherwise applicable to such investments by
16 the parent;

17 (h) Acting as administrative agent for a government instrumentality
18 which is performing an insurance function or is responsible for a
19 health or welfare program;

20 (i) Financing of insurance premiums;

21 (j) Any other business activity reasonably ancillary to an
22 insurance business;

23 (k) Owning one or more subsidiary (i) insurers to the extent
24 permitted by this chapter, or (ii) businesses specified in paragraphs
25 (a) through (k) of this subsection inclusive, or (iii) other businesses
26 the stock of which is eligible under RCW 48.13.240 or 48.13.250, or any
27 combination of such insurers and businesses.

28 (4) No acquisition of a majority of the total outstanding common
29 shares of any corporation shall be made pursuant to this section unless
30 a notice of intention of such proposed acquisition shall have been
31 filed with the commissioner not less than ninety days, or such shorter
32 period as may be permitted by the commissioner, in advance of such
33 proposed acquisition, nor shall any such acquisition be made if the
34 commissioner at any time prior to the expiration of the notice period
35 finds that the proposed acquisition is contrary to law, or determines
36 that such proposed acquisition would be contrary to the best interests
37 of the parent insurer's policyholders or of the people of this state.

1 The following shall be the only factors to be considered in making the
2 foregoing determination:

3 (a) The availability of the funds or assets required for such
4 acquisition;

5 (b) The fairness of any exchange of stock, assets, cash, or other
6 consideration for the stock or assets to be received;

7 (c) The impact of the new operation on the parent insurer's surplus
8 and existing insurance business and the risks inherent in the parent
9 insurer's investment portfolio and operations;

10 (d) The fairness and adequacy of the financing proposed for the
11 subsidiary;

12 (e) The likelihood of undue concentration of economic power;

13 (f) Whether the effect of the acquisition may be substantially to
14 lessen competition in any line of commerce in insurance or to tend to
15 create a monopoly therein; and

16 (g) Whether the acquisition might result in an excessive
17 proliferation of subsidiaries which would tend to unduly dilute
18 management effectiveness or weaken financial strength or otherwise be
19 contrary to the best interests of the parent insurer's policyholders or
20 of the people of this state. At any time after an acquisition, the
21 commissioner may order its disposition if he or she finds, after notice
22 and hearing, that its continued retention is hazardous or prejudicial
23 to the interests of the parent insurer's policyholders. The contents
24 of each notice of intention of a proposed acquisition filed hereunder
25 and information pertaining thereto shall be kept confidential, shall
26 not be subject to subpoena, and shall not be made public unless after
27 notice and hearing the commissioner determines that the interests of
28 policyholders, stockholders, or the public will be served by the
29 publication thereof.

30 (5) A domestic insurance company may, provided that it maintains
31 books and records which separately account for such business, engage
32 directly in any business referred to in paragraphs (d), (e), (h), and
33 (j) of subsection (3) of this section either to the extent necessarily
34 or properly incidental to the insurance business the insurer is
35 authorized to do in this state or to the extent approved by the
36 commissioner and subject to any limitations he or she may prescribe for
37 the protection of the interests of the policyholders of the insurer
38 after taking into account the effect of such business on the insurer's

1 existing insurance business and its surplus, the proposed allocation of
2 the estimated cost of such business, and the risks inherent in such
3 business as well as the relative advantages to the insurer and its
4 policyholders of conducting such business directly instead of through
5 a subsidiary.

6 **Sec. 6.** RCW 48.14.020 and 1986 c 296 s 1 are each amended to read
7 as follows:

8 (1) Subject to other provisions of this chapter, each authorized
9 insurer except title insurers shall on or before the first day of March
10 of each year pay to the state treasurer through the commissioner's
11 office a tax on premiums. Except as provided in subsection (2) of this
12 section, such tax shall be in the amount of two percent of all
13 premiums, excluding amounts returned to or the amount of reductions in
14 premiums allowed to holders of industrial life policies for payment of
15 premiums directly to an office of the insurer, collected or received by
16 the insurer during the preceding calendar year other than ocean marine
17 and foreign trade insurances, after deducting premiums paid to
18 policyholders as returned premiums, upon risks or property resident,
19 situated, or to be performed in this state. For the purposes of this
20 section the consideration received by an insurer for the granting of an
21 annuity shall not be deemed to be a premium.

22 (2) In the case of insurers which require the payment by their
23 policyholders at the inception of their policies of the entire premium
24 thereon in the form of premiums or premium deposits which are the same
25 in amount, based on the character of the risks, regardless of the
26 length of term for which such policies are written, such tax shall be
27 in the amount of two percent of the gross amount of such premiums and
28 premium deposits upon policies on risks resident, located, or to be
29 performed in this state, in force as of the thirty-first day of
30 December next preceding, less the unused or unabsorbed portion of such
31 premiums and premium deposits computed at the average rate thereof
32 actually paid or credited to policyholders or applied in part payment
33 of any renewal premiums or premium deposits on one-year policies
34 expiring during such year.

35 (3) Each authorized insurer shall with respect to all ocean marine
36 and foreign trade insurance contracts written within this state during
37 the preceding calendar year, on or before the first day of March of

1 each year pay to the state treasurer through the commissioner's office
2 a tax of ninety-five one-hundredths of one percent on its gross
3 underwriting profit. Such gross underwriting profit shall be
4 ascertained by deducting from the net premiums (i.e., gross premiums
5 less all return premiums and premiums for reinsurance) on such ocean
6 marine and foreign trade insurance contracts the net losses paid (i.e.,
7 gross losses paid less salvage and recoveries on reinsurance ceded)
8 during such calendar year under such contracts. In the case of
9 insurers issuing participating contracts, such gross underwriting
10 profit shall not include, for computation of the tax prescribed by this
11 subsection, the amounts refunded, or paid as participation dividends,
12 by such insurers to the holders of such contracts.

13 (4) The state does hereby preempt the field of imposing excise or
14 privilege taxes upon insurers or their (~~agents~~) appointed insurance
15 producers, other than title insurers, and no county, city, town or
16 other municipal subdivision shall have the right to impose any such
17 taxes upon such insurers or (~~their agents~~) these insurance producers.

18 (5) If an authorized insurer collects or receives any such premiums
19 on account of policies in force in this state which were originally
20 issued by another insurer and which other insurer is not authorized to
21 transact insurance in this state on its own account, such collecting
22 insurer shall be liable for and shall pay the tax on such premiums.

23 **Sec. 7.** RCW 48.14.040 and 2007 c 153 s 4 are each amended to read
24 as follows:

25 (1) If pursuant to the laws of any other state or country, any
26 taxes, licenses, fees, deposits, or other obligations or prohibitions,
27 in the aggregate, or additional to or at a net rate in excess of any
28 such taxes, licenses, fees, deposits or other obligations or
29 prohibitions imposed by the laws of this state upon like foreign or
30 alien insurers and their (~~agents and solicitors~~) appointed insurance
31 producers or title insurance agents, are imposed on insurers of this
32 state and their (~~agents~~) appointed insurance producers or title
33 insurance agents doing business in such other state or country, a like
34 rate, obligation or prohibition may be imposed by the commissioner, as
35 to any item or combination of items involved, upon all insurers of such
36 other state or country and their (~~agents~~) appointed insurance

1 producers or title insurance agents doing business in this state, so
2 long as such laws remain in force or are so applied.

3 (2) For the purposes of this section, an alien insurer may be
4 deemed to be domiciled in the state wherein it has established its
5 principal office or agency in the United States. If no such office or
6 agency has been established, the domicile of the alien insurer shall be
7 deemed to be the country under the laws of which it is formed.

8 (3) For the purposes of this section, the regulatory surcharge
9 imposed by RCW 48.02.190 shall not be included in the calculation of
10 any retaliatory taxes, licenses, fees, deposits, or other obligations
11 or prohibitions imposed under this section.

12 **Sec. 8.** RCW 48.14.095 and 2003 c 341 s 3 are each amended to read
13 as follows:

14 (1) This section applies to any insurer or taxpayer, as defined in
15 RCW 48.14.0201, violating or failing to comply with RCW 48.05.030(1),
16 48.17.060 (~~((1) or (2))~~), 48.36A.290(1), 48.44.015(1), or 48.46.027(1).

17 (2) Except as provided in subsection (7) of this section, RCW
18 48.14.020, 48.14.0201, and 48.14.060 apply to insurers or taxpayers
19 identified in subsection (1) of this section.

20 (3) If an insurance contract, health care services contract, or
21 health maintenance agreement covers risks or exposures, or enrolled
22 participants only partially in this state, the tax payable is computed
23 on the portion of the premium that is properly allocated to a risk or
24 exposure located in this state, or enrolled participants residing in
25 this state.

26 (4) In determining the amount of taxable premiums under subsection
27 (3) of this section, all premiums, other than premiums properly
28 allocated or apportioned and reported as taxable premiums of another
29 state, that are written, procured, or received in this state, or that
30 are for a policy or contract negotiated in this state, are considered
31 to be written on risks or property resident, situated, or to be
32 performed in this state, or for health care services to be provided to
33 enrolled participants residing in this state.

34 (5) Insurance on risks or property resident, situated, or to be
35 performed in this state, or health coverage for the provision of health
36 care services for residents of this state, is considered to be

1 insurance procured, continued, renewed, or performed in this state,
2 regardless of the location from which the application is made, the
3 negotiations are conducted, or the premiums are remitted.

4 (6) Premiums on risks or exposures that are properly allocated to
5 federal waters or international waters or under the jurisdiction of a
6 foreign government are not taxable by this state.

7 (7) This section does not apply to premiums on insurance procured
8 by a licensed surplus line broker under chapter 48.15 RCW.

9 **Sec. 9.** RCW 48.15.080 and 1947 c 79 s .15.08 are each amended to
10 read as follows:

11 A licensed surplus line broker may accept and place surplus line
12 business for any insurance (~~(agent or broker)~~) producer licensed in
13 this state for the kind of insurance involved, and may compensate
14 (~~(such agent or broker)~~) that insurance producer therefor.

15 **Sec. 10.** RCW 48.15.140 and 1980 c 102 s 6 are each amended to read
16 as follows:

17 (1) The commissioner may revoke, suspend, or refuse to renew any
18 surplus line broker's license:

19 (a) If the surplus line broker fails to file (~~(his)~~) the licensee's
20 annual statement or to remit the tax as required by this chapter; or

21 (b) If the surplus line broker fails to maintain an office in this
22 state, or to keep the records, or to allow the commissioner to examine
23 (~~(his)~~) the licensee's records as required by this chapter; or

24 (c) For any of the causes for which (~~(a broker's)~~) an insurance
25 producer's license may be revoked under chapter 48.17 RCW.

26 (2) The commissioner may suspend or revoke any such license
27 whenever he or she deems suspension or revocation to be for the best
28 interests of the people of this state.

29 (3) The procedures provided by this code for the suspension or
30 revocation of (~~(general brokers')~~) insurance producers' licenses shall
31 be applicable to suspension or revocation of a surplus line broker's
32 license.

33 (4) (~~(No)~~) A surplus line broker whose license has been so revoked
34 shall not again be so licensed within one year thereafter, nor until
35 any fines or delinquent taxes owing by (~~(him)~~) the formal licensee have
36 been paid.

1 **Sec. 11.** RCW 48.15.160 and 1987 c 185 s 23 are each amended to
2 read as follows:

3 (1) The provisions of this chapter controlling the placing of
4 insurance with unauthorized insurers shall not apply to reinsurance or
5 to the following insurances when so placed by licensed (~~agents or~~
6 ~~brokers~~) insurance producers of this state:

7 (a) Ocean marine and foreign trade insurances.

8 (b) Insurance on subjects located, resident, or to be performed
9 wholly outside of this state, or on vehicles or aircraft owned and
10 principally garaged outside this state.

11 (c) Insurance on operations of railroads engaged in transportation
12 in interstate commerce and their property used in such operations.

13 (d) Insurance of aircraft owned or operated by manufacturers of
14 aircraft, or of aircraft operated in schedule interstate flight, or
15 cargo of such aircraft, or against liability, other than workers'
16 compensation and employer's liability, arising out of the ownership,
17 maintenance or use of such aircraft.

18 (2) (~~Agents and brokers~~) Insurance producers so placing any such
19 insurance with an unauthorized insurer shall keep a full and true
20 record of each such coverage in detail as required of surplus line
21 insurance under this chapter and shall meet the requirements imposed
22 upon a surplus line broker pursuant to RCW 48.15.090 and any
23 regulations adopted thereunder. The record shall be preserved for not
24 less than five years from the effective date of the insurance and shall
25 be kept available in this state and open to the examination of the
26 commissioner. The (~~agent or broker~~) insurance producer shall furnish
27 to the commissioner at the commissioner's request and on forms as
28 designated and furnished by him or her a report of all such coverages
29 so placed in a designated calendar year.

30 **Sec. 12.** RCW 48.18.100 and 2006 c 8 s 214 are each amended to read
31 as follows:

32 (1) No insurance policy form or application form where written
33 application is required and is to be attached to the policy, or printed
34 life or disability rider or endorsement form may be issued, delivered,
35 or used unless it has been filed with and approved by the commissioner.
36 This section does not apply to:

37 (a) Surety bond forms;

1 (b) Forms filed under RCW 48.18.103;

2 (c) Forms exempted from filing requirements by the commissioner
3 under RCW 48.18.103;

4 (d) Manuscript policies, riders, or endorsements of unique
5 character designed for and used with relation to insurance upon a
6 particular subject; or

7 (e) Contracts of insurance procured under the provisions of chapter
8 48.15 RCW.

9 (2) Every such filing containing a certification, in a form
10 approved by the commissioner, by either the chief executive officer of
11 the insurer or by an actuary who is a member of the American academy of
12 actuaries, attesting that the filing complies with Title 48 RCW and
13 Title 284 of the Washington Administrative Code, may be used by the
14 insurer immediately after filing with the commissioner. The
15 commissioner may order an insurer to cease using a certified form upon
16 the grounds set forth in RCW 48.18.110. This subsection does not apply
17 to certain types of policy forms designated by the commissioner by
18 rule.

19 (3) Except as provided in RCW 48.18.103, every filing that does not
20 contain a certification pursuant to subsection (2) of this section must
21 be made not less than thirty days in advance of issuance, delivery, or
22 use. At the expiration of the thirty days, the filed form shall be
23 deemed approved unless prior thereto it has been affirmatively approved
24 or disapproved by order of the commissioner. The commissioner may
25 extend by not more than an additional fifteen days the period within
26 which he or she may affirmatively approve or disapprove any form, by
27 giving notice of the extension before expiration of the initial thirty-
28 day period. At the expiration of the period that has been extended,
29 and in the absence of prior affirmative approval or disapproval, the
30 form shall be deemed approved. The commissioner may withdraw any
31 approval at any time for cause. By approval of any form for immediate
32 use, the commissioner may waive any unexpired portion of the initial
33 thirty-day waiting period.

34 (4) The commissioner's order disapproving any form or withdrawing
35 a previous approval must state the grounds for disapproval.

36 (5) No form may knowingly be issued or delivered as to which the
37 commissioner's approval does not then exist.

1 (6) The commissioner may, by rule, exempt from the requirements of
2 this section any class or type of insurance policy forms if filing and
3 approval is not desirable or necessary for the protection of the
4 public.

5 (7) Every member or subscriber to a rating organization must adhere
6 to the form filings made on its behalf by the organization. Deviations
7 from the organization are permitted only when filed with the
8 commissioner in accordance with this chapter.

9 (8) Medical malpractice insurance form filings are subject to the
10 provisions of this section.

11 (9) Variable contract forms; disability insurance policy forms;
12 individual life insurance policy forms; life insurance policy
13 illustration forms; industrial life insurance contract, individual
14 medicare supplement insurance policy, and long-term care insurance
15 policy forms, which are amended solely to comply with the changes in
16 nomenclature required by RCW 48.18A.035, 48.20.013, 48.20.042,
17 48.20.072, 48.23.380, 48.23A.040, 48.23A.070, 48.25.140, 48.66.120, and
18 48.76.090 are exempt from this section.

19 **Sec. 13.** RCW 48.18.180 and 2007 c 153 s 2 are each amended to read
20 as follows:

21 (1) The premium stated in the policy shall be inclusive of all
22 fees, charges, premiums, or other consideration charged for the
23 insurance or for the procurement thereof.

24 (2) No insurer or its officer, employee, (~~agent, solicitor~~)
25 appointed insurance producer, or other representative shall charge or
26 receive any fee, compensation, or consideration for insurance which is
27 not included in the premium specified in the policy.

28 (3) Each violation of this section is a gross misdemeanor.

29 (4) This section does not apply to:

30 (a) A fee paid to (~~a broker~~) an insurance producer by an insured
31 as provided in RCW 48.17.270; or

32 (b) A regulatory surcharge imposed by RCW 48.02.190.

33 **Sec. 14.** RCW 48.18.220 and 1967 ex.s. c 12 s 2 are each amended to
34 read as follows:

35 Where an insurance producer, title insurance agent, or other
36 representative of an insurer receipts premium money at the time that

1 the insurance producer, title insurance agent, or representative
2 purports to bind coverage, the receipt shall state: (a) That it is a
3 binder, (b) a brief description of the coverage bound, and (c) the
4 identity of the insurer in which the coverage is bound. This section
5 does not apply as to life and disability insurances.

6 **Sec. 15.** RCW 48.18.240 and 1947 c 79 s .18.24 are each amended to
7 read as follows:

8 The commissioner may suspend or revoke the license of any insurance
9 producer or title insurance agent issuing or purporting to issue any
10 binder as to any insurer named therein as to which he or she is not
11 then authorized so to bind.

12 **Sec. 16.** RCW 48.18.289 and 2000 c 220 s 1 are each amended to read
13 as follows:

14 Whenever a notice of cancellation or nonrenewal or an offer to
15 renew is furnished to an insured in accord with any provision of this
16 chapter, a copy of such notice or offer shall be provided within five
17 working days to the insurance producer or title insurance agent on the
18 account (~~or to the broker of record for the insured~~). When possible,
19 the copy to the insurance producer or title insurance agent (~~or~~
20 ~~broker~~) may be provided electronically.

21 **Sec. 17.** RCW 48.18.292 and 1985 c 264 s 19 are each amended to
22 read as follows:

23 (1) Each insurer shall be required to renew any contract of
24 insurance subject to RCW 48.18.291 unless one of the following
25 situations exists:

26 (a) The insurer gives the named insured at least twenty days'
27 notice in writing as provided for in RCW 48.18.291(1), that it proposes
28 to refuse to renew the insurance contract upon its expiration date; and
29 sets forth therein the actual reason for refusing to renew; or

30 (b) At least twenty days prior to its expiration date, the insurer
31 has communicated its willingness to renew in writing to the named
32 insured, and has included therein a statement of the amount of the
33 premium or portion thereof required to be paid by the insured to renew
34 the policy, including the amount by which the premium or deductibles
35 have changed from the previous policy period, and the date by which

1 such payment must be made, and the insured fails to discharge when due
2 his or her obligation in connection with the payment of such premium or
3 portion thereof; or

4 (c) The insured's (~~agent or broker~~) insurance producer has
5 procured other coverage acceptable to the insured prior to the
6 expiration of the policy period.

7 (2) Renewal of a policy shall not constitute a waiver or estoppel
8 with respect to grounds for cancellation which existed before the
9 effective date of such renewal.

10 (3) "Renewal" or "to renew" means the issuance and delivery by an
11 insurer of a contract of insurance replacing at the end of the contract
12 period a contract of insurance previously issued and delivered by the
13 same insurer, or the issuance and delivery of a certificate or notice
14 extending the term of a contract beyond its policy period or term:
15 PROVIDED, HOWEVER, That any contract of insurance with a policy period
16 or term of six months or less whether or not made continuous for
17 successive terms upon the payment of additional premiums shall for the
18 purpose of RCW 48.18.291 through 48.18.297 be considered as if written
19 for a policy period or term of six months: PROVIDED, FURTHER, That any
20 policy written for a term longer than one year or any policy with no
21 fixed expiration date, shall, for the purpose of RCW 48.18.291 through
22 48.18.297, be considered as if written for successive policy periods or
23 terms of one year.

24 (4) On and after January 1, 1980, no policy of insurance subject to
25 RCW 48.18.291 shall be issued for a policy period or term of less than
26 six months.

27 (5) No insurer shall refuse to renew the liability and/or collision
28 coverage of an automobile insurance policy on the basis that an insured
29 covered by the policy of the insurer has submitted one or more claims
30 under the comprehensive, road service, or towing coverage of the
31 policy. Nothing in this subsection shall prohibit the nonrenewal of
32 comprehensive, road service, or towing coverage on the basis of one or
33 more claims submitted by an insured.

34 **Sec. 18.** RCW 48.18.543 and 2003 c 116 s 1 are each amended to read
35 as follows:

36 (1) For the purposes of this section:

1 (a) "Licensee" means every insurance ((~~agent, broker, or~~
2 ~~solicitor~~) producer licensed under chapter 48.17 RCW.

3 (b) "Residential mortgage loan" means any loan primarily for
4 personal, family, or household use secured by a mortgage or deed of
5 trust on residential real estate upon which is constructed or intended
6 to be constructed a single-family dwelling or multiple family dwelling
7 of four or less units.

8 (c) "Single premium credit insurance" means credit insurance
9 purchased with a single premium payment at inception of coverage.

10 (2) An insurer or licensee may not issue or sell any single premium
11 credit insurance product in connection with a residential mortgage loan
12 unless:

13 (a) The term of the single premium credit insurance policy is the
14 same as the term of the loan;

15 (b) The debtor is given the option to buy credit insurance paid
16 with monthly premiums; and

17 (c) The single premium credit insurance policy provides for a full
18 refund of premiums to the debtor if the credit insurance is canceled
19 within sixty days of the date of the loan.

20 (3) This section does not apply to residential mortgage loans if:

21 (a) The loan amount does not exceed ten thousand dollars, exclusive
22 of fees;

23 (b) The repayment term of the loan does not exceed five years; and

24 (c) The term of the single premium credit insurance does not exceed
25 the repayment term of the loan.

26 **Sec. 19.** RCW 48.18A.035 and 1983 1st ex.s. c 32 s 7 are each
27 amended to read as follows:

28 (1) Every individual variable contract issued shall have printed on
29 its face or attached thereto a notice stating in substance that the
30 policy owner shall be permitted to return the policy within ten days
31 after it is received by the policy owner and to have the market value
32 of the assets purchased by its premium, less taxes and investment
33 brokerage commissions, if any, refunded, if, after examination of the
34 policy, the policy owner is not satisfied with it for any reason. An
35 additional ten percent penalty shall be added to any premium refund due
36 which is not paid within thirty days of return of the policy to the
37 insurer or ((~~agent~~)) insurance producer. If a policy owner pursuant to

1 such notice returns the policy to the insurer at its home or branch
2 office or to the ((agent)) insurance producer through whom it was
3 purchased, it shall be void from the beginning and the parties shall be
4 in the same position as if no policy had been issued.

5 (2) No later than January 1, 2010, or when the insurer has used all
6 of its existing paper variable contract forms which were in its
7 possession on July 1, 2009, whichever is earlier, the notice required
8 by subsection (1) of this section shall use the term insurance producer
9 in place of agent.

10 **Sec. 20.** RCW 48.18A.060 and 1994 c 92 s 502 are each amended to
11 read as follows:

12 No person shall be or act as an ((agent)) insurance producer for
13 the solicitation or sale of variable contracts except while duly
14 appointed and licensed under the insurance code as a ((~~life insurance~~
15 ~~agent~~)) variable life and variable annuity products insurance producer
16 with respect to the insurer, and while duly licensed as a security
17 salesman or securities broker under a license issued by the director of
18 financial institutions pursuant to the securities act of this state;
19 except that any person who participates only in the sale or offering
20 for sale of variable contracts which fund corporate plans meeting the
21 requirements for qualification under sections 401 or 403 of the United
22 States internal revenue code need not be licensed pursuant to the
23 securities act of this state.

24 **Sec. 21.** RCW 48.20.013 and 1983 1st ex.s. c 32 s 9 are each
25 amended to read as follows:

26 Every individual disability insurance policy issued after January
27 1, 1968, except single premium nonrenewable policies, shall have
28 printed on its face or attached thereto a notice stating in substance
29 that the person to whom the policy is issued shall be permitted to
30 return the policy within ten days of its delivery to the purchaser and
31 to have the premium paid refunded if, after examination of the policy,
32 the purchaser is not satisfied with it for any reason. An additional
33 ten percent penalty shall be added to any premium refund due which is
34 not paid within thirty days of return of the policy to the insurer or
35 ((agent)) insurance producer. If a policy holder or purchaser pursuant
36 to such notice, returns the policy to the insurer at its home or branch

1 office or to the ((agent)) insurance producer through whom it was
2 purchased, it shall be void from the beginning and the parties shall be
3 in the same position as if no policy had been issued.

4 **Sec. 22.** RCW 48.20.042 and 1951 c 229 s 5 are each amended to read
5 as follows:

6 There shall be a provision as follows:

7 ENTIRE CONTRACTS; CHANGES: This policy, including the endorsements
8 and attached papers, if any, constitutes the entire contract of
9 insurance. No change in this policy shall be valid until approved by
10 an executive officer of the insurer and unless such approval be
11 endorsed hereon or attached hereto. No ((agent)) insurance producer
12 has authority to change this policy or to waive any of its provisions.

13 **Sec. 23.** RCW 48.20.072 and 1951 c 229 s 8 are each amended to read
14 as follows:

15 There shall be a provision as follows:

16 REINSTATEMENT: If any renewal premium be not paid within the time
17 granted the insured for payment, a subsequent acceptance of premium by
18 the insurer or by any ((agent)) insurance producer duly authorized by
19 the insurer to accept such premium, without requiring in connection
20 therewith an application for reinstatement, shall reinstate the policy:
21 PROVIDED, HOWEVER, That if the insurer or such ((agent)) insurance
22 producer requires an application for reinstatement and issues a
23 conditional receipt for the premium tendered, the policy will be
24 reinstated upon approval of such application by the insurer or, lacking
25 such approval, upon the forty-fifth day following the date of such
26 conditional receipt unless the insurer has previously notified the
27 insured in writing of its disapproval of such application. The
28 reinstated policy shall cover only loss resulting from such accidental
29 injury as may be sustained after the date of reinstatement and loss due
30 to such sickness as may begin more than ten days after such date. In
31 all other respects the insured and insurer shall have the same rights
32 thereunder as they had under the policy immediately before the due date
33 of the defaulted premium, subject to any provisions endorsed hereon or
34 attached hereto in connection with the reinstatement. Any premium
35 accepted in connection with a reinstatement shall be applied to a

1 period for which premium has not been previously paid, but not to any
2 period more than sixty days prior to the date of reinstatement.

3 (The last sentence of the above provision may be omitted from any
4 policy which the insured has the right to continue in force subject to
5 its terms by the timely payment of premiums (1) until at least age 50
6 or, (2) in the case of a policy issued after age 44, for at least five
7 years from its date of issue.)

8 NEW SECTION. **Sec. 24.** A new section is added to chapter 48.20 RCW
9 to read as follows:

10 No later than January 1, 2010, or when the insurer has used all of
11 its existing paper disability insurance policy forms which were in its
12 possession on July 1, 2009, whichever is earlier, the provisions
13 required by RCW 48.20.013, 48.20.042, and 48.20.072 shall use the term
14 insurance producer in place of agent.

15 **Sec. 25.** RCW 48.21A.040 and 1965 ex.s. c 70 s 30 are each amended
16 to read as follows:

17 ((~~Notwithstanding the provisions of RCW 48.17.200,~~)) Any person
18 licensed to transact disability insurance as an ((~~agent, broker or~~
19 ~~solicitor~~)) insurance producer may transact extended health insurance
20 and may be paid a commission thereon.

21 **Sec. 26.** RCW 48.23.380 and 1983 1st ex.s. c 32 s 10 are each
22 amended to read as follows:

23 (1) Every individual life insurance policy issued after September
24 1, 1977, shall have printed on its face or attached thereto a notice
25 stating in substance that the policy owner shall be permitted to return
26 the policy within ten days after it is received by the policy owner and
27 to have the premium paid refunded if, after examination of the policy,
28 the policy owner is not satisfied with it for any reason. An
29 additional ten percent penalty shall be added to any premium refund due
30 which is not paid within thirty days of return of the policy to the
31 insurer or ((~~agent~~)) insurance producer. If a policy owner pursuant to
32 such notice, returns the policy to the insurer at its home or branch
33 office or to the ((~~agent~~)) insurance producer through whom it was
34 purchased, it shall be void from the beginning and the parties shall be
35 in the same position as if no policy had been issued.

1 (d) If the age of the proposed insured is shown as a component of
2 the tabular detail, it shall be issue age plus the numbers of years the
3 policy is assumed to have been in force.

4 (e) The assumed payments on which the illustrated benefits and
5 values are based shall be identified as premium outlay or contract
6 premium, as applicable. For policies that do not require a specific
7 contract premium, the illustrated payments shall be identified as
8 premium outlay.

9 (f) Guaranteed death benefits and values available upon surrender,
10 if any, for the illustrated premium outlay or contract premium shall be
11 shown and clearly labeled guaranteed.

12 (g) If the illustration shows any nonguaranteed elements, they
13 cannot be based on a scale more favorable to the policy owner than the
14 insurer's illustrated scale at any duration. These elements shall be
15 clearly labeled nonguaranteed.

16 (h) The guaranteed elements, if any, shall be shown before
17 corresponding nonguaranteed elements and shall be specifically referred
18 to on any page of an illustration that shows or describes only the
19 nonguaranteed elements (for example, "see page one for guaranteed
20 elements").

21 (i) The account or accumulation value of a policy, if shown, shall
22 be identified by the name this value is given in the policy being
23 illustrated and shown in close proximity to the corresponding value
24 available upon surrender.

25 (j) The value available upon surrender shall be identified by the
26 name this value is given in the policy being illustrated and shall be
27 the amount available to the policy owner in a lump sum after deduction
28 of surrender charges, policy loans, and policy loan interest, as
29 applicable.

30 (k) Illustrations may show policy benefits and values in graphic or
31 chart form in addition to the tabular form.

32 (l) Any illustration of nonguaranteed elements shall be accompanied
33 by a statement indicating that:

34 (i) The benefits and values are not guaranteed;

35 (ii) The assumptions on which they are based are subject to change
36 by the insurer; and

37 (iii) Actual results may be more or less favorable.

1 (m) If the illustration shows that the premium payer may have the
2 option to allow policy charges to be paid using nonguaranteed values,
3 the illustration must clearly disclose that a charge continues to be
4 required and that, depending on actual results, the premium payer may
5 need to continue or resume premium outlays. Similar disclosure shall
6 be made for premium outlay of lesser amounts or shorter durations than
7 the contract premium. If a contract premium is due, the premium outlay
8 display shall not be left blank or show zero unless accompanied by an
9 asterisk or similar mark to draw attention to the fact that the policy
10 is not paid up.

11 (n) If the applicant plans to use dividends or policy values,
12 guaranteed or nonguaranteed, to pay all or a portion of the contract
13 premium or policy charges, or for any other purpose, the illustration
14 may reflect those plans and the impact on future policy benefits and
15 values.

16 (2) A basic illustration shall include the following:

17 (a) A brief description of the policy being illustrated, including
18 a statement that it is a life insurance policy;

19 (b) A brief description of the premium outlay or contract premium,
20 as applicable, for the policy. For a policy that does not require
21 payment of a specific contract premium, the illustration shall show the
22 premium outlay that must be paid to guarantee coverage for the term of
23 the contract, subject to maximum premiums allowable to qualify as a
24 life insurance policy under the applicable provisions of the internal
25 revenue code;

26 (c) A brief description of any policy features, riders, or options,
27 guaranteed or nonguaranteed, shown in the basic illustration and the
28 impact they may have on the benefits and values of the policy;

29 (d) Identification and a brief definition of column headings and
30 key terms used in the illustration; and

31 (e) A statement containing in substance the following: "This
32 illustration assumes that the currently illustrated, nonguaranteed
33 elements will continue unchanged for all years shown. This is not
34 likely to occur, and actual results may be more or less favorable than
35 those shown."

36 (3)(a) Following the narrative summary, a basic illustration shall
37 include a numeric summary of the death benefits and values and the
38 premium outlay and contract premium, as applicable. For a policy that

1 provides for a contract premium, the guaranteed death benefits and
2 values shall be based on the contract premium. This summary shall be
3 shown for at least policy years five, ten, and twenty and at age
4 seventy, if applicable, on the three bases shown below. For multiple
5 life policies the summary shall show policy years five, ten, twenty,
6 and thirty.

- 7 (i) Policy guarantees;
- 8 (ii) Insurer's illustrated scale;
- 9 (iii) Insurer's illustrated scale used but with the nonguaranteed
10 elements reduced as follows:

11 (A) Dividends at fifty percent of the dividends contained in the
12 illustrated scale used;

13 (B) Nonguaranteed credited interest at rates that are the average
14 of the guaranteed rates and the rates contained in the illustrated
15 scale used; and

16 (C) All nonguaranteed charges, including but not limited to, term
17 insurance charges and mortality and expense charges, at rates that are
18 the average of the guaranteed rates and the rates contained in the
19 illustrated scale used.

20 (b) In addition, if coverage would cease prior to policy maturity
21 or age one hundred, the year in which coverage ceases shall be
22 identified for each of the three bases.

23 (4) Statements substantially similar to the following shall be
24 included on the same page as the numeric summary and signed by the
25 applicant, or the policy owner in the case of an illustration provided
26 at time of delivery, as required in this chapter.

27 (a) A statement to be signed and dated by the applicant or policy
28 owner reading as follows: "I have received a copy of this illustration
29 and understand that any nonguaranteed elements illustrated are subject
30 to change and could be either higher or lower. The (~~agent~~) insurance
31 producer has told me they are not guaranteed."

32 (b) A statement to be signed and dated by the insurance producer or
33 other authorized representative of the insurer reading as follows: "I
34 certify that this illustration has been presented to the applicant and
35 that I have explained that any nonguaranteed elements illustrated are
36 subject to change. I have made no statements that are inconsistent
37 with the illustration."

1 (5)(a) A basic illustration shall include the following for at
2 least each policy year from one to ten and for every fifth policy year
3 thereafter ending at age one hundred, policy maturity, or final
4 expiration; and except for term insurance beyond the twentieth year,
5 for any year in which the premium outlay and contract premium, if
6 applicable, is to change:

7 (i) The premium outlay and mode the applicant plans to pay and the
8 contract premium, as applicable;

9 (ii) The corresponding guaranteed death benefit, as provided in the
10 policy; and

11 (iii) The corresponding guaranteed value available upon surrender,
12 as provided in the policy.

13 (b) For a policy that provides for a contract premium, the
14 guaranteed death benefit and value available upon surrender shall
15 correspond to the contract premium.

16 (c) Nonguaranteed elements may be shown if described in the
17 contract. In the case of an illustration for a policy on which the
18 insurer intends to credit terminal dividends, they may be shown if the
19 insurer's current practice is to pay terminal dividends. If any
20 nonguaranteed elements are shown, they must be shown at the same
21 durations as the corresponding guaranteed elements, if any. If no
22 guaranteed benefit or value is available at any duration for which a
23 nonguaranteed benefit or value is shown, a zero shall be displayed in
24 the guaranteed column.

25 **Sec. 29.** RCW 48.23A.070 and 1997 c 313 s 9 are each amended to
26 read as follows:

27 (1) In the case of a policy designated as one for which
28 illustrations will be used, the insurer shall provide each policy owner
29 with an annual report on the status of the policy that shall contain at
30 least the following information:

31 (a) For universal life policies, the report shall include the
32 following:

33 (i) The beginning and end date of the current report period;

34 (ii) The policy value at the end of the previous report period and
35 at the end of the current report period;

36 (iii) The total amounts that have been credited or debited to the

1 policy value during the current report period, identifying each type,
2 such as interest, mortality, expense, and riders;

3 (iv) The current death benefit at the end of the current report
4 period on each life covered by the policy;

5 (v) The net cash surrender value of the policy as of the end of the
6 current report period;

7 (vi) The amount of outstanding loans, if any, as of the end of the
8 current report period; and

9 (vii) For fixed premium policies: If, assuming guaranteed
10 interest, mortality, and expense loads and continued scheduled premium
11 payments, the policy's net cash surrender value is such that it would
12 not maintain insurance in force until the end of the next reporting
13 period, a notice to this effect shall be included in the report; or

14 (viii) For flexible premium policies: If, assuming guaranteed
15 interest, mortality, and expense loads, the policy's net cash surrender
16 value will not maintain insurance in force until the end of the next
17 reporting period unless further premium payments are made, a notice to
18 this effect shall be included in the report.

19 (b) For all other policies, where applicable:

20 (i) Current death benefit;

21 (ii) Annual contract premium;

22 (iii) Current cash surrender value;

23 (iv) Current dividend;

24 (v) Application of current dividend; and

25 (vi) Amount of outstanding loan.

26 (c) Insurers writing life insurance policies that do not build
27 nonforfeiture values shall only be required to provide an annual report
28 with respect to these policies for those years when a change has been
29 made to nonguaranteed policy elements by the insurer.

30 (2) If the annual report does not include an in-force illustration,
31 it shall contain the following notice displayed prominently:

32 "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more
33 detailed information about your policy to understand how it may perform
34 in the future. You should not consider replacement of your policy or
35 make changes in your coverage without requesting a current
36 illustration. You may annually request, without charge, such an
37 illustration by calling (insurer's phone number), writing to (insurer's
38 name) at (insurer's address) or contacting your ((agent)) insurance

1 producer. If you do not receive a current illustration of your policy
2 within 30 days from your request, you should contact your state
3 insurance department." The insurer may vary the sequential order of
4 the methods for obtaining an in-force illustration.

5 (3) Upon the request of the policy owner, the insurer shall furnish
6 an in-force illustration of current and future benefits and values
7 based on the insurer's present illustrated scale. This illustration
8 shall comply with the requirements of RCW 48.23A.030 (1) and (2) and
9 48.23A.040 (1) and (5). No signature or other acknowledgment of
10 receipt of this illustration shall be required.

11 (4) If an adverse change in nonguaranteed elements that could
12 affect the policy has been made by the insurer since the last annual
13 report, the annual report shall contain a notice of that fact and the
14 nature of the change prominently displayed.

15 **Sec. 30.** RCW 48.23A.080 and 1997 c 313 s 10 are each amended to
16 read as follows:

17 (1) The board of directors of each insurer shall appoint one or
18 more illustration actuaries.

19 (2) The illustration actuary shall certify that the disciplined
20 current scale used in illustrations is in conformity with the actuarial
21 standard of practice for compliance with the national association of
22 insurance commissioners model regulation on life insurance
23 illustrations adopted by the actuarial standards board, and that the
24 illustrated scales used in insurer-authorized illustrations meet the
25 requirements of this chapter.

26 (3) The illustration actuary shall:

27 (a) Be a member in good standing of the American academy of
28 actuaries;

29 (b) Be familiar with the standard of practice regarding life
30 insurance policy illustrations;

31 (c) Not have been found by the commissioner, following appropriate
32 notice and hearing to have:

33 (i) Violated any provision of, or any obligation imposed by, the
34 insurance law or other law in the course of his or her dealings as an
35 illustration actuary;

36 (ii) Been found guilty of fraudulent or dishonest practices;

1 (iii) Demonstrated his or her incompetence, lack of cooperation, or
2 untrustworthiness to act as an illustration actuary; or

3 (iv) Resigned or been removed as an illustration actuary within the
4 past five years as a result of acts or omissions indicated in any
5 adverse report on examination or as a result of a failure to adhere to
6 generally acceptable actuarial standards;

7 (d) Not fail to notify the commissioner of any action taken by a
8 commissioner of another state similar to that under (c) of this
9 subsection;

10 (e) Disclose in the annual certification whether, since the last
11 certification, a currently payable scale applicable for business issued
12 within the previous five years and within the scope of the
13 certification has been reduced for reasons other than changes in the
14 experience factors underlying the disciplined current scale. If
15 nonguaranteed elements illustrated for new policies are not consistent
16 with those illustrated for similar in-force policies, this must be
17 disclosed in the annual certification. If nonguaranteed elements
18 illustrated for both new and in-force policies are not consistent with
19 the nonguaranteed elements actually being paid, charged, or credited to
20 the same or similar forms, this must be disclosed in the annual
21 certification; and

22 (f) Disclose in the annual certification the method used to
23 allocate overhead expenses for all illustrations:

24 (i) Fully allocated expenses;

25 (ii) Marginal expenses; or

26 (iii) A generally recognized expense table based on fully allocated
27 expenses representing a significant portion of insurance companies and
28 approved by the national association of insurance commissioners.

29 (4)(a) The illustration actuary shall file a certification with the
30 board of directors and with the commissioner:

31 (i) Annually for all policy forms for which illustrations are used;
32 and

33 (ii) Before a new policy form is illustrated.

34 (b) If an error in a previous certification is discovered, the
35 illustration actuary shall notify the board of directors of the insurer
36 and the commissioner promptly.

37 (5) If an illustration actuary is unable to certify the scale for

1 any policy form illustration the insurer intends to use, the actuary
2 shall notify the board of directors of the insurer and the commissioner
3 promptly of his or her inability to certify.

4 (6) A responsible officer of the insurer, other than the
5 illustration actuary, shall certify annually:

6 (a) That the illustration formats meet the requirements of this
7 chapter and that the scales used in insurer-authorized illustrations
8 are those scales certified by the illustration actuary; and

9 (b) That the company has provided its ((agents)) insurance
10 producers with information about the expense allocation method used by
11 the company in its illustrations and disclosed as required in
12 subsection (3)(f) of this section.

13 (7) The annual certifications shall be provided to the commissioner
14 each year by a date determined by the insurer.

15 (8) If an insurer changes the illustration actuary responsible for
16 all or a portion of the company's policy forms, the insurer shall
17 notify the commissioner of that fact promptly and disclose the reason
18 for the change.

19 NEW SECTION. **Sec. 31.** A new section is added to chapter 48.23A
20 RCW to read as follows:

21 No later than January 1, 2010, or when the insurer has used all of
22 its existing paper life insurance policy illustration forms which were
23 in its possession on July 1, 2009, whichever is earlier, the provisions
24 required by RCW 48.23A.040 and 48.23A.070 shall use the term insurance
25 producer in place of agent.

26 **Sec. 32.** RCW 48.24.080 and 1949 c 190 s 33 are each amended to
27 read as follows:

28 The lives of a group of individuals may be insured under a policy
29 issued to a principal, or if such principal is a life insurer, by or to
30 such principal, covering when issued not less than twenty-five
31 ((agents)) insurance producers of such principal, subject to the
32 following requirements:

33 (1) The ((agents)) insurance producers eligible for insurance under
34 the policy shall be those who are under contract to render personal
35 services for such principal for a commission or other fixed or
36 ascertainable compensation.

1 (2) The policy must insure either all of the ((agents)) insurance
2 producers or all of any class or classes thereof, determined by
3 conditions pertaining to the services to be rendered by such ((agents))
4 insurance producers, except that if a policy is intended to insure
5 several such classes it may be issued to insure any such class of which
6 seventy-five percent are covered and extended to other classes as
7 seventy-five percent thereof express the desire to be covered.

8 (3) The premium on the policy shall be paid by the principal or by
9 the principal and the ((agents)) insurance producers jointly. When the
10 premium is paid by the principal and ((agents)) insurance producers
11 jointly and the benefits of the policy are offered to all eligible
12 ((agents)) insurance producers, the policy, when issued, must insure
13 not less than seventy-five percent of such ((agents)) insurance
14 producers.

15 (4) The amounts of insurance shall be based upon some plan which
16 will preclude individual selection.

17 (5) The insurance shall be for the benefit of persons other than
18 the principal.

19 (6) Such policy shall terminate if, subsequent to issue, the number
20 of ((agents)) insurance producers insured falls below twenty-five lives
21 or seventy-five percent of the number eligible and the contribution of
22 the ((agents)) insurance producers, if the premiums are on a renewable
23 term insurance basis, exceed one dollar per month per one thousand
24 dollars of insurance coverage plus any additional premium per one
25 thousand dollars of insurance coverage charged to cover one or more
26 hazardous occupations.

27 ~~((7) For the purposes of this section "agents" shall be deemed to~~
28 ~~include agents, subagents, solicitors, and salesmen.))~~

29 **Sec. 33.** RCW 48.25.140 and 1947 c 79 s .25.14 are each amended to
30 read as follows:

31 (1) There shall be a provision that no ((agent)) insurance producer
32 shall have the power or authority to waive, change, or alter any of the
33 terms or conditions of any policy; except that, at the option of the
34 insurer, the terms or conditions may be changed by an endorsement
35 signed by a duly authorized officer of the insurer.

36 (2) No later than January 1, 2010, or when the insurer has used all
37 of its existing paper industrial life insurance contract forms which

1 were in its possession on July 1, 2009, whichever is earlier, the
2 notice required by subsection (1) of this section shall use the term
3 insurance producer in place of agent.

4 **Sec. 34.** RCW 48.30.100 and 1947 c 79 s .30.10 are each amended to
5 read as follows:

6 No insurer, insurance producer, title insurance agent, (~~broker,~~
7 ~~solicitor~~) or other person(~~(~~) shall guarantee or agree to the
8 payment of future dividends or future refunds of unused premiums or
9 savings in any specific or approximate amounts or percentages on
10 account of any insurance contract.

11 **Sec. 35.** RCW 48.30.140 and 1994 c 203 s 3 are each amended to read
12 as follows:

13 (1) Except to the extent provided for in an applicable filing with
14 the commissioner then in effect, no insurer, (~~general agent, agent,~~
15 ~~broker, or solicitor~~) insurance producer, or title insurance agent
16 shall, as an inducement to insurance, or after insurance has been
17 effected, directly or indirectly, offer, promise, allow, give, set off,
18 or pay to the insured or to any employee of the insured, any rebate,
19 discount, abatement, or reduction of premium or any part thereof named
20 in any insurance contract, or any commission thereon, or earnings,
21 profits, dividends, or other benefit, or any other valuable
22 consideration or inducement whatsoever which is not expressly provided
23 for in the policy.

24 (2) Subsection (1) of this section shall not apply as to
25 commissions paid to a licensed (~~agent, general agent, broker, or~~
26 ~~solicitor~~) insurance producer, or title insurance agent for insurance
27 placed on that person's own property or risks.

28 (3) This section shall not apply to the allowance by any marine
29 insurer, or marine insurance (~~agent, general agent, broker, or~~
30 ~~solicitor~~) producer, to any insured, in connection with marine
31 insurance, of such discount as is sanctioned by custom among marine
32 insurers as being additional to the (~~agent's or broker's~~) insurance
33 producer's commission.

34 (4) This section shall not apply to advertising or promotional
35 programs conducted by insurers, insurance producers, or title insurance
36 agents(~~(, or brokers~~) whereby prizes, goods, wares, or merchandise,

1 not exceeding twenty-five dollars in value per person in the aggregate
2 in any twelve month period, are given to all insureds or prospective
3 insureds under similar qualifying circumstances.

4 (5) This section does not apply to an offset or reimbursement of
5 all or part of a fee paid to (~~(a broker)~~) an insurance producer as
6 provided in RCW 48.17.270.

7 **Sec. 36.** RCW 48.30.150 and 1990 1st ex.s. c 3 s 9 are each amended
8 to read as follows:

9 No insurer, (~~(general agent, agent, broker, solicitor)~~) insurance
10 producer, title insurance agent, or other person shall, as an
11 inducement to insurance, or in connection with any insurance
12 transaction, provide in any policy for, or offer, or sell, buy, or
13 offer or promise to buy or give, or promise, or allow to, or on behalf
14 of, the insured or prospective insured in any manner whatsoever:

15 (1) Any shares of stock or other securities issued or at any time
16 to be issued on any interest therein or rights thereto; or

17 (2) Any special advisory board contract, or other contract,
18 agreement, or understanding of any kind, offering, providing for, or
19 promising any profits or special returns or special dividends; or

20 (3) Any prizes, goods, wares, or merchandise of an aggregate value
21 in excess of twenty-five dollars.

22 This section shall not be deemed to prohibit the sale or purchase
23 of securities as a condition to or in connection with surety insurance
24 insuring the performance of an obligation as part of a plan of
25 financing found by the commissioner to be designed and operated in good
26 faith primarily for the purpose of such financing, nor shall it be
27 deemed to prohibit the sale of redeemable securities of a registered
28 investment company in the same transaction in which life insurance is
29 sold.

30 **Sec. 37.** RCW 48.30.157 and 1988 c 248 s 17 are each amended to
31 read as follows:

32 Notwithstanding the provisions of RCW 48.30.140, 48.30.150, and
33 48.30.155, the commissioner may permit an (~~(agent or broker)~~) insurance
34 producer to enter into reasonable arrangements with insureds and
35 prospective insureds to charge a reduced fee in situations where
36 services that are charged for are provided beyond the scope of services

1 customarily provided in connection with the solicitation and
2 procurement of insurance, so that an overall charge to an insured or
3 prospective insured is reasonable taking into account receipt of
4 commissions and fees and their relation, proportionally, to the value
5 of the total work performed.

6 **Sec. 38.** RCW 48.30.170 and 1994 c 203 s 4 are each amended to read
7 as follows:

8 (1) No insured person shall receive or accept, directly or
9 indirectly, any rebate of premium or part thereof, or any favor,
10 advantage, share in dividends, or other benefits, or any valuable
11 consideration or inducement not specified or provided for in the
12 policy, or any commission on any insurance policy to which he or she is
13 not lawfully entitled as a licensed insurance producer or title
14 insurance agent(~~(, broker, or solicitor)~~). The retention by the
15 nominal policyholder in any group life insurance contract of any part
16 of any dividend or reduction of premium thereon contrary to the
17 provisions of RCW 48.24.260, shall be deemed the acceptance and receipt
18 of a rebate and shall be punishable as provided by this code.

19 (2) The amount of insurance whereon the insured has so received or
20 accepted any such rebate or any such commission, other than as to life
21 or disability insurances, shall be reduced in the proportion that the
22 amount or value of the rebate or commission bears to the premium for
23 such insurance. In addition to such reduction of insurance, if any,
24 any such insured shall be liable to a fine of not more than two hundred
25 dollars.

26 (3) This section shall not apply to an offset or reimbursement of
27 all or part of a fee paid to (~~a broker~~) an insurance producer as
28 provided in RCW 48.17.270.

29 **Sec. 39.** RCW 48.30.200 and 1947 c 79 s .30.20 are each amended to
30 read as follows:

31 It shall be unlawful for any insurer or its representative, or any
32 (~~agent or broker~~) insurance producer, to hypothecate, sell, or
33 dispose of any promissory note, received in payment for any premium or
34 part thereof on any contract of life insurance or of disability
35 insurance applied for, prior to delivery of the policy to the
36 applicant.

1 **Sec. 40.** RCW 48.30.240 and 1947 c 79 s .30.24 are each amended to
2 read as follows:

3 (1) Any insurer which precipitates, or aids in precipitating or
4 conducting a rate war and by so doing writes or issues a policy of
5 insurance at a less rate than permitted under its schedules filed with
6 the commissioner, or below the rate deemed by him or her to be proper
7 and adequate to cover the class of risk insured, shall have its
8 certificate of authority to do business in this state suspended until
9 such time as the commissioner is satisfied that it is charging a proper
10 rate of premium.

11 (2) Any insurer which has precipitated, or aided in precipitating
12 or conducting a rate war for the purpose of punishing or eliminating
13 competitors or stifling competition, or demoralizing the business, or
14 for any other purpose, and has ordered the cancellation or rewriting of
15 policies at a rate lower than that provided by its rating schedules
16 where such rate war is not in operation, and has paid or attempted to
17 pay to the insured any return premiums, on any risk so to be rewritten,
18 on which its ((agent)) appointed insurance producer has received or is
19 entitled to receive ((his)) a regular commission, such insurer shall
20 not be allowed to charge back to such ((agent)) appointed insurance
21 producer any portion of ((his)) a commission on the ground that the
22 same has not been earned.

23 **Sec. 41.** RCW 48.30.260 and 1990 1st ex.s. c 3 s 13 are each
24 amended to read as follows:

25 (1) Every debtor or borrower, when property insurance of any kind
26 is required in connection with the debt or loan, shall have reasonable
27 opportunity and choice in the selection of the ((agent, broker,))
28 insurance producer and insurer through whom such insurance is to be
29 placed; but only if the insurance is properly provided for the
30 protection of the creditor or lender, whether by policy or binder, not
31 later than at commencement of risk as to such property as respects such
32 creditor or lender, and in the case of renewal of insurance, only if
33 the renewal policy, or a proper binder therefor containing a brief
34 description of the coverage bound and the identity of the insurer in
35 which the coverage is bound, is delivered to the creditor or lender not
36 later than thirty days prior to the renewal date.

1 (2) Every person who lends money or extends credit and who solicits
2 insurance on real and personal property must explain to the borrower in
3 prominently displayed writing that the insurance related to such loan
4 or credit extension may be purchased from an insurer or (~~agent~~)
5 insurance producer of the borrower's choice, subject only to the
6 lender's right to reject a given insurer or (~~agent~~) insurance
7 producer as provided in subsection (3)(b) of this section.

8 (3) No person who lends money or extends credit may:

9 (a) Solicit insurance for the protection of property, after a
10 person indicates interest in securing a loan or credit extension, until
11 such person has received a commitment from the lender as to a loan or
12 credit extension;

13 (b) Unreasonably reject a contract of insurance furnished by the
14 borrower for the protection of the property securing the credit or
15 lien. A rejection shall not be deemed unreasonable if it is based on
16 reasonable standards, uniformly applied, relating to the extent of
17 coverage required and the financial soundness and the services of an
18 insurer. Such standards shall not discriminate against any particular
19 type of insurer, nor shall such standards call for rejection of an
20 insurance contract because the contract contains coverage in addition
21 to that required in the credit transaction;

22 (c) Require that any borrower, mortgagor, purchaser, insurer,
23 (~~broker, or agent~~) or insurance producer pay a separate charge, in
24 connection with the handling of any contract of insurance required as
25 security for a loan, or pay a separate charge to substitute the
26 insurance policy of one insurer for that of another. This subsection
27 does not include the interest which may be charged on premium loans or
28 premium advancements in accordance with the terms of the loan or credit
29 document;

30 (d) Use or disclose, without the prior written consent of the
31 borrower, mortgagor, or purchaser taken at a time other than the making
32 of the loan or extension of credit, information relative to a contract
33 of insurance which is required by the credit transaction, for the
34 purpose of replacing such insurance;

35 (e) Require any procedures or conditions of duly licensed (~~agents,~~
36 ~~brokers,~~) insurance producers or insurers not customarily required of
37 those (~~agents, brokers,~~) insurance producers or insurers affiliated

1 or in any way connected with the person who lends money or extends
2 credit; or

3 (f) Require property insurance in an amount in excess of the amount
4 which could reasonably be expected to be paid under the policy, or
5 combination of policies, in the event of a loss.

6 (4) Nothing contained in this section shall prevent a person who
7 lends money or extends credit from placing insurance on real or
8 personal property in the event the mortgagor, borrower, or purchaser
9 has failed to provide required insurance in accordance with the terms
10 of the loan or credit document.

11 (5) Nothing contained in this section shall apply to credit life or
12 credit disability insurance.

13 **Sec. 42.** RCW 48.30.270 and 2005 c 352 s 1 are each amended to read
14 as follows:

15 (1) No officer or employee of this state, or of any public agency,
16 public authority or public corporation except a public corporation or
17 public authority created pursuant to agreement or compact with another
18 state, and no person acting or purporting to act on behalf of such
19 officer or employee, or public agency or public authority or public
20 corporation, shall, with respect to any public building or construction
21 contract which is about to be, or which has been competitively bid,
22 require the bidder to make application to, or to furnish financial data
23 to, or to obtain or procure, any of the surety bonds or contracts of
24 insurance specified in connection with such contract, or specified by
25 any law, general, special or local, from a particular insurer or
26 (~~agent or broker~~) insurance producer.

27 (2) No such officer or employee or any person, acting or purporting
28 to act on behalf of such officer or employee shall negotiate, make
29 application for, obtain or procure any of such surety bonds or
30 contracts of insurance, except contracts of insurance for builder's
31 risk or owner's protective liability, which can be obtained or procured
32 by the bidder, contractor or subcontractor.

33 (3) This section shall not be construed to prevent the exercise by
34 such officer or employee on behalf of the state or such public agency,
35 public authority, or public corporation of its right to approve the
36 form, sufficiency or manner or execution of the surety bonds or

1 contracts of insurance furnished by the insurer selected by the bidder
2 to underwrite such bonds, or contracts of insurance.

3 (4) Any provisions in any invitation for bids, or in any of the
4 contract documents, in conflict with this section are declared to be
5 contrary to the public policy of this state.

6 (5) A violation of this section shall be subject to the penalties
7 provided by RCW 48.01.080.

8 (6) This section shall not apply to public construction projects,
9 when the actual or estimated aggregate value of the project, exclusive
10 of insurance and surety costs, exceeds two hundred million dollars.
11 For purposes of applying the two hundred million dollar threshold set
12 forth in this subsection, the term "public construction project" means
13 a project that has a public owner and has phases, segments, or
14 component parts relating to a common geographic site or public
15 transportation system, but does not include the aggregation of
16 unrelated construction projects.

17 (7) The exclusions specified in subsection (6) of this section do
18 not apply to surety bonds.

19 **Sec. 43.** RCW 48.31.111 and 2003 c 248 s 11 are each amended to
20 read as follows:

21 (1) A delinquency proceeding may not be commenced under this
22 chapter by anyone other than the commissioner of this state, and no
23 court has jurisdiction to entertain a proceeding commenced by another
24 person.

25 (2) No court of this state has jurisdiction to entertain a
26 complaint praying for the dissolution, liquidation, rehabilitation,
27 sequestration, conservation, or receivership of an insurer, or praying
28 for an injunction or restraining order or other relief preliminary to,
29 incidental to, or relating to the proceedings, other than in accordance
30 with this chapter.

31 (3) In addition to other grounds for jurisdiction provided by the
32 law of this state, a court of this state having jurisdiction of the
33 subject matter has jurisdiction over a person served under the rules of
34 civil procedure or other applicable provisions of law in an action
35 brought by the receiver of a domestic insurer or an alien insurer
36 domiciled in this state:

1 (a) If the person served is an ((~~agent, broker~~)) insurance
2 producer, title insurance agent, or other person who has written
3 policies of insurance for or has acted in any manner on behalf of an
4 insurer against which a delinquency proceeding has been instituted, in
5 an action resulting from or incident to such a relationship with the
6 insurer;

7 (b) If the person served is a reinsurer who has entered into a
8 contract of reinsurance with an insurer against which a delinquency
9 proceeding has been instituted, or is an ((~~agent or broker~~)) insurance
10 producer of or for the reinsurer, in an action on or incident to the
11 reinsurance contract;

12 (c) If the person served is or has been an officer, director,
13 manager, trustee, organizer, promoter, or other person in a position of
14 comparable authority or influence over an insurer against which a
15 delinquency proceeding has been instituted, in an action resulting from
16 or incident to such a relationship with the insurer;

17 (d) If the person served is or was at the time of the institution
18 of the delinquency proceeding against the insurer holding assets in
19 which the receiver claims an interest on behalf of the insurer, in an
20 action concerning the assets; or

21 (e) If the person served is obligated to the insurer in any way, in
22 an action on or incident to the obligation.

23 (4) If the court on motion of a party finds that an action should
24 as a matter of substantial justice be tried in a forum outside this
25 state, the court may enter an appropriate order to stay further
26 proceedings on the action in this state.

27 **Sec. 44.** RCW 48.31.141 and 1993 c 462 s 65 are each amended to
28 read as follows:

29 (1)(a) An ((~~agent, broker~~)) insurance producer, title insurance
30 agent, premium finance company, or any other person, other than the
31 policy owner or the insured, responsible for the payment of a premium
32 is obligated to pay any unpaid premium for the full policy term due the
33 insurer at the time of the declaration of insolvency, whether earned or
34 unearned, as shown on the records of the insurer. The liquidator also
35 has the right to recover from the person a part of an unearned premium
36 that represents commission of the person. Credits or setoffs or both
37 may not be allowed to an ((~~agent, broker~~)) insurance producer, title

1 insurance agent, or premium finance company for amounts advanced to the
2 insurer by the (~~agent,~~) insurance producer, title insurance agent,
3 surplus line broker, or premium finance company on behalf of, but in
4 the absence of a payment by, the policy owner or the insured.

5 (b) Notwithstanding (a) of this subsection, the (~~agent, broker~~)
6 insurance producer, title insurance agent, premium finance company, or
7 other person is not liable for uncollected unearned premium of the
8 insurer. A presumption exists that the premium as shown on the books
9 of the insurer is collected, and the burden is upon the (~~agent,~~
10 ~~broker~~) insurance producer, title insurance agent, premium finance
11 company, or other person to demonstrate by a preponderance of the
12 evidence that the unearned premium was not actually collected. For
13 purposes of this subsection, "unearned premium" means that portion of
14 an insurance premium covering the unexpired term of the policy or the
15 unexpired period of the policy period.

16 (c) An insured is obligated to pay any unpaid earned premium due
17 the insurer at the time of the declaration of insolvency, as shown on
18 the records of the insurer.

19 (2) Upon a violation of this section, the commissioner may pursue
20 either one or both of the following courses of action:

21 (a) Suspend or revoke or refuse to renew the licenses of the
22 offending party or parties;

23 (b) Impose a penalty of not more than one thousand dollars for each
24 violation.

25 (3) Before the commissioner may take an action as set forth in
26 subsection (2) of this section, he or she shall give written notice to
27 the person accused of violating the law, stating specifically the
28 nature of the alleged violation, and fixing a time and place, at least
29 ten days thereafter, when a hearing on the matter shall be held. After
30 the hearing, or upon failure of the accused to appear at the hearing,
31 the commissioner, if he or she finds a violation, shall impose those
32 penalties under subsection (2) of this section that he or she deems
33 advisable.

34 (4) When the commissioner takes action in any or all of the ways
35 set out in subsection (2) of this section, the party aggrieved has the
36 rights granted under the Administrative Procedure Act, chapter 34.05
37 RCW.

1 **Sec. 45.** RCW 48.36A.310 and 1996 c 236 s 3 are each amended to
2 read as follows:

3 (1) The commissioner may refuse, suspend, or revoke a fraternal
4 benefit society's license, if the society:

5 (a) Has exceeded its powers;

6 (b) Has failed to comply with any of the provisions of this
7 chapter;

8 (c) Is not fulfilling its contracts in good faith;

9 (d) Is conducting its business fraudulently;

10 (e) Has a membership of less than four hundred after an existence
11 of one year or more;

12 (f) Is found by the commissioner to be in such a condition that its
13 further transaction of insurance in this state would be hazardous to
14 certificate holders and the people in this state;

15 (g) Refuses to remove or discharge a trustee, director, or officer
16 who has been convicted of any crime involving fraud, dishonesty, or
17 like moral turpitude;

18 (h) Refuses to be examined, or if its trustees, directors,
19 officers, employees, or representatives refuse to submit to examination
20 or to produce its accounts, records, and files for examination by the
21 commissioner when required, or refuse to perform any legal obligation
22 relative to the examination;

23 (i) Fails to pay any final judgment rendered against it in this
24 state upon any certificate, or undertaking issued by it, within thirty
25 days after the judgment became final or within thirty days after time
26 for taking an appeal has expired, or within thirty days after dismissal
27 of an appeal before final determination, whichever date is the later;

28 (j) Is found by the commissioner, after investigation or upon
29 receipt of reliable information, to be managed by persons, whether by
30 its trustees, directors, officers, or by any other means, who are
31 incompetent or untrustworthy or so lacking in fraternal benefit society
32 managerial experience as to make a proposed operation hazardous to its
33 members; or that there is good reason to believe it is affiliated
34 directly or indirectly through ownership, control, or business
35 relations, with any person or persons whose business operations are or
36 have been found to be in violation of any law or rule, to the detriment
37 of the members of the society or of the public, by bad faith or by

1 manipulation of the assets, or of accounts, or of reinsurance of the
2 society; or

3 (k) Does business through ((agents)) insurance producers or other
4 representatives in this state or in any other state who are not
5 properly licensed under applicable laws and rules.

6 (2) Nothing in this section shall prevent a society from
7 continuing, in good faith, all contracts made in this state during the
8 time the society was legally authorized to transact business herein.

9 **Sec. 46.** RCW 48.36A.330 and 1987 c 366 s 33 are each amended to
10 read as follows:

11 (1) ((Agents)) Insurance producers of societies shall be licensed
12 in accordance with the applicable provisions of chapter 48.17 RCW
13 regulating the licensing, revocation, suspension, or termination of
14 licenses of resident and nonresident ((agents. Persons who are so
15 authorized by a fraternal benefit society for a period of one year
16 immediately prior to June 13, 1963, shall not be required to take and
17 pass an examination as required by RCW 48.17.110)) insurance producers.

18 (2) The following individuals shall not be deemed an ((agent))
19 insurance producer of a fraternal benefit society within the provisions
20 of subsection (1) of this section:

21 (a) Any regular salaried officer or employee of a licensed society
22 who devotes substantially all of their services to activities other
23 than the solicitation of fraternal insurance contracts from the public,
24 and who receives for the solicitation of such contracts no commission
25 or other compensation directly dependent upon the amount of business
26 obtained; or

27 (b) Any ((agent)) insurance producer or representative of a society
28 who devotes, or intends to devote, less than fifty percent of their
29 time to the solicitation and procurement of insurance contracts for
30 such society: PROVIDED, That any person who in the preceding calendar
31 year has solicited and procured life insurance contracts on behalf of
32 any society in an amount of insurance in excess of fifty thousand
33 dollars shall be conclusively presumed to be devoting, or intending to
34 devote, fifty percent of the person's time to the solicitation or
35 procurement of insurance contracts for such society.

1 **Sec. 47.** RCW 48.41.060 and 2005 c 7 s 2 are each amended to read
2 as follows:

3 (1) The board shall have the general powers and authority granted
4 under the laws of this state to insurance companies, health care
5 service contractors, and health maintenance organizations, licensed or
6 registered to offer or provide the kinds of health coverage defined
7 under this title. In addition thereto, the board shall:

8 (a) Designate or establish the standard health questionnaire to be
9 used under RCW 48.41.100 and 48.43.018, including the form and content
10 of the standard health questionnaire and the method of its application.
11 The questionnaire must provide for an objective evaluation of an
12 individual's health status by assigning a discreet measure, such as a
13 system of point scoring to each individual. The questionnaire must not
14 contain any questions related to pregnancy, and pregnancy shall not be
15 a basis for coverage by the pool. The questionnaire shall be designed
16 such that it is reasonably expected to identify the eight percent of
17 persons who are the most costly to treat who are under individual
18 coverage in health benefit plans, as defined in RCW 48.43.005, in
19 Washington state or are covered by the pool, if applied to all such
20 persons;

21 (b) Obtain from a member of the American academy of actuaries, who
22 is independent of the board, a certification that the standard health
23 questionnaire meets the requirements of (a) of this subsection;

24 (c) Approve the standard health questionnaire and any modifications
25 needed to comply with this chapter. The standard health questionnaire
26 shall be submitted to an actuary for certification, modified as
27 necessary, and approved at least every eighteen months. The
28 designation and approval of the standard health questionnaire by the
29 board shall not be subject to review and approval by the commissioner.
30 The standard health questionnaire or any modification thereto shall not
31 be used until ninety days after public notice of the approval of the
32 questionnaire or any modification thereto, except that the initial
33 standard health questionnaire approved for use by the board after March
34 23, 2000, may be used immediately following public notice of such
35 approval;

36 (d) Establish appropriate rates, rate schedules, rate adjustments,
37 expense allowances, claim reserve formulas and any other actuarial
38 functions appropriate to the operation of the pool. Rates shall not be

1 unreasonable in relation to the coverage provided, the risk experience,
2 and expenses of providing the coverage. Rates and rate schedules may
3 be adjusted for appropriate risk factors such as age and area variation
4 in claim costs and shall take into consideration appropriate risk
5 factors in accordance with established actuarial underwriting practices
6 consistent with Washington state individual plan rating requirements
7 under RCW 48.44.022 and 48.46.064;

8 (e)(i) Assess members of the pool in accordance with the provisions
9 of this chapter, and make advance interim assessments as may be
10 reasonable and necessary for the organizational or interim operating
11 expenses. Any interim assessments will be credited as offsets against
12 any regular assessments due following the close of the year.

13 (ii) Self-funded multiple employer welfare arrangements are subject
14 to assessment under this subsection only in the event that assessments
15 are not preempted by the employee retirement income security act of
16 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
17 commissioner shall initially request an advisory opinion from the
18 United States department of labor or obtain a declaratory ruling from
19 a federal court on the legality of imposing assessments on these
20 arrangements before imposing the assessment. Once the legality of the
21 assessments has been determined, the multiple employer welfare
22 arrangement certified by the insurance commissioner must begin payment
23 of these assessments.

24 (iii) If there has not been a final determination of the legality
25 of these assessments, then beginning on the earlier of (A) the date the
26 fourth multiple employer welfare arrangement has been certified by the
27 insurance commissioner, or (B) April 1, 2006, the arrangement shall
28 deposit the assessments imposed by this subsection into an interest
29 bearing escrow account maintained by the arrangement. Upon a final
30 determination that the assessments are not preempted by the employee
31 retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001
32 et seq., all funds in the interest bearing escrow account shall be
33 transferred to the board;

34 (f) Issue policies of health coverage in accordance with the
35 requirements of this chapter;

36 (g) Establish procedures for the administration of the premium
37 discount provided under RCW 48.41.200(3)(a)(iii);

1 (h) Contract with the Washington state health care authority for
2 the administration of the premium discounts provided under RCW
3 48.41.200(3)(a) (i) and (ii);

4 (i) Set a reasonable fee to be paid to an insurance (~~agent~~)
5 producer licensed in Washington state for submitting an acceptable
6 application for enrollment in the pool; and

7 (j) Provide certification to the commissioner when assessments will
8 exceed the threshold level established in RCW 48.41.037.

9 (2) In addition thereto, the board may:

10 (a) Enter into contracts as are necessary or proper to carry out
11 the provisions and purposes of this chapter including the authority,
12 with the approval of the commissioner, to enter into contracts with
13 similar pools of other states for the joint performance of common
14 administrative functions, or with persons or other organizations for
15 the performance of administrative functions;

16 (b) Sue or be sued, including taking any legal action as necessary
17 to avoid the payment of improper claims against the pool or the
18 coverage provided by or through the pool;

19 (c) Appoint appropriate legal, actuarial, and other committees as
20 necessary to provide technical assistance in the operation of the pool,
21 policy, and other contract design, and any other function within the
22 authority of the pool; and

23 (d) Conduct periodic audits to assure the general accuracy of the
24 financial data submitted to the pool, and the board shall cause the
25 pool to have an annual audit of its operations by an independent
26 certified public accountant.

27 (3) Nothing in this section shall be construed to require or
28 authorize the adoption of rules under chapter 34.05 RCW.

29 **Sec. 48.** RCW 48.43.105 and 1996 c 312 s 5 are each amended to read
30 as follows:

31 (1) A public or private entity who exercises due diligence in
32 preparing a document of any kind that compares health carriers of any
33 kind is immune from civil liability from claims based on the document
34 and the contents of the document.

35 (2)(a) There is absolute immunity to civil liability from claims
36 based on such a comparison document and its contents if the information

1 was provided by the carrier, was substantially accurately presented,
2 and contained the effective date of the information that the carrier
3 supplied, if any.

4 (b) Where due diligence efforts to obtain accurate information have
5 been taken, there is immunity from claims based on such a comparison
6 document and its contents if the publisher of the comparison document
7 asked for such information from the carrier, was refused, and relied on
8 any usually reliable source for the information including, but not
9 limited to, carrier enrollees, customers, (~~agents, brokers~~) insurance
10 producers, or providers. The carrier enrollees, customers, (~~agents,~~
11 ~~brokers~~) insurance producers, or providers are likewise immune from
12 civil liability on claims based on information they provided if they
13 believed the information to be accurate and had exercised due diligence
14 in their efforts to confirm the accuracy of the information provided.

15 (3) The immunity from liability contained in this section applies
16 only if the comparison document contains the following in a conspicuous
17 place and in easy to read typeface:

18 This comparison is based on information believed to be reliable
19 by its publisher, but the accuracy of the information cannot be
20 guaranteed. Caution is suggested to all readers who are
21 encouraged to confirm data of importance to the reader before
22 any purchasing or other decisions are made.

23 (4) The insurance commissioner is prohibited from adopting rules
24 regarding this section.

25 **Sec. 49.** RCW 48.43.335 and 1998 c 241 s 8 are each amended to read
26 as follows:

27 (1) All RBC reports, to the extent the information therein is not
28 required to be set forth in a publicly available annual statement
29 schedule, and RBC plans, including the results or report of any
30 examination or analysis of a carrier and any corrective order issued by
31 the commissioner, with respect to any domestic carrier or foreign
32 carrier that are filed with the commissioner constitute information
33 that might be damaging to the carrier if made available to its
34 competitors, and therefore shall be kept confidential by the
35 commissioner. This information shall not be made public or be subject
36 to subpoena, other than by the commissioner and then only for the
37 purpose of enforcement actions taken by the commissioner.

1 (2) The comparison of a carrier's total adjusted capital to any of
2 its RBC levels is a regulatory tool that may indicate the need for
3 possible corrective action with respect to the carrier, and is not a
4 means to rank carriers generally. Therefore, except as otherwise
5 required under the provisions of RCW 48.43.300 through 48.43.370, the
6 making, publishing, disseminating, circulating, or placing before the
7 public, or causing, directly or indirectly, to be made, published,
8 disseminated, circulated, or placed before the public, in a newspaper,
9 magazine, or other publication, or in the form of a notice, circular,
10 pamphlet, letter, or poster, or over any radio or television station,
11 or in any other way, an advertisement, announcement, or statement
12 containing an assertion, representation, or statement with regard to
13 the RBC levels of any carrier, or of any component derived in the
14 calculation, by any carrier, (~~(agent, broker)~~) insurance producer, or
15 other person engaged in any manner in the insurance business would be
16 misleading and is therefore prohibited. However, if any materially
17 false statement with respect to the comparison regarding a carrier's
18 total adjusted capital to its RBC levels (or any of them) or an
19 inappropriate comparison of any other amount to the carrier's RBC
20 levels is published in any written publication and the carrier is able
21 to demonstrate to the commissioner with substantial proof the falsity
22 of such statement, or the inappropriateness, as the case may be, then
23 the carrier may publish an announcement in a written publication if the
24 sole purpose of the announcement is to rebut the materially false
25 statement.

26 (3) The RBC instructions, RBC reports, adjusted RBC reports, RBC
27 plans, and revised RBC plans are intended solely for use by the
28 commissioner in monitoring the solvency of carriers and the need for
29 possible corrective action with respect to carriers and shall not be
30 used by the commissioner for ratemaking nor considered or introduced as
31 evidence in any rate proceeding nor used by the commissioner to
32 calculate or derive any elements of an appropriate premium level or
33 rate of return for any line of insurance that a carrier or any
34 affiliate is authorized to write.

35 **Sec. 50.** RCW 48.44.011 and 1983 c 202 s 1 are each amended to read
36 as follows:

37 (1) (~~(Agent)~~) Insurance producer, as used in this chapter, means

1 any person appointed or authorized by a health care service contractor
2 to solicit applications for health care service contracts on its
3 behalf.

4 (2) No person shall act as or hold himself or herself out to be an
5 ((agent)) appointed insurance producer of a health care service
6 contractor unless licensed as a disability insurance ((agent)) producer
7 by this state and appointed by the health care service contractor on
8 whose behalf solicitations are to be made.

9 (3) Applications, appointments, and qualifications for licenses,
10 the renewal thereof, the fees and issuance of a license, and the
11 renewal thereof shall be in accordance with the provisions of chapter
12 48.17 RCW that are applicable to a disability insurance ((agent))
13 producer.

14 (4) ~~((A person holding a valid license in this state as a health
15 care service contractor agent on July 24, 1983, is not required to
16 requalify by an examination for the renewal of the license.~~

17 (+5)) The commissioner may revoke, suspend, or refuse to issue or
18 renew any ((agent's)) insurance producer's license, or levy a fine upon
19 the licensee, in accordance with those provisions of chapter 48.17 RCW
20 that are applicable to a disability insurance ((agent)) producer.

21 **Sec. 51.** RCW 48.44.020 and 2000 c 79 s 28 are each amended to read
22 as follows:

23 (1) Any health care service contractor may enter into contracts
24 with or for the benefit of persons or groups of persons which require
25 prepayment for health care services by or for such persons in
26 consideration of such health care service contractor providing one or
27 more health care services to such persons and such activity shall not
28 be subject to the laws relating to insurance if the health care
29 services are rendered by the health care service contractor or by a
30 participating provider.

31 (2) The commissioner may on examination, subject to the right of
32 the health care service contractor to demand and receive a hearing
33 under chapters 48.04 and 34.05 RCW, disapprove any individual or group
34 contract form for any of the following grounds:

35 (a) If it contains or incorporates by reference any inconsistent,
36 ambiguous or misleading clauses, or exceptions and conditions which

1 unreasonably or deceptively affect the risk purported to be assumed in
2 the general coverage of the contract; or

3 (b) If it has any title, heading, or other indication of its
4 provisions which is misleading; or

5 (c) If purchase of health care services thereunder is being
6 solicited by deceptive advertising; or

7 (d) If it contains unreasonable restrictions on the treatment of
8 patients; or

9 (e) If it violates any provision of this chapter; or

10 (f) If it fails to conform to minimum provisions or standards
11 required by regulation made by the commissioner pursuant to chapter
12 34.05 RCW; or

13 (g) If any contract for health care services with any state agency,
14 division, subdivision, board, or commission or with any political
15 subdivision, municipal corporation, or quasi-municipal corporation
16 fails to comply with state law.

17 (3) In addition to the grounds listed in subsection (2) of this
18 section, the commissioner may disapprove any group contract if the
19 benefits provided therein are unreasonable in relation to the amount
20 charged for the contract.

21 (4)(a) Every contract between a health care service contractor and
22 a participating provider of health care services shall be in writing
23 and shall state that in the event the health care service contractor
24 fails to pay for health care services as provided in the contract, the
25 enrolled participant shall not be liable to the provider for sums owed
26 by the health care service contractor. Every such contract shall
27 provide that this requirement shall survive termination of the
28 contract.

29 (b) No participating provider, (~~agent,~~) insurance producer,
30 trustee, or assignee may maintain any action against an enrolled
31 participant to collect sums owed by the health care service contractor.

32 **Sec. 52.** RCW 48.44.164 and 1969 c 115 s 10 are each amended to
33 read as follows:

34 Upon the suspension, revocation or refusal of a health care service
35 contractor's registration, the commissioner shall give notice thereof
36 to such contractor and shall likewise suspend, revoke, or refuse the

1 authority of its (~~agents~~) appointed insurance producers to represent
2 it in this state and give notice thereof to the (~~agents~~) appointed
3 insurance producers.

4 **Sec. 53.** RCW 48.44.230 and 1983 1st ex.s. c 32 s 11 are each
5 amended to read as follows:

6 Every subscriber of an individual health care service plan contract
7 issued after September 1, 1973, may return the contract to the health
8 care service contractor or the (~~agent~~) insurance producer through
9 whom it was purchased within ten days of its delivery to the subscriber
10 if, after examination of the contract, he or she is not satisfied with
11 it for any reason, and the health care service contractor shall refund
12 promptly any fee paid for such contract. Upon such return of the
13 contract it shall be void from the beginning and the parties shall be
14 in the same position as if no policy had been issued. Notice of the
15 substance of this section shall be printed on the face of each such
16 contract or be attached thereto. An additional ten percent penalty
17 shall be added to any premium refund due which is not paid within
18 thirty days of return of the policy to the insurer or (~~agent~~)
19 insurance producer.

20 **Sec. 54.** RCW 48.46.023 and 1983 c 202 s 8 are each amended to read
21 as follows:

22 (1) (~~Agent~~) Insurance producer, as used in this chapter, means
23 any person appointed or authorized by a health maintenance organization
24 to solicit applications for health care service agreements on its
25 behalf.

26 (2) No person shall act as or hold himself or herself out to be an
27 (~~agent~~) appointed insurance producer of a health maintenance
28 organization unless licensed as a disability insurance (~~agent~~)
29 producer by this state and appointed or authorized by the health
30 maintenance organization on whose behalf solicitations are to be made.

31 (3) Applications, appointments, and qualifications for licenses,
32 the renewal thereof, the fees and issuance of a license, and the
33 renewal thereof shall be in accordance with the provisions of chapter
34 48.17 RCW that are applicable to a disability insurance (~~agent~~)
35 producer.

1 (4) (~~A person holding a valid license in this state as a health~~
2 ~~maintenance organization agent on July 24, 1983, is not required to~~
3 ~~requalify by an examination for the renewal of the license.~~

4 (5)) The commissioner may revoke, suspend, or refuse to issue or
5 renew any ((agent's)) insurance producer's license, or levy a fine upon
6 the licensee, in accordance with those provisions of chapter 48.17 RCW
7 that are applicable to a disability insurance ((agent)) producer.

8 **Sec. 55.** RCW 48.46.170 and 2003 c 248 s 17 are each amended to
9 read as follows:

10 (1) Solicitation of enrolled participants by a health maintenance
11 organization granted a certificate of registration, or its ((agents))
12 appointed insurance producers or representatives, does not violate any
13 provision of law relating to solicitation or advertising by health
14 professionals.

15 (2) Any health maintenance organization authorized under this
16 chapter is not violating any law prohibiting the practice by unlicensed
17 persons of podiatric medicine and surgery, chiropractic, dental
18 hygiene, opticianry, dentistry, optometry, osteopathic medicine and
19 surgery, pharmacy, medicine and surgery, physical therapy, nursing, or
20 psychology. This subsection does not expand a health professional's
21 scope of practice or allow employees of a health maintenance
22 organization to practice as a health professional unless licensed.

23 (3) This chapter does not alter any statutory obligation, or rule
24 adopted thereunder, in chapter 70.38 RCW.

25 (4) Any health maintenance organization receiving a certificate of
26 registration pursuant to this chapter is exempt from chapter 48.05 RCW.

27 **Sec. 56.** RCW 48.46.243 and 1990 c 119 s 7 are each amended to read
28 as follows:

29 (1) Subject to subsection (2) of this section, every contract
30 between a health maintenance organization and its participating
31 providers of health care services shall be in writing and shall set
32 forth that in the event the health maintenance organization fails to
33 pay for health care services as set forth in the agreement, the
34 enrolled participant shall not be liable to the provider for any sums
35 owed by the health maintenance organization. Every such contract shall

1 provide that this requirement shall survive termination of the
2 contract.

3 (2) The provisions of subsection (1) of this section shall not
4 apply to emergency care from a provider who is not a participating
5 provider, to out-of-area services or, in exceptional situations
6 approved in advance by the commissioner, if the health maintenance
7 organization is unable to negotiate reasonable and cost-effective
8 participating provider contracts.

9 (3)(a) Each participating provider contract form shall be filed
10 with the commissioner fifteen days before it is used.

11 (b) Any contract form not affirmatively disapproved within fifteen
12 days of filing shall be deemed approved, except that the commissioner
13 may extend the approval period an additional fifteen days upon giving
14 notice before the expiration of the initial fifteen-day period. The
15 commissioner may approve such a contract form for immediate use at any
16 time. Approval may be subsequently withdrawn for cause.

17 (c) Subject to the right of the health maintenance organization to
18 demand and receive a hearing under chapters 48.04 and 34.05 RCW, the
19 commissioner may disapprove such a contract form if it is in any
20 respect in violation of this chapter or if it fails to conform to
21 minimum provisions or standards required by the commissioner by rule
22 under chapter 34.05 RCW.

23 (4) No participating provider, or (~~agent~~) insurance producer,
24 trustee, or assignee thereof, may maintain an action against an
25 enrolled participant to collect sums owed by the health maintenance
26 organization.

27 **Sec. 57.** RCW 48.46.260 and 1983 c 202 s 13 are each amended to
28 read as follows:

29 Every subscriber of an individual health maintenance agreement may
30 return the agreement to the health maintenance organization or the
31 (~~agent~~) insurance producer through whom it was purchased within ten
32 days of its delivery to the subscriber if, after examination of the
33 agreement, the subscriber is not satisfied with it for any reason. The
34 health maintenance organization shall refund promptly any fee paid for
35 the agreement. An additional ten percent penalty shall be added to any
36 premium refund due which is not paid within thirty days of return of
37 the policy to the health maintenance organization or (~~agent~~)

1 insurance producer. Upon such return of the agreement, it shall be
2 void from the beginning and the parties shall be in the same position
3 as if no agreement had been issued. Notice of the provisions of this
4 section shall be printed on the face of each such agreement or be
5 attached thereto.

6 **Sec. 58.** RCW 48.46.340 and 1983 c 106 s 12 are each amended to
7 read as follows:

8 Every subscriber of an individual health maintenance agreement may
9 return the agreement to the health maintenance organization or the
10 ((agent)) insurance producer through whom it was purchased within ten
11 days of its delivery to the subscriber if, after examination of the
12 agreement, the subscriber is not satisfied with it for any reason. The
13 health maintenance organization shall refund promptly any fee paid for
14 the agreement. Upon such return of the agreement, it shall be void
15 from the beginning and the parties shall be in the same position as if
16 no agreement had been issued. Notice of the substance of this section
17 shall be printed on the face of each such agreement or be attached
18 thereto.

19 **Sec. 59.** RCW 48.50.070 and 2006 c 284 s 14 are each amended to
20 read as follows:

21 Any licensed insurance producer, title insurance agent, ((any
22 ~~licensed insurance broker, or any~~)) or insurer or person acting in the
23 insurer's behalf, health maintenance organization or person acting in
24 behalf of the health maintenance organization, health care service
25 contractor or person acting in behalf of the health care service
26 contractor, or any authorized agency which releases information,
27 whether oral or written, to the commissioner, the national insurance
28 crime bureau, the national association of insurance commissioners,
29 other law enforcement agent or agency, or another insurer under RCW
30 48.50.030, 48.50.040, 48.50.050, 48.50.055, or 48.135.050 is immune
31 from liability in any civil or criminal action, suit, or prosecution
32 arising from the release of the information, unless actual malice on
33 the part of the ((agent, broker)) insurance producer, title insurance
34 agent, insurer, health care maintenance organization, health care
35 service contractor, or authorized agency against the insured is shown.

1 **Sec. 60.** RCW 48.56.020 and 1969 ex.s. c 190 s 2 are each amended
2 to read as follows:

3 As used in this chapter:

4 (1) "Insurance premium finance company" means a person engaged in
5 the business of entering into insurance premium finance agreements.

6 (2) "Premium finance agreement" means an agreement by which an
7 insured or prospective insured promises to pay to a premium finance
8 company the amount advanced or to be advanced under the agreement to an
9 insurer or to an insurance (~~(agent or broker)~~) producer in payment of
10 premiums on an insurance contract together with a service charge as
11 authorized and limited by this chapter and as security therefor the
12 insurance premium finance company receives an assignment of the
13 unearned premium.

14 (3) "Licensee" means a premium finance company holding a license
15 issued by the insurance commissioner under this chapter.

16 **Sec. 61.** RCW 48.56.080 and 1975-'76 2nd ex.s. c 119 s 6 are each
17 amended to read as follows:

18 (1) A premium finance agreement shall(~~(—)~~):

19 (a) Be dated, signed by or on behalf of the insured, and the
20 printed portion thereof shall be in at least eight point type;

21 (b) Contain the name and place of business of the insurance
22 (~~(agent)~~) producer negotiating the related insurance contract, the name
23 and residence or the place of business of the premium finance company
24 to which payments are to be made, a description of the insurance
25 contracts involved and the amount of the premium therefor; and

26 (c) Set forth the following items where applicable(~~(—)~~):

27 (i) The total amount of the premiums(~~(τ)~~);

28 (ii) The amount of the down payment(~~(τ)~~);

29 (iii) The principal balance (the difference between items (i) and
30 (ii))(~~(τ)~~);

31 (iv) The amount of the service charge(~~(τ)~~);

32 (v) The balance payable by the insured (sum of items (iii) and
33 (iv))(~~(τ)~~); and

34 (vi) The number of installments required, the amount of each
35 installment expressed in dollars, and the due date or period thereof.

36 (2) The items set out in (~~(paragraph (c) of)~~) subsection (1)(c) of
37 this section need not be stated in the sequence or order in which they

1 appear in (~~such paragraph (c)~~) that subsection, and additional items
2 may be included to explain the computations made in determining the
3 amount to be paid by the insured.

4 (3) The information required by subsection (1) of this section
5 shall only be required in the initial agreement where the premium
6 finance company and the insured enter into an open end credit
7 transaction, which is defined as follows: A plan prescribing the terms
8 of credit transactions which may be made thereunder from time to time
9 and under the terms of which a finance charge may be computed on the
10 outstanding unpaid balance from time to time thereunder.

11 (4) A copy of the premium finance agreement shall be given to the
12 insured at the time or within ten days of its execution, except where
13 the application has been signed by the insured and all the finance
14 charges are one dollar or less per payment. In addition, the premium
15 finance company shall deliver or mail a copy of the premium finance
16 agreement or notice identifying policy, insured, and (~~producing~~
17 ~~agent~~) insurance producer to each insurer that has premiums involved
18 in the transaction, within thirty days of the execution of the premium
19 finance agreement.

20 (5) It shall be illegal for a premium finance company to offset
21 funds of an (~~agent~~) insurance producer with funds belonging to an
22 insured. Premiums advanced by a premium finance company are funds
23 belonging to the insured and shall be held in a fiduciary relationship.

24 **Sec. 62.** RCW 48.62.121 and 1993 c 458 s 1 are each amended to read
25 as follows:

26 (1) No employee or official of a local government entity may
27 directly or indirectly receive anything of value for services rendered
28 in connection with the operation and management of a self-insurance
29 program other than the salary and benefits provided by his or her
30 employer or the reimbursement of expenses reasonably incurred in
31 furtherance of the operation or management of the program. No employee
32 or official of a local government entity may accept or solicit anything
33 of value for personal benefit or for the benefit of others under
34 circumstances in which it can be reasonably inferred that the
35 employee's or official's independence of judgment is impaired with
36 respect to the management and operation of the program.

1 (2)(a) No local government entity may participate in a joint self-
2 insurance program in which local government entities do not retain
3 complete governing control. This prohibition does not apply to:

4 (i) Local government contribution to a self-insured employee health
5 and welfare benefits plan otherwise authorized and governed by state
6 statute;

7 (ii) Local government participation in a multistate joint program
8 where control is shared with local government entities from other
9 states; or

10 (iii) Local government contribution to a self-insured employee
11 health and welfare benefit trust in which the local government shares
12 governing control with their employees.

13 (b) If a local government self-insured health and welfare benefit
14 program, established by the local government as a trust, shares
15 governing control of the trust with its employees:

16 (i) The local government must maintain at least a fifty percent
17 voting control of the trust;

18 (ii) No more than one voting, nonemployee, union representative
19 selected by employees may serve as a trustee; and

20 (iii) The trust agreement must contain provisions for resolution of
21 any deadlock in the administration of the trust.

22 (3) Moneys made available and moneys expended by school districts
23 and educational service districts for self-insurance under this chapter
24 are subject to such rules of the superintendent of public instruction
25 as the superintendent may adopt governing budgeting and accounting.
26 However, the superintendent shall ensure that the rules are consistent
27 with those adopted by the state risk manager for the management and
28 operation of self-insurance programs.

29 (4) RCW 48.30.140, 48.30.150, 48.30.155, and 48.30.157 apply to the
30 use of (~~agents and brokers~~) insurance producers by local government
31 self-insurance programs.

32 (5) Every individual and joint local government self-insured health
33 and welfare benefits program that provides comprehensive coverage for
34 health care services shall include mandated benefits that the state
35 health care authority is required to provide under RCW 41.05.170 and
36 41.05.180. The state risk manager may adopt rules identifying the
37 mandated benefits.

1 (6) An employee health and welfare benefit program established as
2 a trust shall contain a provision that trust funds be expended only for
3 purposes of the trust consistent with statutes and rules governing the
4 local government or governments creating the trust.

5 **Sec. 63.** RCW 48.62.151 and 1991 sp.s. c 30 s 15 are each amended
6 to read as follows:

7 A joint self-insurance program approved in accordance with this
8 chapter is exempt from insurance premium taxes, from fees assessed
9 under chapter 48.02 RCW, from chapters 48.32 and 48.32A RCW, from
10 business and occupations taxes imposed under chapter 82.04 RCW, and
11 from any assigned risk plan or joint underwriting association otherwise
12 required by law. This section does not apply to and no exemption is
13 provided for insurance companies issuing policies to cover program
14 risks, nor does it apply to or provide an exemption for third-party
15 administrators or (~~brokers~~) insurance producers serving the self-
16 insurance program.

17 **Sec. 64.** RCW 48.66.055 and 2005 c 41 s 5 are each amended to read
18 as follows:

19 (1) Under this section, persons eligible for a medicare supplement
20 policy or certificate are those individuals described in subsection (3)
21 of this section who, subject to subsection (3)(b)(ii) of this section,
22 apply to enroll under the policy not later than sixty-three days after
23 the date of the termination of enrollment described in subsection (3)
24 of this section, and who submit evidence of the date of termination or
25 disenrollment, or medicare part D enrollment, with the application for
26 a medicare supplement policy.

27 (2) With respect to eligible persons, an issuer may not deny or
28 condition the issuance or effectiveness of a medicare supplement policy
29 described in subsection (4) of this section that is offered and is
30 available for issuance to new enrollees by the issuer, shall not
31 discriminate in the pricing of such a medicare supplement policy
32 because of health status, claims experience, receipt of health care, or
33 medical condition, and shall not impose an exclusion of benefits based
34 on a preexisting condition under such a medicare supplement policy.

35 (3) "Eligible persons" means an individual that meets the

1 requirements of (a), (b), (c), (d), (e), or (f) of this subsection, as
2 follows:

3 (a) The individual is enrolled under an employee welfare benefit
4 plan that provides health benefits that supplement the benefits under
5 medicare; and the plan terminates, or the plan ceases to provide all
6 such supplemental health benefits to the individual;

7 (b)(i) The individual is enrolled with a medicare advantage
8 organization under a medicare advantage plan under part C of medicare,
9 and any of the following circumstances apply, or the individual is
10 sixty-five years of age or older and is enrolled with a program of all
11 inclusive care for the elderly (PACE) provider under section 1894 of
12 the social security act, and there are circumstances similar to those
13 described in this subsection (3)(b) that would permit discontinuance of
14 the individual's enrollment with the provider if the individual were
15 enrolled in a medicare advantage plan:

16 (A) The certification of the organization or plan has been
17 terminated;

18 (B) The organization has terminated or otherwise discontinued
19 providing the plan in the area in which the individual resides;

20 (C) The individual is no longer eligible to elect the plan because
21 of a change in the individual's place of residence or other change in
22 circumstances specified by the secretary of the United States
23 department of health and human services, but not including termination
24 of the individual's enrollment on the basis described in section
25 1851(g)(3)(B) of the federal social security act (where the individual
26 has not paid premiums on a timely basis or has engaged in disruptive
27 behavior as specified in standards under section 1856 of the federal
28 social security act), or the plan is terminated for all individuals
29 within a residence area;

30 (D) The individual demonstrates, in accordance with guidelines
31 established by the secretary of the United States department of health
32 and human services, that:

33 (I) The organization offering the plan substantially violated a
34 material provision of the organization's contract under this part in
35 relation to the individual, including the failure to provide an
36 enrollee on a timely basis medically necessary care for which benefits
37 are available under the plan or the failure to provide such covered
38 care in accordance with applicable quality standards; or

1 (II) The organization, an (~~agent~~) insurance producer, or other
2 entity acting on the organization's behalf materially misrepresented
3 the plan's provisions in marketing the plan to the individual; or

4 (E) The individual meets other exceptional conditions as the
5 secretary of the United States department of health and human services
6 may provide.

7 (ii)(A) An individual described in (b)(i) of this subsection may
8 elect to apply (a) of this subsection by substituting, for the date of
9 termination of enrollment, the date on which the individual was
10 notified by the medicare advantage organization of the impending
11 termination or discontinuance of the medicare advantage plan it offers
12 in the area in which the individual resides, but only if the individual
13 disenrolls from the plan as a result of such notification.

14 (B) In the case of an individual making the election under
15 (b)(ii)(A) of this subsection, the issuer involved shall accept the
16 application of the individual submitted before the date of termination
17 of enrollment, but the coverage under subsection (1) of this section is
18 only effective upon termination of coverage under the medicare
19 advantage plan involved;

20 (c)(i) The individual is enrolled with:

21 (A) An eligible organization under a contract under section 1876
22 (medicare risk or cost);

23 (B) A similar organization operating under demonstration project
24 authority, effective for periods before April 1, 1999;

25 (C) An organization under an agreement under section 1833(a)(1)(A)
26 (health care prepayment plan); or

27 (D) An organization under a medicare select policy; and

28 (ii) The enrollment ceases under the same circumstances that would
29 permit discontinuance of an individual's election of coverage under
30 (b)(i) of this subsection;

31 (d) The individual is enrolled under a medicare supplement policy
32 and the enrollment ceases because:

33 (i)(A) Of the insolvency of the issuer or bankruptcy of the
34 nonissuer organization; or

35 (B) Of other involuntary termination of coverage or enrollment
36 under the policy;

37 (ii) The issuer of the policy substantially violated a material
38 provision of the policy; or

1 (iii) The issuer, an (~~agent~~) insurance producer, or other entity
2 acting on the issuer's behalf materially misrepresented the policy's
3 provisions in marketing the policy to the individual;

4 (e)(i) The individual was enrolled under a medicare supplement
5 policy and terminates enrollment and subsequently enrolls, for the
6 first time, with any medicare advantage organization under a medicare
7 advantage plan under part C of medicare, any eligible organization
8 under a contract under section 1876 (medicare risk or cost), any
9 similar organization operating under demonstration project authority,
10 any PACE program under section 1894 of the social security act or a
11 medicare select policy; and

12 (ii) The subsequent enrollment under (e)(i) of this subsection is
13 terminated by the enrollee during any period within the first twelve
14 months of such subsequent enrollment (during which the enrollee is
15 permitted to terminate such subsequent enrollment under section 1851(e)
16 of the federal social security act);

17 (f) The individual, upon first becoming eligible for benefits under
18 part A of medicare at age sixty-five, enrolls in a medicare advantage
19 plan under part C of medicare, or in a PACE program under section 1894,
20 and disenrolls from the plan or program by not later than twelve months
21 after the effective date of enrollment; or

22 (g) The individual enrolls in a medicare part D plan during the
23 initial enrollment period and, at the time of enrollment in part D, was
24 enrolled under a medicare supplement policy that covers outpatient
25 prescription drugs, and the individual terminates enrollment in the
26 medicare supplement policy and submits evidence of enrollment in
27 medicare part D along with the application for a policy described in
28 subsection (4)(d) of this section.

29 (4) An eligible person under subsection (3) of this section is
30 entitled to a medicare supplement policy as follows:

31 (a) A person eligible under subsection (3)(a), (b), (c), and (d) of
32 this section is entitled to a medicare supplement policy that has a
33 benefit package classified as plan A through F (including F with a high
34 deductible), K, or L, offered by any issuer;

35 (b)(i) Subject to (b)(ii) of this subsection, a person eligible
36 under subsection (3)(e) of this section is entitled to the same
37 medicare supplement policy in which the individual was most recently

1 previously enrolled, if available from the same issuer, or, if not so
2 available, a policy described in (a) of this subsection;

3 (ii) After December 31, 2005, if the individual was most recently
4 enrolled in a medicare supplement policy with an outpatient
5 prescription drug benefit, a medicare supplement policy described in
6 this subsection (4)(b)(ii) is:

7 (A) The policy available from the same issuer but modified to
8 remove outpatient prescription drug coverage; or

9 (B) At the election of the policyholder, an A, B, C, F (including
10 F with a high deductible), K, or L policy that is offered by any
11 issuer;

12 (c) A person eligible under subsection (3)(f) of this section is
13 entitled to any medicare supplement policy offered by any issuer; and

14 (d) A person eligible under subsection (3)(g) of this section is
15 entitled to a medicare supplement policy that has a benefit package
16 classified as plan A, B, C, F (including F with a high deductible), K,
17 or L and that is offered and is available for issuance to new enrollees
18 by the same issuer that issued the individual's medicare supplement
19 policy with outpatient prescription drug coverage.

20 (5)(a) At the time of an event described in subsection (3) of this
21 section, and because of which an individual loses coverage or benefits
22 due to the termination of a contract, agreement, policy, or plan, the
23 organization that terminates the contract or agreement, the issuer
24 terminating the policy, or the administrator of the plan being
25 terminated, respectively, must notify the individual of his or her
26 rights under this section, and of the obligations of issuers of
27 medicare supplement policies under subsection (1) of this section. The
28 notice must be communicated contemporaneously with the notification of
29 termination.

30 (b) At the time of an event described in subsection (3) of this
31 section, and because of which an individual ceases enrollment under a
32 contract, agreement, policy, or plan, the organization that offers the
33 contract or agreement, regardless of the basis for the cessation of
34 enrollment, the issuer offering the policy, or the administrator of the
35 plan, respectively, must notify the individual of his or her rights
36 under this section, and of the obligations of issuers of medicare
37 supplement policies under subsection (1) of this section. The notice

1 must be communicated within ten working days of the issuer receiving
2 notification of disenrollment.

3 (6) Guaranteed issue time periods:

4 (a) In the case of an individual described in subsection (3)(a) of
5 this section, the guaranteed issue period begins on the later of: (i)
6 The date the individual receives a notice of termination or cessation
7 of all supplemental health benefits (or, if a notice is not received,
8 notice that a claim has been denied because of a termination or
9 cessation), or (ii) the date that the applicable coverage terminates or
10 ceases, and ends sixty-three days thereafter;

11 (b) In the case of an individual described in subsection (3)(b),
12 (c), (e), or (f) of this section whose enrollment is terminated
13 involuntarily, the guaranteed issue period begins on the date that the
14 individual receives a notice of termination and ends sixty-three days
15 after the date the applicable coverage is terminated;

16 (c) In the case of an individual described in subsection (3)(d)(i)
17 of this section, the guaranteed issue period begins on the earlier of:
18 (i) The date that the individual receives a notice of termination, a
19 notice of the issuer's bankruptcy or insolvency, or other such similar
20 notice if any, and (ii) the date that the applicable coverage is
21 terminated, and ends on the date that is sixty-three days after the
22 date the coverage is terminated;

23 (d) In the case of an individual described in subsection (3)(b),
24 (d)(ii) and (iii), (e), or (f) of this section, who disenrolls
25 voluntarily, the guaranteed issue period begins on the date that is
26 sixty days before the effective date of the disenrollment and ends on
27 the date that is sixty-three days after the effective date;

28 (e) In the case of an individual described in subsection (3)(g) of
29 this section, the guaranteed issue period begins on the date the
30 individual receives notice pursuant to section 1882(v)(2)(B) of the
31 federal social security act from the medicare supplement issuer during
32 the sixty-day period immediately preceding the initial part D
33 enrollment period and ends on the date that is sixty-three days after
34 the effective date of the individual's coverage under medicare part D;
35 and

36 (f) In the case of an individual described in subsection (3) of
37 this section but not described in the preceding provisions of this

1 subsection, the guaranteed issue period begins on the effective date of
2 disenrollment and ends on the date that is sixty-three days after the
3 effective date.

4 (7) In the case of an individual described in subsection (3)(e) of
5 this section whose enrollment with an organization or provider
6 described in subsection (3)(e)(i) of this section is involuntarily
7 terminated within the first twelve months of enrollment, and who,
8 without an intervening enrollment, enrolls with another organization or
9 provider, the subsequent enrollment is an initial enrollment as
10 described in subsection (3)(e) of this section.

11 (8) In the case of an individual described in subsection (3)(f) of
12 this section whose enrollment with a plan or in a program described in
13 subsection (3)(f) of this section is involuntarily terminated within
14 the first twelve months of enrollment, and who, without an intervening
15 enrollment, enrolls in another plan or program, the subsequent
16 enrollment is an initial enrollment as described in subsection (3)(f)
17 of this section.

18 (9) For purposes of subsection (3)(e) and (f) of this section, an
19 enrollment of an individual with an organization or provider described
20 in subsection (3)(e)(i) of this section, or with a plan or in a program
21 described in subsection (3)(f) of this section is not an initial
22 enrollment under this subsection after the two-year period beginning on
23 the date on which the individual first enrolled with such an
24 organization, provider, plan, or program.

25 **Sec. 65.** RCW 48.66.120 and 1983 1st ex.s. c 32 s 12 are each
26 amended to read as follows:

27 (1) Every individual medicare supplement insurance policy issued
28 after January 1, 1982, and every certificate issued pursuant to a group
29 medicare supplement policy after January 1, 1982, shall have
30 prominently displayed on the first page of the policy form or
31 certificate a notice stating in substance that the person to whom the
32 policy or certificate is issued shall be permitted to return the policy
33 or certificate within thirty days of its delivery to the purchaser and
34 to have the premium refunded if, after examination of the policy or
35 certificate, the purchaser is not satisfied with it for any reason. An
36 additional ten percent penalty shall be added to any premium refund due
37 which is not paid within thirty days of return of the policy to the

1 insurer or ((agent)) insurance producer. If a policyholder or
2 purchaser, pursuant to such notice, returns the policy or certificate
3 to the insurer at its home or branch office or to the ((agent))
4 insurance producer through whom it was purchased, it shall be void from
5 the beginning and the parties shall be in the same position as if no
6 policy or certificate had been issued.

7 (2) No later than January 1, 2010, or when the insurer has used all
8 of its existing paper individual medicare supplement insurance policy
9 forms which were in its possession on July 1, 2009, whichever is
10 earlier, the notice required by subsection (1) of this section shall
11 use the term insurance producer in place of agent.

12 **Sec. 66.** RCW 48.76.090 and 1982 1st ex.s. c 9 s 18 are each
13 amended to read as follows:

14 This chapter does not apply to any of the following:

- 15 (1) Reinsurance;
- 16 (2) Group insurance;
- 17 (3) A pure endowment;
- 18 (4) An annuity or reversionary annuity contract;
- 19 (5) A term policy of a uniform amount, which provides no guaranteed
20 nonforfeiture or endowment benefits, or renewal thereof, of twenty
21 years or less expiring before age seventy-one, for which uniform
22 premiums are payable during the entire term of the policy;
- 23 (6) A term policy of a decreasing amount, which provides no
24 guaranteed nonforfeiture or endowment benefits, on which each adjusted
25 premium, calculated as specified in RCW 48.76.050, is less than the
26 adjusted premium so calculated, on a term policy of uniform amount, or
27 renewal thereof, which provides no guaranteed nonforfeiture or
28 endowment benefits, issued at the same age and for the same initial
29 amount of insurance and for a term of twenty years or less expiring
30 before age seventy-one, for which uniform premiums are payable during
31 the entire term of the policy;
- 32 (7) A policy, which provides no guaranteed nonforfeiture or
33 endowment benefits, for which no cash surrender value, if any, or
34 present value of any paid-up nonforfeiture benefit, at the beginning of
35 any policy year, calculated as specified in RCW 48.76.030 through
36 48.76.050, exceeds two and one-half percent of the amount of insurance
37 at the beginning of the same policy year; nor

1 (8) A policy which is delivered outside this state through an
2 ((agent)) insurance producer or other representative of the company
3 issuing the policy.

4 For purposes of determining the applicability of this chapter, the
5 age at expiration for a joint term life insurance policy is the age at
6 expiration of the oldest life.

7 **Sec. 67.** RCW 48.84.050 and 1986 c 170 s 5 are each amended to read
8 as follows:

9 (1) The commissioner shall adopt rules requiring disclosure to
10 consumers of the level, type, and amount of benefits provided and the
11 limitations, exclusions, and exceptions contained in a long-term care
12 insurance policy or contract. In adopting such rules the commissioner
13 shall require an understandable disclosure to consumers of any cost for
14 services that the consumer will be responsible for in utilizing
15 benefits covered under the policy or contract.

16 (2) Each long-term care insurance policy or contract shall include
17 a provision, prominently displayed on the first page of the policy or
18 contract, stating in substance that the person to whom the policy or
19 contract is sold shall be permitted to return the policy or contract
20 within thirty days of its delivery. In the case of policies or
21 contracts solicited and sold by mail, the person may return the policy
22 or contract within sixty days. Once the policy or contract has been
23 returned, the person may have the premium refunded if, after
24 examination of the policy or contract, the person is not satisfied with
25 it for any reason. An additional ten percent penalty shall be added to
26 any premium refund due which is not paid within thirty days of return
27 of the policy or contract to the insurer or ((agent)) insurance
28 producer. If a person, pursuant to such notice, returns the policy or
29 contract to the insurer at its branch or home office, or to the
30 ((agent)) insurance producer from whom the policy or contract was
31 purchased, the policy or contract shall be void from its inception, and
32 the parties shall be in the same position as if no policy or contract
33 had been issued.

34 (3) No later than January 1, 2010, or when the insurer has used all
35 of its existing paper long-term care insurance policy forms which were
36 in its possession on July 1, 2009, whichever is earlier, the notice

1 required by subsection (2) of this section shall use the term insurance
2 producer in place of agent.

3 **Sec. 68.** RCW 48.84.060 and 1986 c 170 s 6 are each amended to read
4 as follows:

5 No ((~~agent, broker,~~)) insurance producer or other representative of
6 an insurer, contractor, or other organization selling or offering long-
7 term care insurance policies or benefit contracts may: (1) Complete
8 the medical history portion of any form or application for the purchase
9 of such policy or contract; (2) knowingly sell a long-term care policy
10 or contract to any person who is receiving medicaid; or (3) use or
11 engage in any unfair or deceptive act or practice in the advertising,
12 sale, or marketing of long-term care policies or contracts.

13 **Sec. 69.** RCW 48.92.040 and 1993 c 462 s 94 are each amended to
14 read as follows:

15 Risk retention groups chartered and licensed in states other than
16 this state and seeking to do business as a risk retention group in this
17 state shall comply with the laws of this state as follows:

18 (1) Before offering insurance in this state, a risk retention group
19 shall submit to the commissioner on a form prescribed by the National
20 Association of Insurance Commissioners:

21 (a) A statement identifying the state or states in which the risk
22 retention group is chartered and licensed as a liability insurance
23 company, date of chartering, its principal place of business, and any
24 other information including information on its membership, as the
25 commissioner of this state may require to verify that the risk
26 retention group is qualified under RCW 48.92.020(11);

27 (b) A copy of its plan of operations or a feasibility study and
28 revisions of the plan or study submitted to its state of domicile:
29 PROVIDED, HOWEVER, That the provision relating to the submission of a
30 plan of operation or a feasibility study shall not apply with respect
31 to any line or classification of liability insurance which: (i) Was
32 defined in the federal Product Liability Risk Retention Act of 1981
33 before October 27, 1986; and (ii) was offered before that date by any
34 risk retention group which had been chartered and operating for not
35 less than three years before that date;

1 (c) The risk retention group shall submit a copy of any revision to
2 its plan of operation or feasibility study required under RCW
3 48.92.030(3) at the same time that the revision is submitted to the
4 commissioner of its chartering state; and

5 (d) A statement of registration which designates the commissioner
6 as its agent for the purpose of receiving service of legal documents or
7 process.

8 (2) Any risk retention group doing business in this state shall
9 submit to the commissioner:

10 (a) A copy of the group's financial statement submitted to its
11 state of domicile, which shall be certified by an independent public
12 accountant and contain a statement of opinion on loss and loss
13 adjustment expense reserves made by a member of the American academy of
14 actuaries or a qualified loss reserve specialist under criteria
15 established by the National Association of Insurance Commissioners;

16 (b) A copy of each examination of the risk retention group as
17 certified by the commissioner or public official conducting the
18 examination;

19 (c) Upon request by the commissioner, a copy of any information or
20 document pertaining to an outside audit performed with respect to the
21 risk retention group; and

22 (d) Any information as may be required to verify its continuing
23 qualification as a risk retention group under RCW 48.92.020(11).

24 (3)(a) A risk retention group is liable for the payment of premium
25 taxes and taxes on premiums of direct business for risks resident or
26 located within this state, and shall report on or before March 1st of
27 each year to the commissioner the direct premiums written for risks
28 resident or located within this state. The risk retention group is
29 subject to taxation, and applicable fines and penalties related
30 thereto, on the same basis as a foreign admitted insurer.

31 (b) To the extent (~~(agents or brokers)~~) insurance producers are
32 utilized under RCW 48.92.120 or otherwise, they shall report to the
33 commissioner the premiums for direct business for risks resident or
34 located within this state that the licensees have placed with or on
35 behalf of a risk retention group not chartered in this state.

36 (c) To the extent (~~(agents or brokers)~~) insurance producers are
37 used under RCW 48.92.120 or otherwise, an (~~(agent or broker)~~) insurance
38 producer shall keep a complete and separate record of all policies

1 procured from each risk retention group. The record is open to
2 examination by the commissioner, as provided in chapter 48.03 RCW.
3 These records must include, for each policy and each kind of insurance
4 provided thereunder, the following:

- 5 (i) The limit of liability;
- 6 (ii) The time period covered;
- 7 (iii) The effective date;
- 8 (iv) The name of the risk retention group that issued the policy;
- 9 (v) The gross premium charged; and
- 10 (vi) The amount of return premiums, if any.

11 (4) Any risk retention group, its (~~agents~~) appointed insurance
12 producers and representatives, shall be subject to any and all unfair
13 claims settlement practices statutes and regulations specifically
14 denominated by the commissioner as unfair claims settlement practices
15 regulations.

16 (5) Any risk retention group, its (~~agents~~) appointed insurance
17 producers and representatives, shall be subject to the provisions of
18 chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or
19 practices. However, if the commissioner seeks an injunction regarding
20 such conduct, the injunction must be obtained from a court of competent
21 jurisdiction.

22 (6) Any risk retention group must submit to an examination by the
23 commissioner to determine its financial condition if the commissioner
24 of the jurisdiction in which the group is chartered has not initiated
25 an examination or does not initiate an examination within sixty days
26 after a request by the commissioner of this state. The examination
27 shall be coordinated to avoid unjustified repetition and conducted in
28 an expeditious manner and in accordance with the National Association
29 of Insurance Commissioners' examiner handbook.

30 (7) Every application form for insurance from a risk retention
31 group and every policy issued by a risk retention group shall contain
32 in ten-point type on the front page and the declaration page, the
33 following notice:

34 NOTICE

35 This policy is issued by your risk retention group. Your risk
36 retention group may not be subject to all of the insurance laws
37 and regulations of your state. State insurance insolvency
38 guaranty funds are not available for your risk retention group.

1 (8) The following acts by a risk retention group are hereby
2 prohibited:

3 (a) The solicitation or sale of insurance by a risk retention group
4 to any person who is not eligible for membership in that group; and

5 (b) The solicitation or sale of insurance by, or operation of, a
6 risk retention group that is in a hazardous financial condition or is
7 financially impaired.

8 (9) No risk retention group shall be allowed to do business in this
9 state if an insurance company is directly or indirectly a member or
10 owner of the risk retention group, other than in the case of a risk
11 retention group all of whose members are insurance companies.

12 (10) The terms of an insurance policy issued by a risk retention
13 group may not provide, or be construed to provide, coverage prohibited
14 generally by statute of this state or declared unlawful by the highest
15 court of this state.

16 (11) A risk retention group not chartered in this state and doing
17 business in this state shall comply with a lawful order issued in a
18 voluntary dissolution proceeding or in a delinquency proceeding
19 commenced by a state insurance commissioner if there has been a finding
20 of financial impairment after an examination under subsection (6) of
21 this section.

22 **Sec. 70.** RCW 48.92.090 and 1993 c 462 s 98 are each amended to
23 read as follows:

24 (1) A purchasing group may not purchase insurance from a risk
25 retention group that is not chartered in a state or from an insurer not
26 admitted in the state in which the purchasing group is located, unless
27 the purchase is effected through a licensed (~~agent or broker~~)
28 insurance producer acting pursuant to the surplus lines laws and
29 regulations of that state.

30 (2) A purchasing group that obtains liability insurance from an
31 insurer not admitted in this state or a risk retention group shall
32 inform each of the members of the group that have a risk resident or
33 located in this state that the risk is not protected by an insurance
34 insolvency guaranty fund in this state, and that the risk retention
35 group or insurer may not be subject to all insurance laws and rules of
36 this state.

1 (3) No purchasing group may purchase insurance providing for a
2 deductible or self-insured retention applicable to the group as a
3 whole; however, coverage may provide for a deductible or self-insured
4 retention applicable to individual members.

5 (4) Purchases of insurance by purchasing groups are subject to the
6 same standards regarding aggregate limits that are applicable to all
7 purchases of group insurance.

8 **Sec. 71.** RCW 48.92.095 and 1993 c 462 s 99 are each amended to
9 read as follows:

10 Premium taxes and taxes on premiums paid for coverage of risks
11 resident or located in this state by a purchasing group or any members
12 of the purchasing groups must be:

13 (1) Imposed at the same rate and subject to the same interest,
14 fines, and penalties as those applicable to premium taxes and taxes on
15 premiums paid for similar coverage from authorized insurers, as defined
16 under chapter 48.05 RCW, or unauthorized insurers, as defined and
17 provided for under chapter 48.15 RCW, by other insurers; and

18 (2) The obligation of the insurer; and if not paid by the insurer,
19 then the obligation of the purchasing group; and if not paid by the
20 purchasing group, then the obligation of the ~~((agent or broker))~~
21 insurance producer for the purchasing group; and if not paid by the
22 ~~((agent or broker))~~ insurance producer for the purchasing group, then
23 the obligation of each of the purchasing group's members. The
24 liability of each member of the purchasing group is several, not joint,
25 and is limited to the tax due in relation to the premiums paid by that
26 member.

27 **Sec. 72.** RCW 48.92.120 and 2005 c 223 s 31 are each amended to
28 read as follows:

29 (1) A person may not act or aid in any manner in soliciting,
30 negotiating, or procuring liability insurance in this state from a risk
31 retention group unless the person is licensed as an insurance ~~((agent~~
32 ~~or broker))~~ producer for casualty insurance in accordance with chapter
33 48.17 RCW and pays the fees designated for the license under RCW
34 48.14.010.

35 (2)(a) A person may not act or aid in any manner in soliciting,
36 negotiating, or procuring liability insurance in this state for a

1 purchasing group from an authorized insurer or a risk retention group
2 chartered in a state unless the person is licensed as an insurance
3 (~~agent or broker~~) producer for casualty insurance in accordance with
4 chapter 48.17 RCW and pays the fees designated for the license under
5 RCW 48.14.010.

6 (b) A person may not act or aid in any manner in soliciting,
7 negotiating, or procuring liability insurance coverage in this state
8 for a member of a purchasing group under a purchasing group's policy
9 unless the person is licensed as an insurance (~~agent or broker~~)
10 producer for casualty insurance in accordance with chapter 48.17 RCW
11 and pays the fees designated for the license under RCW 48.14.010.

12 (c) A person may not act or aid in any manner in soliciting,
13 negotiating, or procuring liability insurance from an insurer not
14 authorized to do business in this state on behalf of a purchasing group
15 located in this state unless the person is licensed as a surplus
16 (~~lines [line]~~) line broker in accordance with chapter 48.15 RCW and
17 pays the fees designated for the license under RCW 48.14.010.

18 (3) For purposes of acting as an (~~agent or broker~~) insurance
19 producer for a risk retention group or purchasing group under
20 subsections (1) and (2) of this section, the requirement of residence
21 in this state does not apply.

22 (4) Every person licensed under chapters 48.15 and 48.17 RCW, on
23 business placed with risk retention groups or written through a
24 purchasing group, must inform each prospective insured of the
25 provisions of the notice required under RCW 48.92.040(7) in the case of
26 a risk retention group and RCW 48.92.090(2) in the case of a purchasing
27 group.

28 **Sec. 73.** RCW 48.94.005 and 1993 c 462 s 23 are each amended to
29 read as follows:

30 The definitions set forth in this section apply throughout this
31 chapter:

32 (1) "Actuary" means a person who is a member in good standing of
33 the American Academy of Actuaries.

34 (2) "Controlling person" means a person, firm, association, or
35 corporation who directly or indirectly has the power to direct or cause
36 to be directed, the management, control, or activities of the
37 reinsurance intermediary.

1 (3) "Insurer" means insurer as defined in RCW 48.01.050.

2 (4) "Licensed producer" means an (~~agent, broker,~~) insurance
3 producer or reinsurance intermediary licensed under the applicable
4 provisions of this title.

5 (5) "Reinsurance intermediary" means a reinsurance
6 intermediary-broker or a reinsurance intermediary-manager as these
7 terms are defined in subsections (6) and (7) of this section.

8 (6) "Reinsurance intermediary-broker" means a person, other than an
9 officer or employee of the ceding insurer, firm, association, or
10 corporation who solicits, negotiates, or places reinsurance cessions or
11 retrocessions on behalf of a ceding insurer without the authority or
12 power to bind reinsurance on behalf of the insurer.

13 (7) "Reinsurance intermediary-manager" means a person, firm,
14 association, or corporation who has authority to bind or manages all or
15 part of the assumed reinsurance business of a reinsurer, including the
16 management of a separate division, department, or underwriting office,
17 and acts as an (~~agent~~) insurance producer for the reinsurer whether
18 known as a reinsurance intermediary-manager, manager, or other similar
19 term. Notwithstanding this subsection, the following persons are not
20 considered a reinsurance intermediary-manager, with respect to such
21 reinsurer, for the purposes of this chapter:

22 (a) An employee of the reinsurer;

23 (b) A United States manager of the United States branch of an alien
24 reinsurer;

25 (c) An underwriting manager who, pursuant to contract, manages all
26 the reinsurance operations of the reinsurer, is under common control
27 with the reinsurer, subject to the Insurer Holding Company Act, chapter
28 48.31B RCW, and whose compensation is not based on the volume of
29 premiums written;

30 (d) The manager of a group, association, pool, or organization of
31 insurers that engages in joint underwriting or joint reinsurance and
32 that are subject to examination by the insurance commissioner of the
33 state in which the manager's principal business office is located.

34 (8) "Reinsurer" means a person, firm, association, or corporation
35 licensed in this state under this title as an insurer with the
36 authority to assume reinsurance.

37 (9) "To be in violation" means that the reinsurance intermediary,

1 insurer, or reinsurer for whom the reinsurance intermediary was acting
2 failed to substantially comply with this chapter.

3 (10) "Qualified United States financial institution" means an
4 institution that:

5 (a) Is organized or, in the case of a United States office of a
6 foreign banking organization, licensed, under the laws of the United
7 States or any state thereof;

8 (b) Is regulated, supervised, and examined by United States federal
9 or state authorities having regulatory authority over banks and trust
10 companies; and

11 (c) Has been determined by either the commissioner, or the
12 securities valuation office of the National Association of Insurance
13 Commissioners, to meet such standards of financial condition and
14 standing as are considered necessary and appropriate to regulate the
15 quality of financial institutions whose letters of credit will be
16 acceptable to the commissioner.

17 **Sec. 74.** RCW 48.94.040 and 1993 c 462 s 30 are each amended to
18 read as follows:

19 (1) A reinsurer may not engage the services of a person, firm,
20 association, or corporation to act as a reinsurance intermediary-
21 manager on its behalf unless the person is licensed as required by RCW
22 48.94.010(2).

23 (2) The reinsurer shall annually obtain a copy of statements of the
24 financial condition of each reinsurance intermediary-manager that the
25 reinsurer has had prepared by an independent certified accountant in a
26 form acceptable to the commissioner.

27 (3) If a reinsurance intermediary-manager establishes loss
28 reserves, the reinsurer shall annually obtain the opinion of an actuary
29 attesting to the adequacy of loss reserves established for losses
30 incurred and outstanding on business produced by the reinsurance
31 intermediary-manager. This opinion is in addition to any other
32 required loss reserve certification.

33 (4) Binding authority for all retrocessional contracts or
34 participation in reinsurance syndicates must rest with an officer of
35 the reinsurer who is not affiliated with the reinsurance intermediary-
36 manager.

1 (5) Within thirty days of termination of a contract with a
2 reinsurance intermediary-manager, the reinsurer shall provide written
3 notification of the termination to the commissioner.

4 (6) A reinsurer may not appoint to its board of directors an
5 officer, director, employee, controlling shareholder, or subproducer of
6 its reinsurance intermediary-manager. This subsection does not apply
7 to relationships governed by the insurer holding company act, chapter
8 48.31B RCW, or, if applicable, the ~~((Broker-controlled))~~ producer-
9 controlled property and casualty insurer act, chapter 48.97 RCW.

10 **Sec. 75.** RCW 48.97.005 and 1993 c 462 s 17 are each amended to
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Accredited state" means a state in which the insurance
15 department or regulatory agency has qualified as meeting the minimum
16 financial regulatory standards promulgated and established from time to
17 time by the National Association of Insurance Commissioners.

18 ~~((("Broker" means an insurance broker or brokers or any other
19 person, firm, association, or corporation, when, for compensation,
20 commission, or other thing of value, the person, firm, association, or
21 corporation acts or aids in any manner in soliciting, negotiating, or
22 procuring the making of an insurance contract on behalf of an insured
23 other than the person, firm, association, or corporation.~~

24 ~~(3))~~ "Control" or "controlled by" has the meaning ascribed in RCW
25 48.31B.005(2).

26 ~~((4))~~ (3) "Controlled insurer" means a licensed insurer that is
27 controlled, directly or indirectly, by a broker.

28 ~~((5))~~ (4) "Controlling producer" means a ~~((broker))~~ producer who,
29 directly or indirectly, controls an insurer.

30 ~~((6))~~ (5) "Licensed insurer" or "insurer" means a person, firm,
31 association, or corporation licensed to transact property and casualty
32 insurance business in this state. The following, among others, are not
33 licensed insurers for purposes of this chapter:

34 (a) Risk retention groups as defined in the Superfund Amendments
35 Reauthorization Act of 1986, P.L. 99-499, 100 Stat. 1613 (1986), the
36 Risk Retention Act, 15 U.S.C. Sec. 3901 et seq. (1982 Supp. 1986), and
37 chapter 48.92 RCW;

1 (b) Residual market pools and joint underwriting associations; and
2 (c) Captive insurers. For the purposes of this chapter, captive
3 insurers are insurance companies owned by another organization, whose
4 exclusive purpose is to insure risks of the parent organization and
5 affiliated companies or, in the case of groups and associations,
6 insurance organizations owned by the insureds whose exclusive purpose
7 is to insure risks to member organizations or group members, or both,
8 and their affiliates.

9 (6) "Producer" means an insurance broker or brokers or any other
10 person, firm, association, or corporation when, for compensation,
11 commission, or other thing of value, the person, firm, association, or
12 corporation acts or aids in any manner in soliciting, negotiating, or
13 procuring the making of an insurance contract on behalf of an insured
14 other than the person, firm, association, or corporation.

15 **Sec. 76.** RCW 48.97.015 and 1993 c 462 s 19 are each amended to
16 read as follows:

17 (1)(a) This section applies in a particular calendar year if in
18 that calendar year the aggregate amount of gross written premium on
19 business placed with a controlled insurer by a controlling (~~broker~~)
20 producer is equal to or greater than five percent of the admitted
21 assets of the controlled insurer, as reported in the controlled
22 insurer's quarterly statement filed as of September 30th of the prior
23 year.

24 (b) Notwithstanding (a) of this subsection, this section does not
25 apply if:

26 (i) The controlling producer:

27 (A) Places insurance only with the controlled insurer; or only with
28 the controlled insurer and a member or members of the controlled
29 insurer's holding company system, or the controlled insurer's parent,
30 affiliate, or subsidiary and receives no compensation based upon the
31 amount of premiums written in connection with the insurance; and

32 (B) Accepts insurance placements only from nonaffiliated
33 (~~subbrokers~~) subproducers, and not directly from insureds; and

34 (ii) The controlled insurer, except for business written through a
35 residual market facility such as the assigned risk plan, fair plans, or
36 other such plans, accepts insurance business only from a controlling

1 ((~~broker, a broker~~)) producer, a producer controlled by the controlled
2 insurer, or a ((~~broker~~)) producer that is a subsidiary of the
3 controlled insurer.

4 (2) A controlled insurer may not accept business from a controlling
5 ((~~broker~~)) producer and a controlling ((~~broker~~)) producer may not place
6 business with a controlled insurer unless there is a written contract
7 between the controlling ((~~broker~~)) producer and the insurer specifying
8 the responsibilities of each party, which contract has been approved by
9 the board of directors of the insurer and contains the following
10 minimum provisions:

11 (a) The controlled insurer may terminate the contract for cause,
12 upon written notice to the controlling ((~~broker~~)) producer. The
13 controlled insurer shall suspend the authority of the controlling
14 ((~~broker~~)) producer to write business during the pendency of a dispute
15 regarding the cause for the termination;

16 (b) The controlling ((~~broker~~)) producer shall render accounts to
17 the controlling insurer detailing all material transactions, including
18 information necessary to support all commissions, charges, and other
19 fees received by, or owing to, the controlling ((~~broker~~)) producer;

20 (c) The controlling ((~~broker~~)) producer shall remit all funds due
21 under the terms of the contract to the controlling insurer on at least
22 a monthly basis. The due date must be fixed so that premiums or
23 installments collected are remitted no later than ninety days after the
24 effective date of a policy placed with the controlling insurer under
25 this contract;

26 (d) The controlling ((~~broker~~)) producer shall hold all funds
27 collected for the controlled insurer's account in a fiduciary capacity,
28 in one or more appropriately identified bank accounts in banks that are
29 members of the federal reserve system, in accordance with the
30 applicable provisions of this title. However, funds of a controlling
31 ((~~broker~~)) producer not required to be licensed in this state must be
32 maintained in compliance with the requirements of the controlling
33 ((~~broker's~~)) producer's domiciliary jurisdiction;

34 (e) The controlling ((~~broker~~)) producer shall maintain separately
35 identifiable records of business written for the controlled insurer;

36 (f) The contract shall not be assigned in whole or in part by the
37 controlling ((~~broker~~)) producer;

1 (g) The controlled insurer shall provide the controlling (~~broker~~)
2 producer with its underwriting standards, rules, and procedures,
3 manuals setting forth the rates to be charged, and the conditions for
4 the acceptance or rejection of risks. The controlling (~~broker~~)
5 producer shall adhere to the standards, rules, procedures, rates, and
6 conditions that are the same as those applicable to comparable business
7 placed with the controlled insurer by a (~~broker~~) producer other than
8 the controlling (~~broker~~) producer;

9 (h) The rates of the controlling (~~broker's~~) producer's
10 commissions, charges, and other fees must be no greater than those
11 applicable to comparable business placed with the controlled insurer by
12 (~~brokers~~) producers other than controlling (~~brokers~~) producers.
13 For purposes of (g) and (h) of this subsection, examples of comparable
14 business include the same lines of insurance, same kinds of insurance,
15 same kinds of risks, similar policy limits, and similar quality of
16 business;

17 (i) If the contract provides that the controlling (~~broker~~)
18 producer, on insurance business placed with the insurer, is to be
19 compensated contingent upon the insurer's profits on that business,
20 then the compensation shall not be determined and paid until at least
21 five years after the premiums on liability insurance are earned and at
22 least one year after the premiums are earned on any other insurance.
23 In no event may the commissions be paid until the adequacy of the
24 controlled insurer's reserves on remaining claims has been
25 independently verified under subsection (3) of this section;

26 (j) The insurer may establish a different limit on the controlling
27 (~~broker's~~) producer's writings in relation to the controlled
28 insurer's surplus and total writings for each line or subline of
29 business. The controlled insurer shall notify the controlling
30 (~~broker~~) producer when the applicable limit is approached and may not
31 accept business from the controlling (~~broker~~) producer if the limit
32 is reached. The controlling (~~broker~~) producer may not place business
33 with the controlled insurer if it has been notified by the controlled
34 insurer that the limit has been reached; and

35 (k) The controlling (~~broker~~) producer may negotiate but may not
36 bind reinsurance on behalf of the controlled insurer on business the
37 controlling (~~broker~~) producer places with the controlled insurer,
38 except that the controlling (~~broker~~) producer may bind facultative

1 reinsurance contracts under obligatory facultative agreements if the
2 contract with the controlled insurer contains underwriting guidelines
3 including, for both reinsurance assumed and ceded, a list of reinsurers
4 with which the automatic agreements are in effect, the coverages and
5 amounts of percentages that may be reinsured, and commission schedules.

6 (3) Every controlled insurer shall have an audit committee of the
7 board of directors composed of independent directors. The audit
8 committee shall annually meet with management, the insurer's
9 independent certified public accountants, and an independent casualty
10 actuary or other independent loss reserve specialist acceptable to the
11 commissioner to review the adequacy of the insurer's loss reserves.

12 (4)(a) In addition to any other required loss reserve
13 certification, the controlled insurer shall, annually, on April 1st of
14 each year, file with the commissioner an opinion of an independent
15 casualty actuary, or such other independent loss reserve specialist
16 acceptable to the commissioner, reporting loss ratios for each line of
17 business written and attesting to the adequacy of loss reserves
18 established for losses incurred and outstanding as of year-end,
19 including losses incurred but not reported, on business placed by the
20 ((~~broker~~)) producer; and

21 (b) The controlled insurer shall annually report to the
22 commissioner the amount of commissions paid to the producer, the
23 percentage that amount represents of the net premiums written, and
24 comparable amounts and percentages paid to noncontrolling ((~~brokers~~))
25 producers for placements of the same kinds of insurance.

26 **Sec. 77.** RCW 48.97.020 and 1993 c 462 s 20 are each amended to
27 read as follows:

28 The ((~~broker~~)) producer, before the effective date of the policy,
29 shall deliver written notice to the prospective insured disclosing the
30 relationship between the ((~~broker~~)) producer and the controlled
31 insurer, except that, if the business is placed through a ((~~subbroker~~))
32 subproducer who is not a controlling ((~~broker~~)) producer, the
33 controlling ((~~broker~~)) producer shall retain in his or her records a
34 signed commitment from the ((~~subbroker~~)) subproducer that the
35 ((~~subbroker~~)) subproducer is aware of the relationship between the
36 insurer and the ((~~broker~~)) producer and that the ((~~subbroker~~))
37 subproducer has notified or will notify the insured.

1 **Sec. 78.** RCW 48.97.025 and 1993 c 462 s 21 are each amended to
2 read as follows:

3 (1)(a) If the commissioner believes that the controlling (~~broker~~)
4 producer has not materially complied with this chapter, or a rule
5 adopted or order issued under this chapter, the commissioner may after
6 notice and opportunity to be heard, order the controlling (~~broker~~)
7 producer to cease placing business with the controlled insurer; and

8 (b) If it is found that because of material noncompliance that the
9 controlled insurer or any policyholder thereof has suffered loss or
10 damage, the commissioner may maintain a civil action or intervene in an
11 action brought by or on behalf of the insurer or policyholder for
12 recovery of compensatory damages for the benefit of the insurer or
13 policyholder or other appropriate relief.

14 (2) If an order for liquidation or rehabilitation of the controlled
15 insurer has been entered under chapter 48.31 RCW, and the receiver
16 appointed under that order believes that the controlling (~~broker~~)
17 producer or any other person has not materially complied with this
18 chapter, or a rule adopted or order issued under this chapter, and the
19 insurer suffered any loss or damage from the noncompliance, the
20 receiver may maintain a civil action for recovery of damages or other
21 appropriate sanctions for the benefit of the insurer.

22 (3) Nothing contained in this section alters or affects the right
23 of the commissioner to impose other penalties provided for in this
24 title.

25 (4) Nothing contained in this section alters or affects the rights
26 of policyholders, claimants, creditors, or other third parties.

27 **Sec. 79.** RCW 48.97.900 and 1993 c 462 s 16 are each amended to
28 read as follows:

29 This chapter may be known and cited as the business transacted with
30 (~~Broker-controlled~~) producer-controlled property and casualty insurer
31 act.

32 **Sec. 80.** RCW 48.98.010 and 1993 c 462 s 36 are each amended to
33 read as follows:

34 (1) No person may act in the capacity of a managing general agent
35 with respect to risks located in this state, for an insurer authorized
36 by this state, unless that person is licensed in this state as an

1 ((agent)) insurance producer, under chapter 48.17 RCW, for the lines of
2 insurance involved and is designated as a managing general agent and
3 appointed as such by the insurer.

4 (2) No person may act in the capacity of a managing general agent
5 representing an insurer domiciled in this state with respect to risks
6 located outside this state unless that person is licensed as an
7 ((agent)) insurance producer in this state, under chapter 48.17 RCW,
8 for the lines of insurance involved and is designated as a managing
9 general agent and appointed as such by the insurer.

10 (3) The commissioner may require a bond for the protection of each
11 insurer.

12 (4) The commissioner may require the managing general agent to
13 maintain an errors and omissions policy.

14 **Sec. 81.** RCW 48.98.015 and 2005 c 223 s 32 are each amended to
15 read as follows:

16 A managing general agent may not place business with an insurer
17 unless there is in force a written contract between the managing
18 general agent and the insurer that sets forth the responsibilities of
19 each party and, where both parties share responsibility for a
20 particular function, that specifies the division of the
21 responsibilities, and that contains the following minimum provisions:

22 (1) The insurer may terminate the contract for cause upon written
23 notice to the managing general agent. The insurer may suspend the
24 underwriting authority of the managing general agent during the
25 pendency of a dispute regarding the cause for termination.

26 (2) The managing general agent shall render accounts to the insurer
27 detailing all transactions and remit all funds due under the contract
28 to the insurer on not less than a monthly basis.

29 (3) The managing general agent shall hold funds collected for the
30 account of an insurer in a fiduciary capacity in an FDIC insured
31 financial institution. This account must be used for all payments on
32 behalf of the insurer. The managing general agent may retain no more
33 than three months' estimated claims payments and allocated loss
34 adjustment expenses.

35 (4) The managing general agent shall maintain separate records of
36 business written for each insurer. The insurer has access to and the
37 right to copy all accounts and records related to its business in a

1 form usable by the insurer, and the commissioner has access to all
2 books, bank accounts, and records of the managing general agent in a
3 form usable to the commissioner. Those records must be retained
4 according to the requirements of this title and rules adopted under it.

5 (5) The managing general agent may not assign the contract in whole
6 or part.

7 (6)(a) Appropriate underwriting guidelines must include at least
8 the following: The maximum annual premium volume; the basis of the
9 rates to be charged; the types of risks that may be written; maximum
10 limits of liability; applicable exclusions; territorial limitations;
11 policy cancellation provisions; and the maximum policy period.

12 (b) The insurer has the right to cancel or not renew any policy of
13 insurance, subject to the applicable laws and rules, including those in
14 chapter 48.18 RCW.

15 (7) If the contract permits the managing general agent to settle
16 claims on behalf of the insurer:

17 (a) All claims must be reported to the insurer in a timely manner;

18 (b) A copy of the claim file must be sent to the insurer at its
19 request or as soon as it becomes known that the claim:

20 (i) Has the potential to exceed an amount determined by the
21 commissioner, or exceeds the limit set by the insurer, whichever is
22 less;

23 (ii) Involves a coverage dispute;

24 (iii) May exceed the managing general agent's claims settlement
25 authority;

26 (iv) Is open for more than six months; or

27 (v) Is closed by payment in excess of an amount set by the
28 commissioner or an amount set by the insurer, whichever is less;

29 (c) All claim files are the joint property of the insurer and the
30 managing general agent. However, upon an order of liquidation of the
31 insurer, those files become the sole property of the insurer or its
32 liquidator or successor. The managing general agent has reasonable
33 access to and the right to copy the files on a timely basis; and

34 (d) Settlement authority granted to the managing general agent may
35 be terminated for cause upon the insurer's written notice to the
36 managing general agent or upon the termination of the contract. The
37 insurer may suspend the managing general agent's settlement authority
38 during the pendency of a dispute regarding the cause for termination.

1 (8) When electronic claims files are in existence, the contract
2 must address the timely transmission of the data.

3 (9) If the contract provides for a sharing of interim profits by
4 the managing general agent, and the managing general agent has the
5 authority to determine the amount of the interim profits by
6 establishing loss reserves or controlling claim payments or in any
7 other manner, interim profits may not be paid to the managing general
8 agent until one year after they are earned for property insurance
9 business and five years after they are earned on casualty business and
10 not until the profits have been verified under RCW 48.98.020.

11 (10) The managing general agent may not:

12 (a) Bind reinsurance or retrocessions on behalf of the insurer,
13 except that the managing general agent may bind automatic reinsurance
14 contracts under obligatory automatic agreements if the contract with
15 the insurer contains reinsurance underwriting guidelines including, for
16 both reinsurance assumed and ceded, a list of reinsurers with which the
17 automatic agreements are in effect, the coverages and amounts or
18 percentages that may be reinsured, and commission schedules;

19 (b) Commit the insurer to participate in insurance or reinsurance
20 syndicates;

21 (c) Use an (~~agent~~) insurance producer that is not appointed to
22 represent the insurer in accordance with the requirements of chapter
23 48.17 RCW;

24 (d) Without prior approval of the insurer, pay or commit the
25 insurer to pay a claim over a specified amount, net of reinsurance,
26 that may not exceed one percent of the insurer's policyholder surplus
27 as of December 31st of the last-completed calendar year;

28 (e) Collect a payment from a reinsurer or commit the insurer to a
29 claim settlement with a reinsurer, without prior approval of the
30 insurer. If prior approval is given, a report must be promptly
31 forwarded to the insurer;

32 (f) Permit an agent appointed by it to serve on the insurer's board
33 of directors;

34 (g) Jointly employ an individual who is employed by the insurer; or

35 (h) Appoint a submanaging general agent.

36 **Sec. 82.** RCW 48.98.020 and 1993 c 462 s 38 are each amended to
37 read as follows:

1 (1) The insurer shall have on file an independent audited financial
2 statement, in a form acceptable to the commissioner, of each managing
3 general agent with which it is doing or has done business.

4 (2) If a managing general agent establishes loss reserves, the
5 insurer shall annually obtain the opinion of an actuary attesting to
6 the adequacy of loss reserves established for losses incurred and
7 outstanding on business produced by the managing general agent. This
8 is in addition to any other required loss reserve certification.

9 (3) The insurer shall periodically, and no less frequently than
10 semiannually, conduct an on-site review of the underwriting and claims
11 processing operations of the managing general agent.

12 (4) Binding authority for all reinsurance contracts or
13 participation in insurance or reinsurance syndicates must rest with an
14 officer of the insurer, who may not be affiliated with the managing
15 general agent.

16 (5) Within thirty days of entering into or terminating a contract
17 with a managing general agent, the insurer shall provide written
18 notification of that appointment or termination to the commissioner.
19 Notices of appointment of a managing general agent must include a
20 statement of duties that the managing general agent is expected to
21 perform on behalf of the insurer, the lines of insurance for which the
22 managing general agent is to be authorized to act, and any other
23 information the commissioner may request. This subsection applies to
24 managing general agents operating in this state.

25 (6) An insurer shall review its books and records each calendar
26 quarter to determine if any ((agent)) insurance producer has become a
27 managing general agent. If the insurer determines that an ((agent))
28 insurance producer has become a managing general agent under RCW
29 48.98.005, the insurer shall promptly notify the ((agent)) insurance
30 producer and the commissioner of that determination, and the insurer
31 and ((agent)) insurance producer shall fully comply with this chapter
32 within thirty days.

33 (7) An insurer may not appoint to its board of directors an
34 officer, director, employee, subagent, or controlling shareholder of
35 its managing general agents. This subsection does not apply to
36 relationships governed by the Insurer Holding Company Act, chapter
37 48.31B RCW, or, if applicable, the business transacted with Broker-
38 controlled Property and Casualty Insurer Act, chapter 48.97 RCW.

1 **Sec. 83.** RCW 48.98.030 and 1993 c 462 s 40 are each amended to
2 read as follows:

3 (1) Subject to a hearing in accordance with chapters 34.05 and
4 48.04 RCW, upon a finding by the commissioner that any person has
5 violated any provision of this chapter, the commissioner may order:

6 (a) For each separate violation, a penalty in an amount of not more
7 than one thousand dollars;

8 (b) Revocation, or suspension for up to one year, of the managing
9 general agent's license including any insurance producer's licenses
10 held by the managing general agent; and

11 (c) The managing general agent to reimburse the insurer, the
12 rehabilitator, or liquidator of the insurer for losses incurred by the
13 insurer caused by a violation of this chapter committed by the managing
14 general agent.

15 (2) The decision, determination, or order of the commissioner under
16 this section is subject to judicial review under chapters 34.05 and
17 48.04 RCW.

18 (3) Nothing contained in this section affects the right of the
19 commissioner to impose any other penalties provided for in this title.

20 (4) Nothing contained in this chapter is intended to or in any
21 manner limits or restricts the rights of policyholders, claimants, and
22 auditors.

23 **Sec. 84.** RCW 48.99.030 and 1947 c 79 s .31.13 are each amended to
24 read as follows:

25 (1) Whenever under the laws of this state an ancillary receiver is
26 to be appointed in delinquency proceedings for an insurer not domiciled
27 in this state, the court shall appoint the commissioner as ancillary
28 receiver. The commissioner shall file a petition requesting the
29 appointment (a) if he or she finds that there are sufficient assets of
30 such insurer located in this state to justify the appointment of an
31 ancillary receiver, or (b) if ten or more persons resident in this
32 state having claims against such insurer file a petition with the
33 commissioner requesting the appointment of such ancillary receiver.

34 (2) The domiciliary receiver for the purpose of liquidating an
35 insurer domiciled in a reciprocal state, shall be vested by operation
36 of law with the title to all of the property, contracts, and rights of
37 action, and all of the books and records of the insurer located in this

1 state, and he or she shall have the immediate right to recover balances
2 due from local (~~(agents)~~) insurance producers and to obtain possession
3 of any books and records of the insurer found in this state. He or she
4 shall also be entitled to recover the other assets of the insurer
5 located in this state except that upon the appointment of an ancillary
6 receiver in this state, the ancillary receiver shall during the
7 ancillary receivership proceedings have the sole right to recover such
8 other assets. The ancillary receiver shall, as soon as practicable,
9 liquidate from their respective securities those special deposit claims
10 and secured claims which are proved and allowed in the ancillary
11 proceedings in this state, and shall pay the necessary expenses of the
12 proceedings. All remaining assets (~~(he)~~) shall promptly transfer to
13 the domiciliary receiver. Subject to the foregoing provisions the
14 ancillary receiver and his or her deputies shall have the same powers
15 and be subject to the same duties with respect to the administration of
16 such assets, as a receiver of an insurer domiciled in this state.

17 (3) The domiciliary receiver of an insurer domiciled in a
18 reciprocal state may sue in this state to recover any assets of such
19 insurer to which he or she may be entitled under the laws of this
20 state.

21 **Sec. 85.** RCW 48.115.001 and 2002 c 273 s 1 are each amended to
22 read as follows:

23 This chapter may be known and cited as the rental car specialty
24 insurance (~~(limited agent)~~) producer license act.

25 **Sec. 86.** RCW 48.115.005 and 2002 c 273 s 2 are each amended to
26 read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Endorsee" means an unlicensed employee or agent of a rental
30 car (~~(agent)~~) insurance producer who meets the requirements of this
31 chapter.

32 (2) "Person" means an individual or a business entity.

33 (3) "Rental agreement" means any written master, corporate, group,
34 or individual agreement setting forth the terms and conditions
35 governing the use of a rental car rented or leased by a rental car
36 company.

1 (4) "Rental car" means any motor vehicle that is intended to be
2 rented or leased for a period of thirty consecutive days or less by a
3 driver who is not required to possess a commercial driver's license to
4 operate the motor vehicle and the motor vehicle is either of the
5 following:

6 (a) A private passenger motor vehicle, including a passenger van,
7 recreational vehicle, minivan, or sports utility vehicle; or

8 (b) A cargo vehicle, including a cargo van, pickup truck, or truck
9 with a gross vehicle weight of less than twenty-six thousand pounds.

10 (5) "Rental car (~~agent~~) insurance producer" means any rental car
11 company that is licensed to offer, sell, or solicit rental car
12 insurance under this chapter.

13 (6) "Rental car company" means any person in the business of
14 renting rental cars to the public, including a franchisee.

15 (7) "Rental car insurance" means insurance offered, sold, or
16 solicited in connection with and incidental to the rental of rental
17 cars, whether at the rental office or by preselection of coverage in
18 master, corporate, group, or individual agreements that: (a) Is
19 nontransferable; (b) applies only to the rental car that is the subject
20 of the rental agreement; and (c) is limited to the following kinds of
21 insurance:

22 (i) Personal accident insurance for renters and other rental car
23 occupants, for accidental death or dismemberment, and for medical
24 expenses resulting from an accident that occurs with the rental car
25 during the rental period;

26 (ii) Liability insurance, including uninsured or underinsured
27 motorist coverage, whether offered separately or in combination with
28 other liability insurance, that provides protection to the renters and
29 to other authorized drivers of a rental car for liability arising from
30 the operation of the rental car during the rental period;

31 (iii) Personal effects insurance that provides coverage to renters
32 and other vehicle occupants for loss of, or damage to, personal effects
33 in the rental car during the rental period; and

34 (iv) Roadside assistance and emergency sickness protection
35 insurance.

36 (8) "Renter" means any person who obtains the use of a vehicle from
37 a rental car company under the terms of a rental agreement.

1 **Sec. 87.** RCW 48.115.010 and 2002 c 273 s 3 are each amended to
2 read as follows:

3 (1) A rental car company, or officer, director, employee, or agent
4 of a rental car company, may not offer, sell, or solicit the purchase
5 of rental car insurance unless that person is licensed under chapter
6 48.17 RCW or is in compliance with this chapter.

7 (2) The commissioner may issue a license to a rental car company
8 that is in compliance with this chapter authorizing the rental car
9 company to act as a rental car (~~(agent)~~) insurance producer under this
10 chapter, in connection with and incidental to rental agreements, on
11 behalf of any insurer authorized to write rental car insurance in this
12 state.

13 **Sec. 88.** RCW 48.115.015 and 2002 c 273 s 4 are each amended to
14 read as follows:

15 A rental car company may apply to be licensed as a rental car
16 (~~(agent)~~) insurance producer under, and if in compliance with, this
17 chapter by filing the following documents with the commissioner:

18 (1) A written application for licensure, signed by the applicant or
19 by an officer of the applicant, in the form prescribed by the
20 commissioner that includes a listing of all locations at which the
21 rental car company intends to offer, sell, or solicit rental car
22 insurance; and

23 (2)(a) A certificate by the insurer that is to be named in the
24 rental car (~~(agent)~~) insurance producer license, stating that: (i) The
25 insurer has satisfied itself that the named applicant is trustworthy
26 and competent to act as its rental car (~~(agent)~~) insurance producer,
27 limited to this purpose; (ii) the insurer has reviewed the endorsee
28 training and education program required by RCW 48.115.020(4) and
29 believes that it satisfies the statutory requirements; and (iii) the
30 insurer will appoint the applicant to act as its rental car (~~(agent)~~)
31 insurance producer to offer, sell, or solicit rental car insurance, if
32 the license for which the applicant is applying is issued by the
33 commissioner.

34 (b) The certification shall be subscribed by an authorized
35 representative of the insurer on a form prescribed by the commissioner.

1 **Sec. 89.** RCW 48.115.020 and 2002 c 273 s 5 are each amended to
2 read as follows:

3 (1) An employee or agent of a rental car (~~agent~~) insurance
4 producer may be an endorsee authorized to offer, sell, or solicit
5 rental car insurance under the authority of the rental car (~~agent~~)
6 insurance producer license, if all of the following conditions have
7 been satisfied:

8 (a) The employee or agent is eighteen years of age or older;

9 (b) The employee or agent is a trustworthy person and has not
10 committed any act set forth in RCW 48.17.530;

11 (c) The employee or agent has completed a training and education
12 program;

13 (d) The rental car company, at the time it submits its rental car
14 (~~agent~~) insurance producer license application, also submits a list
15 of the names of all endorsees to its rental car (~~agent~~) insurance
16 producer license on forms prescribed by the commissioner. The list
17 shall be updated and submitted to the commissioner quarterly on a
18 calendar year basis. Each list shall be retained by the rental car
19 company for a period of three years from submission; and

20 (e) The rental car company or its agent submits to the commissioner
21 with its initial rental car (~~agent~~) insurance producer license
22 application, and annually thereafter, a certification subscribed by an
23 officer of the rental car company on a form prescribed by the
24 commissioner, stating all of the following:

25 (i) No person other than an endorsee offers, sells, or solicits
26 rental car insurance on its behalf or while working as an employee or
27 agent of the rental car (~~agent~~) insurance producer; and

28 (ii) All endorsees have completed the training and education
29 program under subsection (4) of this section.

30 (2) A rental car (~~agent's~~) insurance producer's endorsee may only
31 act on behalf of the rental car (~~agent~~) insurance producer in the
32 offer, sale, or solicitation of a rental car insurance. A rental car
33 (~~agent~~) insurance producer is responsible for, and must supervise,
34 all actions of its endorsees related to the offering, sale, or
35 solicitation of rental car insurance. The conduct of an endorsee
36 acting within the scope of his or her employment or agency is the same
37 as the conduct of the rental car (~~agent~~) insurance producer for
38 purposes of this chapter.

1 (3) The manager at each location of a rental car ((agent))
2 insurance producer, or the direct supervisor of the rental car
3 ((agent's)) insurance producer's endorsees at each location, must be an
4 endorsee of that rental car ((agent)) insurance producer and is
5 responsible for the supervision of each additional endorsee at that
6 location. Each rental car ((agent)) insurance producer shall identify
7 the endorsee who is the manager or direct supervisor at each location
8 in the endorsee list that it submits under subsection (1)(d) of this
9 section.

10 (4) Each rental car ((agent)) insurance producer shall provide a
11 training and education program for each endorsee prior to allowing an
12 endorsee to offer, sell, or solicit rental car insurance. Details of
13 the program must be submitted to the commissioner, along with the
14 license application, for approval prior to use, and resubmitted for
15 approval of any changes prior to use. This training program shall meet
16 the following minimum standards:

17 (a) Each endorsee shall receive instruction about the kinds of
18 insurance authorized under this chapter that may be offered for sale to
19 prospective renters; and

20 (b) Each endorsee shall receive training about the requirements and
21 limitations imposed on ((car)) rental ((agents)) car insurance
22 producers and endorsees under this chapter. The training must include
23 specific instruction that the endorsee is prohibited by law from making
24 any statement or engaging in any conduct express or implied, that would
25 lead a consumer to believe that the:

26 (i) Purchase of rental car insurance is required in order for the
27 renter to rent a motor vehicle;

28 (ii) Renter does not have insurance policies in place that already
29 provide the coverage being offered by the rental car company under this
30 chapter; or

31 (iii) Endorsee is qualified to evaluate the adequacy of the
32 renter's existing insurance coverages.

33 (5) The training and education program submitted to the
34 commissioner is approved if no action is taken within thirty days of
35 its submission.

36 (6) An endorsee's authorization to offer, sell, or solicit rental
37 car insurance expires when the endorsee's employment with the rental
38 car company is terminated.

1 (7) The rental car ((~~agent~~)) insurance producer shall retain for a
2 period of one year from the date of each transaction records which
3 enable it to identify the name of the endorsee involved in each rental
4 transaction when a renter purchases rental car insurance.

5 **Sec. 90.** RCW 48.115.025 and 2002 c 273 s 6 are each amended to
6 read as follows:

7 Insurance may not be offered, sold, or solicited under this
8 section, unless:

9 (1) The rental period of the rental car agreement is thirty
10 consecutive days or less;

11 (2) At every location where rental agreements are executed, the
12 rental car ((~~agent~~)) insurance producer or endorsee provides brochures
13 or other written materials to each renter who purchases rental car
14 insurance that clearly, conspicuously, and in plain language:

15 (a) Summarize, clearly and correctly, the material terms,
16 exclusions, limitations, and conditions of coverage offered to renters,
17 including the identity of the insurer;

18 (b) Describe the process for filing a claim in the event the renter
19 elects to purchase coverage, including a toll-free telephone number to
20 report a claim;

21 (c) Provide the rental car ((~~agent's~~)) insurance producer's name,
22 address, telephone number, and license number, as well as the
23 commissioner's consumer hotline number;

24 (d) Inform the consumer that the rental car insurance offered,
25 sold, or solicited by the rental car ((~~agent~~)) insurance producer may
26 provide a duplication of coverage already provided by a renter's
27 personal automobile insurance policy, homeowners' insurance policy, or
28 by another source of coverage;

29 (e) Inform the consumer that the purchase by the renter of the
30 rental car insurance is not required in order to rent a rental car from
31 the rental car ((~~agent~~)) insurance producer; and

32 (f) Inform the consumer that the rental car ((~~agent~~)) insurance
33 producer and the rental car ((~~agent's~~)) insurance producer's endorsees
34 are not qualified to evaluate the adequacy of the renter's existing
35 insurance coverages;

36 (3) The purchaser of rental car insurance acknowledges in writing

1 the receipt of the brochures or written materials required by
2 subsection (2) of this section;

3 (4) Evidence of the rental car insurance coverage is stated on the
4 face of the rental agreement;

5 (5) All costs for the rental car insurance are separately itemized
6 in the rental agreement;

7 (6) When the rental car insurance is not the primary source of
8 coverage, the consumer is informed in writing in the form required by
9 subsection (2) of this section that their personal insurance will serve
10 as the primary source of coverage; and

11 (7) For transactions conducted by electronic means, the rental car
12 (~~agent~~) insurance producer must comply with the requirements of this
13 section, and the renter must acknowledge in writing or by electronic
14 signature the receipt of the following disclosures:

15 (a) The insurance policies offered by the rental car (~~agent~~)
16 insurance producer may provide a duplication of coverage already
17 provided by a renter's personal automobile insurance policy,
18 homeowners' insurance policy, or by another source of coverage;

19 (b) The purchase by the renter of rental car insurance is not
20 required in order to rent a rental car from the rental car (~~agent~~)
21 insurance producer; and

22 (c) The rental car (~~agent~~) insurance producer and the rental car
23 (~~agent's~~) insurance producer's endorsees are not qualified to
24 evaluate the adequacy of the renter's existing insurance coverages.

25 **Sec. 91.** RCW 48.115.030 and 2002 c 273 s 7 are each amended to
26 read as follows:

27 A rental car (~~agent~~) insurance producer may not:

28 (1) Offer, sell, or solicit the purchase of insurance except in
29 conjunction with and incidental to rental car agreements;

30 (2) Advertise, represent, or otherwise portray itself or any of its
31 employees or agents as licensed insurers(~~(, insurance agents,)~~) or
32 insurance (~~brokers~~) producers;

33 (3) Pay any person, including a rental car (~~agent~~) insurance
34 producer endorsee, any compensation, fee, or commission that is
35 dependent primarily on the placement of insurance under the license
36 issued under this chapter;

1 (4) Make any statement or engage in any conduct, express or
2 implied, that would lead a customer to believe that the:

3 (a) Insurance policies offered by the rental car ((agent))
4 insurance producer do not provide a duplication of coverage already
5 provided by a renter's personal automobile insurance policy,
6 homeowners' insurance policy, or by another source of coverage;

7 (b) Purchase by the renter of rental car insurance is required in
8 order to rent a rental car from the rental car ((agent)) insurance
9 producer; and

10 (c) Rental car ((agent)) insurance producer or the rental car
11 ((agent's)) insurance producer's endorsees are qualified to evaluate
12 the adequacy of the renter's existing insurance coverages.

13 **Sec. 92.** RCW 48.115.035 and 2002 c 273 s 8 are each amended to
14 read as follows:

15 (1) Every rental car ((agent)) insurance producer licensed under
16 this chapter shall promptly reply in writing to an inquiry of the
17 commissioner relative to the business of ((car)) rental car insurance.

18 (2)(a) In the event of a violation of this chapter by a rental car
19 ((agent)) insurance producer, the commissioner may revoke, suspend, or
20 refuse to issue or renew any rental car ((agent's)) insurance
21 producer's license that is issued or may be issued under this chapter
22 for any cause specified in any other provision of this title, or for
23 any of the following causes:

24 (i) For any cause that the issuance of this license could have been
25 refused had it then existed and been known to the commissioner;

26 (ii) If the licensee or applicant willfully violates or knowingly
27 participates in a violation of this title or any proper order or rule
28 of the commissioner;

29 (iii) If the licensee or applicant has obtained or attempted to
30 obtain a license through willful misrepresentation or fraud;

31 (iv) If the licensee or applicant has misappropriated or converted
32 funds that belong to, or should be paid to, another person as a result
33 of, or in connection with, a ((car)) rental car or insurance
34 transaction;

35 (v) If the licensee or applicant has, with intent to deceive,
36 materially misrepresented the terms or effects of any insurance

1 contract, or has engaged, or is about to engage, in any fraudulent
2 transaction;

3 (vi) If the licensee or applicant or officer of the licensee or
4 applicant has been convicted by final judgment of a felony;

5 (vii) If the licensee or applicant is shown to be, and is
6 determined by the commissioner, incompetent or untrustworthy, or a
7 source of injury and loss to the public; and

8 (viii) If the licensee has dealt with, or attempted to deal with,
9 insurances, or has exercised powers relative to insurance outside the
10 scope of the ((~~ear~~)) rental ((~~agent~~)) car insurance producer license or
11 other insurance licenses.

12 (b) If any natural person named under a firm or corporate ((~~ear~~))
13 rental ((~~agent~~)) car insurance producer license, or application
14 therefore, commits or has committed any act, or fails or has failed to
15 perform any duty, that constitutes grounds for the commissioner to
16 revoke, suspend, or refuse to issue or renew the license or application
17 for license, the commissioner may revoke, suspend, refuse to renew, or
18 refuse to issue the license or application for a license of the
19 corporation or firm.

20 (c) Any conduct of an applicant or licensee that constitutes
21 grounds for disciplinary action under this title may be addressed under
22 this section regardless of where the conduct took place.

23 (d) The holder of any license that has been revoked or suspended
24 shall surrender the license to the commissioner at the commissioner's
25 request.

26 (e) After notice and hearing the commissioner may impose other
27 penalties, including suspending the transaction of insurance at
28 specific rental locations where violations of this section have
29 occurred and imposing fines on the manager or supervisor at each
30 location responsible for the supervision and conduct of each endorsee,
31 as the commissioner determines necessary or convenient to carry out the
32 purpose of this chapter.

33 (3) The commissioner may suspend, revoke, or refuse to renew any
34 ((~~ear~~)) rental ((~~agent~~)) car insurance producer license by an order
35 served by mail or personal service upon the licensee not less than
36 fifteen days prior to its effective date. The order is subject to the
37 right of the licensee to a hearing under chapter 48.04 RCW.

1 (4) The commissioner may temporarily suspend a license by an order
2 served by mail or personal service upon the licensee not less than
3 three days prior to its effective date. However, the order must
4 contain a notice of revocation and include a finding that the public
5 safety or welfare imperatively requires emergency action. These
6 suspensions may continue only until proceedings for revocation are
7 concluded. The commissioner may also temporarily suspend a license in
8 cases when proceedings for revocation are pending if it is found that
9 the public safety or welfare imperatively requires emergency action.

10 (5) Service by mail under this section means posting in the United
11 States mail, addressed to the licensee at the most recent address shown
12 in the commissioner's licensing records for the licensee. Service by
13 mail is complete upon deposit in the United States mail.

14 (6) If any person sells insurance in connection with or incidental
15 to rental car agreements, or holds himself or herself or a company out
16 as a rental car ((agent)) insurance producer, without satisfying the
17 requirements of this chapter, the commissioner is authorized to issue
18 a cease and desist order.

19 **Sec. 93.** RCW 48.115.040 and 2002 c 273 s 9 are each amended to
20 read as follows:

21 A rental car ((agent)) insurance producer is not required to treat
22 moneys collected from renters purchasing rental car insurance as funds
23 received in a fiduciary capacity, if:

24 (1) The charges for rental car insurance coverage are itemized and
25 ancillary to a rental transaction; and

26 (2) The insurer has consented in writing, signed by an officer of
27 the insurer, that premiums need not be segregated from funds received
28 by the rental car ((agent)) insurance producer.

29 **Sec. 94.** RCW 48.120.005 and 2002 c 357 s 1 are each amended to
30 read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Communications equipment" means handsets, pagers, personal
34 digital assistants, portable computers, automatic answering devices,
35 batteries, and their accessories or other devices used to originate or

1 receive communications signals or service approved for coverage by rule
2 of the commissioner, and also includes services related to the use of
3 the devices.

4 (2) "Communications equipment insurance program" means an insurance
5 program as described in RCW 48.120.015.

6 (3) "Communications service" means the service necessary to send,
7 receive, or originate communications signals.

8 (4) "Customer" means a person or entity purchasing or leasing
9 communications equipment or communications services from a vendor.

10 (5) "Specialty producer license" means a license issued under RCW
11 48.120.010 that authorizes a vendor to offer or sell insurance as
12 provided in RCW 48.120.015.

13 (6) "Supervising agent" means an (~~agent~~) appointed insurance
14 producer licensed under RCW (~~48.17.060~~) 48.17.090 who provides
15 training as described in RCW 48.120.020 and is affiliated to a licensed
16 vendor.

17 (7) "Vendor" means a person or entity resident or with offices in
18 this state in the business of leasing, selling, or providing
19 communications equipment or communications service to customers.

20 (8) "Appointing insurer" means the insurer appointing the vendor as
21 its agent under a specialty producer license.

22 **Sec. 95.** RCW 48.120.010 and 2002 c 357 s 2 are each amended to
23 read as follows:

24 (1) A vendor that intends to offer insurance under RCW 48.120.015
25 must file a specialty producer license application with the
26 commissioner. Before the commissioner issues such a license, the
27 vendor must be appointed as the (~~agent~~) insurance producer of one or
28 more authorized appointing insurers under a vendor's specialty producer
29 license.

30 (2) Upon receipt of an application, if the commissioner is
31 satisfied that the application is complete, the commissioner may issue
32 a specialty producer license to the vendor.

33 **Sec. 96.** RCW 48.125.030 and 2004 c 260 s 5 are each amended to
34 read as follows:

35 The commissioner may not issue a certificate of authority to a

1 self-funded multiple employer welfare arrangement unless the
2 arrangement establishes to the satisfaction of the commissioner that
3 the following requirements have been satisfied by the arrangement:

4 (1) The employers participating in the arrangement are members of
5 a bona fide association;

6 (2) The employers participating in the arrangement exercise control
7 over the arrangement, as follows:

8 (a) Subject to (b) of this subsection, control exists if the board
9 of directors of the bona fide association or the employers
10 participating in the arrangement have the right to elect at least
11 seventy-five percent of the individuals designated in the arrangement's
12 organizational documents as having control over the operations of the
13 arrangement and the individuals designated in the arrangement's
14 organizational documents in fact exercise control over the operation of
15 the arrangement; and

16 (b) The use of a third-party administrator to process claims and to
17 assist in the administration of the arrangement is not evidence of the
18 lack of exercise of control over the operation of the arrangement;

19 (3) In this state, the arrangement provides only health care
20 services;

21 (4) In this state, the arrangement provides or arranges benefits
22 for health care services in compliance with those provisions of this
23 title that mandate particular benefits or offerings and with provisions
24 that require access to particular types or categories of health care
25 providers and facilities;

26 (5) In this state, the arrangement provides or arranges benefits
27 for health care services in compliance with RCW 48.43.500 through
28 48.43.535, 48.43.545, and 48.43.550;

29 (6) The arrangement provides health care services to not less than
30 twenty employers and not less than seventy-five employees;

31 (7) The arrangement may not solicit participation in the
32 arrangement from the general public. However, the arrangement may
33 employ licensed insurance (~~agents~~) producers who receive a
34 commission, unlicensed individuals who do not receive a commission, and
35 may contract with a licensed insurance producer who may be paid a
36 commission or other remuneration, for the purpose of enrolling and
37 renewing the enrollments of employers in the arrangement;

1 (8) The arrangement has been in existence and operated actively for
2 a continuous period of not less than ten years as of December 31, 2003,
3 except for an arrangement that has been in existence and operated
4 actively since December 31, 2000, and is sponsored by an association
5 that has been in existence more than twenty-five years; and

6 (9) The arrangement is not organized or maintained solely as a
7 conduit for the collection of premiums and the forwarding of premiums
8 to an insurance company.

9 **Sec. 97.** RCW 48.135.010 and 2006 c 284 s 2 are each amended to
10 read as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Insurance fraud" means an act or omission committed by a
14 person who, knowingly, and with intent to defraud, commits, or conceals
15 any material information concerning, one or more of the following:

16 (a) Presenting, causing to be presented, or preparing with
17 knowledge or belief that it will be presented to or by an insurer(~~(~~
18 ~~broker, or its agent)~~) or insurance producer, false information as part
19 of, in support of, or concerning a fact material to one or more of the
20 following:

21 (i) An application for the issuance or renewal of an insurance
22 policy;

23 (ii) The rating of an insurance policy or contract;

24 (iii) A claim for payment or benefit pursuant to an insurance
25 policy;

26 (iv) Premiums paid on an insurance policy;

27 (v) Payments made in accordance with the terms of an insurance
28 policy; or

29 (vi) The reinstatement of an insurance policy;

30 (b) Willful embezzlement, abstracting, purloining, or conversion of
31 moneys, funds, premiums, credits, or other property of an insurer or
32 person engaged in the business of insurance; or

33 (c) Attempting to commit, aiding or abetting in the commission of,
34 or conspiracy to commit the acts or omissions specified in this
35 subsection.

36 The definition of insurance fraud is for illustrative purposes only
37 under this chapter to describe the nature of the behavior to be

1 reported and investigated, and is not intended in any manner to create
2 or modify the definition of any existing criminal acts nor to create or
3 modify the burdens of proof in any criminal prosecution brought as a
4 result of an investigation under this chapter.

5 (2) "Insurer" means an insurance company authorized under chapter
6 48.05 RCW, a health care service contractor registered under chapter
7 48.44 RCW, and a health care maintenance organization registered under
8 chapter 48.46 RCW.

9 **Sec. 98.** RCW 51.12.020 and 1999 c 68 s 1 are each amended to read
10 as follows:

11 The following are the only employments which shall not be included
12 within the mandatory coverage of this title:

13 (1) Any person employed as a domestic servant in a private home by
14 an employer who has less than two employees regularly employed forty or
15 more hours a week in such employment.

16 (2) Any person employed to do gardening, maintenance, or repair, in
17 or about the private home of the employer. For the purposes of this
18 subsection, "maintenance" means the work of keeping in proper
19 condition, "repair" means to restore to sound condition after damage,
20 and "private home" means a person's place of residence.

21 (3) A person whose employment is not in the course of the trade,
22 business, or profession of his or her employer and is not in or about
23 the private home of the employer.

24 (4) Any person performing services in return for aid or sustenance
25 only, received from any religious or charitable organization.

26 (5) Sole proprietors or partners.

27 (6) Any child under eighteen years of age employed by his or her
28 parent or parents in agricultural activities on the family farm.

29 (7) Jockeys while participating in or preparing horses for race
30 meets licensed by the Washington horse racing commission pursuant to
31 chapter 67.16 RCW.

32 (8)(a) Except as otherwise provided in (b) of this subsection, any
33 bona fide officer of a corporation voluntarily elected or voluntarily
34 appointed in accordance with the articles of incorporation or bylaws of
35 the corporation, who at all times during the period involved is also a
36 bona fide director, and who is also a shareholder of the corporation.
37 Only such officers who exercise substantial control in the daily

1 management of the corporation and whose primary responsibilities do not
2 include the performance of manual labor are included within this
3 subsection.

4 (b) Alternatively, a corporation that is not a "public company" as
5 defined in RCW 23B.01.400(~~((+21+))~~)(24) may exempt eight or fewer bona
6 fide officers, who are voluntarily elected or voluntarily appointed in
7 accordance with the articles of incorporation or bylaws of the
8 corporation and who exercise substantial control in the daily
9 management of the corporation, from coverage under this title without
10 regard to the officers' performance of manual labor if the exempted
11 officer is a shareholder of the corporation, or may exempt any number
12 of officers if all the exempted officers are related by blood within
13 the third degree or marriage. If a corporation that is not a "public
14 company" elects to be covered under subsection (8)(a) of this section,
15 the corporation's election must be made on a form prescribed by the
16 department and under such reasonable rules as the department may adopt.

17 (c) Determinations respecting the status of persons performing
18 services for a corporation shall be made, in part, by reference to
19 Title 23B RCW and to compliance by the corporation with its own
20 articles of incorporation and bylaws. For the purpose of determining
21 coverage under this title, substance shall control over form, and
22 mandatory coverage under this title shall extend to all workers of this
23 state, regardless of honorary titles conferred upon those actually
24 serving as workers.

25 (d) A corporation may elect to cover officers who are exempted by
26 this subsection in the manner provided by RCW 51.12.110.

27 (9) Services rendered by a musician or entertainer under a contract
28 with a purchaser of the services, for a specific engagement or
29 engagements when such musician or entertainer performs no other duties
30 for the purchaser and is not regularly and continuously employed by the
31 purchaser. A purchaser does not include the leader of a group or
32 recognized entity who employs other than on a casual basis musicians or
33 entertainers.

34 (10) Services performed by a newspaper carrier selling or
35 distributing newspapers on the street or from house to house.

36 (11) Services performed by an insurance (~~(agent, insurance broker,~~
37 ~~or insurance solicitor)~~) producer, as defined in RCW 48.17.010(~~(~~
38 ~~48.17.020, and 48.17.030, respectively)~~)(5).

1 (12) Services performed by a booth renter (~~as defined in RCW~~
2 ~~18.16.020~~). However, a person exempted under this subsection may
3 elect coverage under RCW 51.32.030.

4 (13) Members of a limited liability company, if either:

5 (a) Management of the company is vested in its members, and the
6 members for whom exemption is sought would qualify for exemption under
7 subsection (5) of this section were the company a sole proprietorship
8 or partnership; or

9 (b) Management of the company is vested in one or more managers,
10 and the members for whom the exemption is sought are managers who would
11 qualify for exemption under subsection (8) of this section were the
12 company a corporation.

13 **Sec. 99.** RCW 70.47.015 and 1997 c 337 s 1 are each amended to read
14 as follows:

15 (1) The legislature finds that the basic health plan has been an
16 effective program in providing health coverage for uninsured residents.
17 Further, since 1993, substantial amounts of public funds have been
18 allocated for subsidized basic health plan enrollment.

19 (2) It is the intent of the legislature that the basic health plan
20 enrollment be expanded expeditiously, consistent with funds available
21 in the health services account, with the goal of two hundred thousand
22 adult subsidized basic health plan enrollees and one hundred thirty
23 thousand children covered through expanded medical assistance services
24 by June 30, 1997, with the priority of providing needed health services
25 to children in conjunction with other public programs.

26 (3) Effective January 1, 1996, basic health plan enrollees whose
27 income is less than one hundred twenty-five percent of the federal
28 poverty level shall pay at least a ten-dollar premium share.

29 (4) No later than July 1, 1996, the administrator shall implement
30 procedures whereby hospitals licensed under chapters 70.41 and 71.12
31 RCW, health carrier, rural health care facilities regulated under
32 chapter 70.175 RCW, and community and migrant health centers funded
33 under RCW 41.05.220, may expeditiously assist patients and their
34 families in applying for basic health plan or medical assistance
35 coverage, and in submitting such applications directly to the health
36 care authority or the department of social and health services. The

1 health care authority and the department of social and health services
2 shall make every effort to simplify and expedite the application and
3 enrollment process.

4 (5) No later than July 1, 1996, the administrator shall implement
5 procedures whereby (~~health~~) disability insurance (~~agents and~~
6 ~~brokers~~) producers, licensed under chapter 48.17 RCW, may
7 expeditiously assist patients and their families in applying for basic
8 health plan or medical assistance coverage, and in submitting such
9 applications directly to the health care authority or the department of
10 social and health services. (~~Brokers and agents~~) Insurance producers
11 may receive a commission for each individual sale of the basic health
12 plan to anyone not signed up within the previous five years and a
13 commission for each group sale of the basic health plan, if funding for
14 this purpose is provided in a specific appropriation to the health care
15 authority. No commission shall be provided upon a renewal.
16 Commissions shall be determined based on the estimated annual cost of
17 the basic health plan, however, commissions shall not result in a
18 reduction in the premium amount paid to health carriers. For purposes
19 of this section "health carrier" is as defined in RCW 48.43.005. The
20 administrator may establish: (a) Minimum educational requirements that
21 must be completed by the (~~agents or brokers~~) insurance producers; (b)
22 an appointment process for (~~agents or brokers~~) insurance producers
23 marketing the basic health plan; or (c) standards for revocation of the
24 appointment of an (~~agent or broker~~) insurance producer to submit
25 applications for cause, including untrustworthy or incompetent conduct
26 or harm to the public. The health care authority and the department of
27 social and health services shall make every effort to simplify and
28 expedite the application and enrollment process.

29 **Sec. 100.** RCW 82.04.260 and 2007 c 54 s 6 and 2007 c 48 s 2 are
30 each reenacted and amended to read as follows:

31 (1) Upon every person engaging within this state in the business of
32 manufacturing:

33 (a) Wheat into flour, barley into pearl barley, soybeans into
34 soybean oil, canola into canola oil, canola meal, or canola byproducts,
35 or sunflower seeds into sunflower oil; as to such persons the amount of
36 tax with respect to such business shall be equal to the value of the

1 flour, pearl barley, oil, canola meal, or canola byproduct
2 manufactured, multiplied by the rate of 0.138 percent;

3 (b) Beginning July 1, 2012, seafood products that remain in a raw,
4 raw frozen, or raw salted state at the completion of the manufacturing
5 by that person; or selling manufactured seafood products that remain in
6 a raw, raw frozen, or raw salted state at the completion of the
7 manufacturing, to purchasers who transport in the ordinary course of
8 business the goods out of this state; as to such persons the amount of
9 tax with respect to such business shall be equal to the value of the
10 products manufactured or the gross proceeds derived from such sales,
11 multiplied by the rate of 0.138 percent. Sellers must keep and
12 preserve records for the period required by RCW 82.32.070 establishing
13 that the goods were transported by the purchaser in the ordinary course
14 of business out of this state;

15 (c) Beginning July 1, 2012, dairy products that as of September 20,
16 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
17 including byproducts from the manufacturing of the dairy products such
18 as whey and casein; or selling the same to purchasers who transport in
19 the ordinary course of business the goods out of state; as to such
20 persons the tax imposed shall be equal to the value of the products
21 manufactured or the gross proceeds derived from such sales multiplied
22 by the rate of 0.138 percent. Sellers must keep and preserve records
23 for the period required by RCW 82.32.070 establishing that the goods
24 were transported by the purchaser in the ordinary course of business
25 out of this state;

26 (d) Beginning July 1, 2012, fruits or vegetables by canning,
27 preserving, freezing, processing, or dehydrating fresh fruits or
28 vegetables, or selling at wholesale fruits or vegetables manufactured
29 by the seller by canning, preserving, freezing, processing, or
30 dehydrating fresh fruits or vegetables and sold to purchasers who
31 transport in the ordinary course of business the goods out of this
32 state; as to such persons the amount of tax with respect to such
33 business shall be equal to the value of the products manufactured or
34 the gross proceeds derived from such sales multiplied by the rate of
35 0.138 percent. Sellers must keep and preserve records for the period
36 required by RCW 82.32.070 establishing that the goods were transported
37 by the purchaser in the ordinary course of business out of this state;

1 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
2 feedstock, as those terms are defined in RCW 82.29A.135; as to such
3 persons the amount of tax with respect to the business shall be equal
4 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
5 manufactured, multiplied by the rate of 0.138 percent; and

6 (f) Alcohol fuel or wood biomass fuel, as those terms are defined
7 in RCW 82.29A.135; as to such persons the amount of tax with respect to
8 the business shall be equal to the value of alcohol fuel or wood
9 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

10 (2) Upon every person engaging within this state in the business of
11 splitting or processing dried peas; as to such persons the amount of
12 tax with respect to such business shall be equal to the value of the
13 peas split or processed, multiplied by the rate of 0.138 percent.

14 (3) Upon every nonprofit corporation and nonprofit association
15 engaging within this state in research and development, as to such
16 corporations and associations, the amount of tax with respect to such
17 activities shall be equal to the gross income derived from such
18 activities multiplied by the rate of 0.484 percent.

19 (4) Upon every person engaging within this state in the business of
20 slaughtering, breaking and/or processing perishable meat products
21 and/or selling the same at wholesale only and not at retail; as to such
22 persons the tax imposed shall be equal to the gross proceeds derived
23 from such sales multiplied by the rate of 0.138 percent.

24 (5) Upon every person engaging within this state in the business of
25 acting as a travel agent or tour operator; as to such persons the
26 amount of the tax with respect to such activities shall be equal to the
27 gross income derived from such activities multiplied by the rate of
28 0.275 percent.

29 (6) Upon every person engaging within this state in business as an
30 international steamship agent, international customs house broker,
31 international freight forwarder, vessel and/or cargo charter broker in
32 foreign commerce, and/or international air cargo agent; as to such
33 persons the amount of the tax with respect to only international
34 activities shall be equal to the gross income derived from such
35 activities multiplied by the rate of 0.275 percent.

36 (7) Upon every person engaging within this state in the business of
37 stevedoring and associated activities pertinent to the movement of
38 goods and commodities in waterborne interstate or foreign commerce; as

1 to such persons the amount of tax with respect to such business shall
2 be equal to the gross proceeds derived from such activities multiplied
3 by the rate of 0.275 percent. Persons subject to taxation under this
4 subsection shall be exempt from payment of taxes imposed by chapter
5 82.16 RCW for that portion of their business subject to taxation under
6 this subsection. Stevedoring and associated activities pertinent to
7 the conduct of goods and commodities in waterborne interstate or
8 foreign commerce are defined as all activities of a labor, service or
9 transportation nature whereby cargo may be loaded or unloaded to or
10 from vessels or barges, passing over, onto or under a wharf, pier, or
11 similar structure; cargo may be moved to a warehouse or similar holding
12 or storage yard or area to await further movement in import or export
13 or may move to a consolidation freight station and be stuffed,
14 unstuffed, containerized, separated or otherwise segregated or
15 aggregated for delivery or loaded on any mode of transportation for
16 delivery to its consignee. Specific activities included in this
17 definition are: Wharfage, handling, loading, unloading, moving of
18 cargo to a convenient place of delivery to the consignee or a
19 convenient place for further movement to export mode; documentation
20 services in connection with the receipt, delivery, checking, care,
21 custody and control of cargo required in the transfer of cargo;
22 imported automobile handling prior to delivery to consignee; terminal
23 stevedoring and incidental vessel services, including but not limited
24 to plugging and unplugging refrigerator service to containers,
25 trailers, and other refrigerated cargo receptacles, and securing ship
26 hatch covers.

27 (8) Upon every person engaging within this state in the business of
28 disposing of low-level waste, as defined in RCW 43.145.010; as to such
29 persons the amount of the tax with respect to such business shall be
30 equal to the gross income of the business, excluding any fees imposed
31 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

32 If the gross income of the taxpayer is attributable to activities
33 both within and without this state, the gross income attributable to
34 this state shall be determined in accordance with the methods of
35 apportionment required under RCW 82.04.460.

36 (9) Upon every person engaging within this state as an insurance
37 (~~agent, insurance broker, or insurance solicitor~~) producer or title
38 insurance agent licensed under chapter 48.17 RCW; as to such persons,

1 the amount of the tax with respect to such licensed activities shall be
2 equal to the gross income of such business multiplied by the rate of
3 0.484 percent.

4 (10) Upon every person engaging within this state in business as a
5 hospital, as defined in chapter 70.41 RCW, that is operated as a
6 nonprofit corporation or by the state or any of its political
7 subdivisions, as to such persons, the amount of tax with respect to
8 such activities shall be equal to the gross income of the business
9 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
10 percent thereafter. The moneys collected under this subsection shall
11 be deposited in the health services account created under RCW
12 43.72.900.

13 (11)(a) Beginning October 1, 2005, upon every person engaging
14 within this state in the business of manufacturing commercial
15 airplanes, or components of such airplanes, as to such persons the
16 amount of tax with respect to such business shall, in the case of
17 manufacturers, be equal to the value of the product manufactured, or in
18 the case of processors for hire, be equal to the gross income of the
19 business, multiplied by the rate of:

20 (i) 0.4235 percent from October 1, 2005, through the later of June
21 30, 2007, or the day preceding the date final assembly of a
22 superefficient airplane begins in Washington state, as determined under
23 RCW 82.32.550; and

24 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
25 date final assembly of a superefficient airplane begins in Washington
26 state, as determined under RCW 82.32.550.

27 (b) Beginning October 1, 2005, upon every person engaging within
28 this state in the business of making sales, at retail or wholesale, of
29 commercial airplanes, or components of such airplanes, manufactured by
30 that person, as to such persons the amount of tax with respect to such
31 business shall be equal to the gross proceeds of sales of the airplanes
32 or components multiplied by the rate of:

33 (i) 0.4235 percent from October 1, 2005, through the later of June
34 30, 2007, or the day preceding the date final assembly of a
35 superefficient airplane begins in Washington state, as determined under
36 RCW 82.32.550; and

37 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the

1 date final assembly of a superefficient airplane begins in Washington
2 state, as determined under RCW 82.32.550.

3 (c) For the purposes of this subsection (11), "commercial
4 airplane," "component," and "final assembly of a superefficient
5 airplane" have the meanings given in RCW 82.32.550.

6 (d) In addition to all other requirements under this title, a
7 person eligible for the tax rate under this subsection (11) must report
8 as required under RCW 82.32.545.

9 (e) This subsection (11) does not apply after the earlier of: July
10 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
11 does not begin by December 31, 2007, as determined under RCW 82.32.550.

12 (12)(a) Until July 1, 2024, upon every person engaging within this
13 state in the business of extracting timber or extracting for hire
14 timber; as to such persons the amount of tax with respect to the
15 business shall, in the case of extractors, be equal to the value of
16 products, including byproducts, extracted, or in the case of extractors
17 for hire, be equal to the gross income of the business, multiplied by
18 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
19 and 0.2904 percent from July 1, 2007, through June 30, 2024.

20 (b) Until July 1, 2024, upon every person engaging within this
21 state in the business of manufacturing or processing for hire: (i)
22 Timber into timber products or wood products; or (ii) timber products
23 into other timber products or wood products; as to such persons the
24 amount of the tax with respect to the business shall, in the case of
25 manufacturers, be equal to the value of products, including byproducts,
26 manufactured, or in the case of processors for hire, be equal to the
27 gross income of the business, multiplied by the rate of 0.4235 percent
28 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July
29 1, 2007, through June 30, 2024.

30 (c) Until July 1, 2024, upon every person engaging within this
31 state in the business of selling at wholesale: (i) Timber extracted by
32 that person; (ii) timber products manufactured by that person from
33 timber or other timber products; or (iii) wood products manufactured by
34 that person from timber or timber products; as to such persons the
35 amount of the tax with respect to the business shall be equal to the
36 gross proceeds of sales of the timber, timber products, or wood
37 products multiplied by the rate of 0.4235 percent from July 1, 2006,

1 through June 30, 2007, and 0.2904 percent from July 1, 2007, through
2 June 30, 2024.

3 (d) Until July 1, 2024, upon every person engaging within this
4 state in the business of selling standing timber; as to such persons
5 the amount of the tax with respect to the business shall be equal to
6 the gross income of the business multiplied by the rate of 0.2904
7 percent. For purposes of this subsection (12)(d), "selling standing
8 timber" means the sale of timber apart from the land, where the buyer
9 is required to sever the timber within thirty months from the date of
10 the original contract, regardless of the method of payment for the
11 timber and whether title to the timber transfers before, upon, or after
12 severance.

13 (e) For purposes of this subsection, the following definitions
14 apply:

15 (i) "Paper and paper products" means products made of interwoven
16 cellulosic fibers held together largely by hydrogen bonding. "Paper
17 and paper products" includes newsprint; office, printing, fine, and
18 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
19 kraft bag, construction, and other kraft industrial papers; paperboard,
20 liquid packaging containers, containerboard, corrugated, and solid-
21 fiber containers including linerboard and corrugated medium; and
22 related types of cellulosic products containing primarily, by weight or
23 volume, cellulosic materials. "Paper and paper products" does not
24 include books, newspapers, magazines, periodicals, and other printed
25 publications, advertising materials, calendars, and similar types of
26 printed materials.

27 (ii) "Timber" means forest trees, standing or down, on privately or
28 publicly owned land. "Timber" does not include Christmas trees that
29 are cultivated by agricultural methods or short-rotation hardwoods as
30 defined in RCW 84.33.035.

31 (iii) "Timber products" means logs, wood chips, sawdust, wood
32 waste, and similar products obtained wholly from the processing of
33 timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;
34 and pulp, including market pulp and pulp derived from recovered paper
35 or paper products.

36 (iv) "Wood products" means paper and paper products; dimensional
37 lumber; engineered wood products such as particleboard, oriented strand

1 board, medium density fiberboard, and plywood; wood doors; and wood
2 windows.

3 (13) Upon every person engaging within this state in inspecting,
4 testing, labeling, and storing canned salmon owned by another person,
5 as to such persons, the amount of tax with respect to such activities
6 shall be equal to the gross income derived from such activities
7 multiplied by the rate of 0.484 percent.

8 NEW SECTION. **Sec. 101.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 102.** This act takes effect July 1, 2009.

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