
SENATE BILL 5415

State of Washington

61st Legislature

2009 Regular Session

By Senators Benton, Berkey, Franklin, and Shin; by request of Insurance Commissioner

Read first time 01/21/09. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to persons selling, soliciting, or negotiating
2 insurance; amending RCW 48.03.020, 48.14.010, 48.15.070, 48.15.073,
3 48.15.100, 48.15.140, 48.17.010, 48.17.060, 48.17.090, 48.17.110,
4 48.17.150, 48.17.160, 48.17.170, 48.17.173, 48.17.250, 48.17.270,
5 48.17.380, 48.17.565, 48.30.260, 48.30.270, 48.31.111, 48.31.141,
6 48.62.121, 48.62.151, 48.99.030, 48.135.010, and 51.12.020; reenacting
7 and amending RCW 82.04.260; adding new sections to chapter 48.15 RCW;
8 and prescribing penalties.

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

10 **Sec. 1.** RCW 48.03.020 and 2008 c 217 s 1 are each amended to read
11 as follows:

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

15 (1) Any insurance producer, surplus line broker, adjuster, or title
16 insurance agent.

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

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

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

9 **Sec. 2.** RCW 48.14.010 and 2007 c 117 s 37 are each amended to read
10 as follows:

11 (1) The commissioner shall collect in advance the following fees:

12 (a) **For filing charter documents:**

- 13 (i) Original charter documents, bylaws
14 or record of organization of
15 insurers, or certified copies thereof,
16 required to be filed \$250.00
17 (ii) Amended charter documents, or
18 certified copy thereof, other than
19 amendments of bylaws \$ 10.00
20 (iii) No additional charge or fee shall be
21 required for filing any of such
22 documents in the office of the
23 secretary of state.

24 (b) **Certificate of authority:**

- 25 (i) Issuance \$ 25.00
26 (ii) Renewal \$ 25.00

27 (c) **Annual statement of insurer, filing** \$ 20.00

28 (d) **Organization or financing of domestic insurers and**
29 **affiliated corporations:**

- 30 (i) Application for solicitation permit,
31 filing \$100.00
32 (ii) Issuance of solicitation permit \$ 25.00

33 (e) **Insurance producer licenses:**

- 34 (i) License application \$ 55.00
35 (ii) License renewal, every two years

1	\$ 55.00
2	(iii) Initial appointment and renewal of	
3	appointment of each insurance	
4	producer, every two years	\$ 20.00
5	(iv) Limited <u>line</u> insurance producer	
6	license application and renewal,	
7	every two years	\$ 20.00
8	(f) Title insurance agent licenses:	
9	(i) <u>License application</u>	<u>\$ 50.00</u>
10	(ii) <u>License renewal, every two</u>	
11	<u>years</u>	<u>\$ 50.00</u>
12	(g) Reinsurance intermediary licenses:	
13	(i) Reinsurance intermediary-broker,	
14	each year	\$ 50.00
15	(ii) Reinsurance intermediary-	
16	manager, each year	\$100.00
17	((g)) Surplus line broker license application	
18	(h) and renewal, every two years	\$200.00
19	((h)) Adjusters' licenses:	
20	(i)	
21	(i) Independent adjuster, every two	
22	years	\$ 50.00
23	(ii) Public adjuster, every two	
24	years	\$ 50.00
25	((i)) Managing general agent appointment,	
26	(j) every two years	\$200.00
27	((j)) Examination for license, each examination:	
28	(k)	
29	All examinations, except examinations	
30	administered by an independent	
31	testing service, the fees for which are	
32	to be approved by the commissioner	
33	and collected directly by and retained	
34	by such independent testing service	
35	\$ 20.00
36	((k)) Miscellaneous services:	
37	(l)	

- 1 (i) Filing other documents..... \$ 5.00
- 2 (ii) Commissioner's certificate under
- 3 seal..... \$ 5.00
- 4 (iii) Copy of documents filed in the
- 5 commissioner's office, reasonable
- 6 charge therefor as determined by
- 7 the commissioner.

8 (2) All fees so collected shall be remitted by the commissioner to
9 the state treasurer not later than the first business day following,
10 and shall be placed to the credit of the general fund.

11 (a) Fees for examinations administered by an independent testing
12 service that are approved by the commissioner under subsection
13 (1)((+j)) (k) of this section shall be collected directly by the
14 independent testing service and retained by it.

15 (b) Fees for copies of documents filed in the commissioner's office
16 shall be remitted by the commissioner to the state treasurer not later
17 than the first business day following, and shall be placed to the
18 credit of the insurance commissioner's regulatory account.

19 **Sec. 3.** RCW 48.15.070 and 2002 c 227 s 3 are each amended to read
20 as follows:

21 Any individual while a resident of this state, or any firm or any
22 corporation that has in its employ a qualified individual who is a
23 resident of this state and who is authorized to exercise the powers of
24 the firm or corporation, deemed by the commissioner to be competent and
25 trustworthy, and while maintaining an office at a designated location
26 in this state, may be licensed as a surplus line broker in accordance
27 with this section.

28 (1) Application to the commissioner for the license shall be made
29 on forms furnished by the commissioner. As part of, or in connection
30 with, this application, the applicant shall furnish information
31 concerning his or her identity, including fingerprints for submission
32 to the Washington state patrol, the federal bureau of investigation,
33 and any governmental agency or entity authorized to receive this
34 information for a state and national criminal history background check;
35 personal history; experience; business records; purposes; and other
36 pertinent information, as the commissioner may reasonably require. If
37 in the process of verifying fingerprints, business records, or other

1 information, the commissioner's office incurs fees or charges from
2 another governmental agency or from a business firm, the amount of the
3 fees or charges shall be paid to the commissioner's office by the
4 applicant.

5 ~~(2) ((The license shall expire if not timely renewed. Surplus line~~
6 ~~brokers licenses shall be valid for the time period established by the~~
7 ~~commissioner unless suspended or revoked at an earlier date.~~

8 ~~(3) Prior to issuance of license the applicant shall file with the~~
9 ~~commissioner)) Every surplus line broker licensed under this chapter~~
10 must maintain a bond in favor of the state of Washington in the penal
11 sum of twenty thousand dollars, with authorized corporate sureties
12 approved by the commissioner, conditioned that ~~((he or she))~~ the
13 licensee will conduct business under the license in accordance with the
14 provisions of this chapter and that ~~((he or she))~~ the licensee will
15 promptly remit the taxes provided by RCW 48.15.120. The licensee shall
16 maintain such bond in force for as long as the license remains in
17 effect.

18 ~~((4) Every applicant for a surplus line broker's license or for~~
19 ~~the renewal of a surplus line broker's license shall file with the~~
20 ~~application or request for renewal a bond in favor of the people of the~~
21 ~~state of Washington, executed by an authorized corporate surety~~
22 ~~approved by the commissioner, in the amount of one hundred thousand~~
23 ~~dollars and shall be the bonding requirement for new licensees. The~~
24 ~~licensee shall maintain such bond in force while so licensed.)) (3)~~

25 Every surplus line broker licensed under this chapter must maintain in
26 force while so licensed a bond in favor of the people of the state of
27 Washington or a named insured such that the people of the state are
28 covered by the bond, executed by an authorized corporate surety
29 approved by the commissioner, in the amount of two thousand five
30 hundred dollars, or five percent of the premiums from placement of
31 coverage with surplus line insurers in the previous calendar year,
32 whichever is greater, but not to exceed one hundred thousand dollars
33 total aggregate liability. The bond may be continuous in form, and
34 total aggregate liability on the bond may be limited to the required
35 amount ~~((stated in))~~ of the bond. The bond shall be contingent on the
36 accounting by the surplus line broker to any person requesting ~~((such))~~
37 the broker to obtain insurance, for moneys or premiums collected in
38 connection therewith. A bond issued in accordance with RCW 48.17.250

1 or with this subsection will satisfy the requirements of both RCW
2 48.17.250 and this subsection if the limit of liability is not less
3 than the greater of the requirement of RCW 48.17.250 or the requirement
4 of this subsection.

5 ~~((5) Any bond issued pursuant to subsection (3) or (4) of this~~
6 ~~section shall remain in force until the surety is released from~~
7 ~~liability by the commissioner, or until the bond is canceled by the~~
8 ~~surety. Without prejudice to any liability accrued prior to such~~
9 ~~cancellation, the surety may cancel the bond upon thirty days' advance~~
10 ~~notice in writing filed with the commissioner.~~

11 ~~(6) If in the process of verifying fingerprints under subsection~~
12 ~~(1) of this section, business records, or other information the~~
13 ~~commissioner's office incurs fees or charges from another governmental~~
14 ~~agency or from a business firm, the amount of the fees or charges shall~~
15 ~~be paid to the commissioner's office by the applicant.~~

16 ~~(7))~~ (4) Authorized surplus line brokers of a business entity may
17 meet the requirements of subsection (3) of this section with a bond in
18 the name of the business entity, continuous in form, and in the amount
19 set forth in subsection (3) of this section.

20 (5) Surplus line brokers may meet the requirements of this section
21 with a bond in the name of an association. The association must have
22 been in existence for five years, have common membership, and have been
23 formed for a purpose other than obtaining a bond. An individual
24 surplus line broker remains responsible for assuring that a bond is in
25 effect and is for the correct amount.

26 (6) Members of an association may meet the requirements of
27 subsection (3) of this section with a bond in the name of the
28 association that is continuous in form and in the amounts set forth in
29 subsection (3) of this section for each participating member.

30 (7) The surety may cancel the bond and be released from further
31 liability thereunder upon thirty days' written notice in advance to the
32 principal. The cancellation does not affect any liability incurred or
33 accrued under the bond before the termination of the thirty-day period.

34 (8) Failure to have and maintain the bonds required under
35 subsections (2) and (3) of this section is grounds for revocation of a
36 license under RCW 48.15.140.

37 (9) If a party injured under the terms of the bond required under
38 subsection (3) of this section requests the surplus line broker to

1 provide the name of the surety and the bond number, the surplus line
2 broker must provide the information within three working days after
3 receiving the request.

4 (10) All records relating to the bonds required by this section
5 must be kept available and open to the inspection of the commissioner
6 at any business time.

7 (11) A surplus line broker's license expires if not timely renewed.
8 Surplus line broker licenses are valid for the time period established
9 by the commissioner unless suspended or revoked at an earlier date.

10 (12) Subject to the right of the commissioner to suspend, revoke,
11 or refuse to renew any surplus line broker's license as provided in
12 this title, the license may be renewed into another like period by
13 filing with the commissioner by any means acceptable to the
14 commissioner on or before the expiration date a request, by or on
15 behalf of the licensee, for the renewal accompanied by payment of the
16 renewal fee as specified in RCW 48.14.010.

17 (13) If the request and fee for renewal of a surplus line broker's
18 license are filed with the commissioner prior to expiration of the
19 existing license, the licensee may continue to act under the license,
20 unless sooner revoked or suspended, until the issuance of a renewal
21 license, or until the expiration of fifteen days after the commissioner
22 has refused to renew the license and has mailed notification of the
23 refusal to the licensee. If the request and fee for the license are
24 not received by the expiration date, the authority conferred by the
25 license ends on the expiration date.

26 (14) If the request for renewal of a surplus line broker's license
27 and payment of the fee are not received by the commissioner prior to
28 the expiration date, the applicant for renewal shall pay to the
29 commissioner in addition to the renewal fee, a surcharge as follows:

30 (a) For the first thirty days or part thereof of delinquency, the
31 surcharge is fifty percent of the renewal fee; and

32 (b) For the next thirty days or part thereof of delinquency, the
33 surcharge is one hundred percent of the renewal fee.

34 (15) If the request for renewal of a surplus line broker's license
35 and payment of the renewal fee are not received by the commissioner
36 after sixty days but prior to twelve months after the expiration date,
37 the application shall be for reinstatement of the license and the

1 applicant for reinstatement shall pay to the commissioner the license
2 fee and a surcharge of two hundred percent of the license fee.

3 (16) Subsections (14) and (15) of this section do not exempt any
4 person from any penalty provided by law for transacting business
5 without a valid and subsisting license.

6 (17) An individual surplus line broker who allows his or her
7 license to lapse may, within twelve months after the expiration date,
8 reinstate the same license without the necessity of passing a written
9 examination.

10 (18) For the purposes of this section, a "qualified individual" is
11 a natural person who has met all the requirements that must be met by
12 an individual surplus line broker.

13 (19) The commissioner may require any documents reasonably
14 necessary to verify the information contained in an application and
15 may, from time to time, require any licensed surplus line broker to
16 produce the information called for in an application for license.

17 **Sec. 4.** RCW 48.15.073 and 2001 c 91 s 1 are each amended to read
18 as follows:

19 (1) The commissioner may license as a surplus line broker a person
20 who is otherwise qualified under this code but who is not a resident of
21 this state, if by the laws of the state or province of his or her
22 residence or domicile a similar privilege is extended to residents of
23 this state.

24 (2) A person under subsection (1) of this section must meet the
25 same qualifications, other than residency, as any other person seeking
26 to be licensed as a surplus line broker under this chapter. A person
27 granted a nonresident surplus line broker's license must have all the
28 same responsibilities as any other surplus line broker and is subject
29 to the (a) commissioner's supervision as though resident in this state
30 and (b) rules adopted under this chapter.

31 (3) A nonresident surplus line broker's license: (a) Expires and
32 (b) is subject to the same renewal and fee requirements for renewal as
33 a resident surplus line broker licensed under RCW 48.15.070.

34 (4) Each licensed nonresident surplus line broker shall appoint the
35 commissioner as the surplus line broker's attorney to receive service
36 of legal process issued against the surplus line broker in this state

1 upon causes of action arising within this state. Service upon the
2 commissioner as attorney constitutes effective legal service upon the
3 surplus line broker.

4 (a) The appointment is irrevocable for as long as there could be
5 any cause of action against the surplus line broker arising out of the
6 surplus line broker's insurance transactions in this state.

7 (b) Duplicate copies of legal process against a surplus line broker
8 shall be served upon the commissioner either by a person competent to
9 serve a summons, or through registered mail. At the time of service
10 the plaintiff shall pay to the commissioner ten dollars, taxable as
11 costs in the action.

12 (c) Upon receiving service, the commissioner shall immediately send
13 one of the copies of the process, by registered mail with return
14 receipt requested, to the defendant surplus line broker at the surplus
15 line broker's last address of record with the commissioner.

16 (d) The commissioner shall keep a record of the day and hour of
17 service upon the commissioner of all legal process. Proceedings may
18 not be had against the defendant surplus line broker and the defendant
19 is not required to appear, plead, or answer until the expiration of
20 forty days after the date of service upon the commissioner.

21 **Sec. 5.** RCW 48.15.100 and 1955 c 303 s 6 are each amended to read
22 as follows:

23 (1) Each licensed surplus line broker shall keep a full and true
24 record of each surplus line contract procured by him or her including
25 a copy of the daily report, if any, showing such of the following items
26 as may be applicable:

27 (a) Amount of the insurance;

28 (b) Gross premiums charged;

29 (c) Return premium paid, if any;

30 (d) Rate of premium charged upon the several items of property;

31 (e) Effective date of the contract, and the terms thereof;

32 (f) Name and address of the insurer;

33 (g) Name and address of the insured;

34 (h) Brief general description of property insured and where
35 located;

36 (i) Other information as may be required by the commissioner.

1 (2) All such records as to any particular transaction shall be kept
2 available and open to the inspection of the commissioner at any
3 business time during the five years next following the date of
4 completion of such transaction.

5 (3) For the purpose of ascertaining its condition, or compliance
6 with this title, the commissioner may as often as he or she deems
7 advisable, examine the accounts, records, documents, and transactions
8 of any surplus line broker as set forth in chapter 48.03 RCW.

9 NEW SECTION. Sec. 6. A new section is added to chapter 48.15 RCW
10 to read as follows:

11 (1) A surplus line broker doing business under any name other than
12 the surplus line broker's legal name is required to register the name
13 in accordance with chapter 19.80 RCW and notify the commissioner before
14 using the assumed name.

15 (2) Every licensed surplus line broker shall have and maintain in
16 this state, or, if a nonresident surplus line broker, in this state or
17 in the state of the licensee's domicile, a place of business accessible
18 to the public. The place of business is where the surplus line broker
19 principally conducts transactions under that person's license. A
20 licensee maintaining more than one place of business in this state
21 shall obtain a duplicate license or licenses for each additional place,
22 and shall pay the full fee therefor.

23 (3) Any notice, order, or written communication from the
24 commissioner to a person licensed under this chapter which directly
25 affects the person's license shall be sent by mail to the person's last
26 address of record with the commissioner.

27 (4) The license or licenses of each surplus line broker shall be
28 displayed in a conspicuous place in that part of the place of business
29 which is customarily open to the public.

30 (5) If a surplus line broker is dealing directly with the insured
31 in any capacity, the surplus line broker must comply with the
32 disclosure requirements contained in RCW 48.17.270.

33 (6) Every surplus line broker or other person licensed under this
34 chapter shall promptly reply in writing to an inquiry of the
35 commissioner relative to the business of insurance. A timely response
36 is one that is received by the commissioner within fifteen business

1 days from receipt of the inquiry. Failure to make a timely response
2 constitutes a violation of this section.

3 (7) A surplus line broker shall report to the commissioner any
4 administrative action taken against the surplus line broker in another
5 jurisdiction or by another governmental agency in this state within
6 thirty days of the final disposition of the matter. This report must
7 include a copy of the order, consent to order, or other relevant legal
8 documents.

9 (8) Within thirty days of the initial pretrial hearing date, a
10 surplus line broker shall report to the commissioner any criminal
11 prosecution of the surplus line broker taken in any jurisdiction. The
12 report must include a copy of the initial complaint filed, the order
13 resulting from the hearing, and any other relevant legal documents.

14 **Sec. 7.** RCW 48.15.140 and 2008 c 217 s 10 are each amended to read
15 as follows:

16 (1) The commissioner may place on probation, revoke, suspend, or
17 refuse to renew any surplus line broker's license, or may levy a civil
18 penalty in accordance with RCW 48.17.560 or any combination of actions,
19 for any one or more of the following causes:

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

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

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

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

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

33 (4) A surplus line broker whose license has been so revoked shall
34 not again be so licensed within one year thereafter, nor until any
35 fines or delinquent taxes owing by the formal licensee have been paid.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.15 RCW
2 to read as follows:

3 (1) A surplus line broker shall not engage in any act prohibited by
4 RCW 48.05.465(2), 48.43.335(2), and chapter 48.30 RCW.

5 (2) A surplus line broker is entitled to the immunities granted
6 under RCW 48.43.105 and 48.50.070.

7 (3) The rights and prohibitions applicable to insurance producers
8 contained in RCW 48.30.260, 48.30.270, and 48.62.121 also apply to
9 surplus line brokers.

10 (4) The exemption for taxes and fees in RCW 48.62.151 does not
11 apply to surplus line brokers.

12 NEW SECTION. **Sec. 9.** A new section is added to chapter 48.15 RCW
13 to read as follows:

14 (1) A surplus line broker, its representative, or any person
15 licensed under this chapter involved in the procuring or issuance of an
16 insurance contract and who receives any funds representing premiums or
17 return premiums which belong to or should be paid to another person as
18 a result of or in connection with an insurance transaction is deemed to
19 have been received in the surplus line broker's fiduciary capacity and
20 shall:

21 (a) Report to the insurer the exact amount of consideration charged
22 as premium for the contract, and the amount shall likewise be shown in
23 the contract and in the records of the surplus line broker;

24 (b) Be promptly accounted for and paid to the insured, insurer, or
25 person entitled to the funds;

26 (c) Be accounted for and maintained in a separate account from all
27 other business and personal funds and not commingle or otherwise
28 combine premiums with any other moneys, except a surplus line broker
29 may commingle with premium funds any additional funds as the surplus
30 line broker may deem prudent for the purpose of advancing premiums,
31 establishing reserves for the paying of return premiums, or for any
32 contingencies as may arise in the surplus line broker's business of
33 receiving and transmitting premium or return premium funds.

34 (2) Each willful violation of this section constitutes a
35 misdemeanor.

36 (3) Any surplus line broker or other person licensed under this
37 chapter who, not being lawfully entitled thereto, diverts or

1 appropriates funds received in a fiduciary capacity or any portion
2 thereof to his or her own use, is guilty of theft under chapter 9A.56
3 RCW.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 48.15 RCW
5 to read as follows:

6 The commissioner shall immediately suspend the license or
7 certificate of a person issued under this chapter who has been
8 certified pursuant to RCW 74.20A.320 by the department of social and
9 health services as a person who is not in compliance with a support
10 order. If the person has continued to meet all other requirements for
11 reinstatement during the suspension, reissuance of the license or
12 certificate shall be automatic upon the commissioner's receipt of a
13 release issued by the department of social and health services stating
14 that the licensee is in compliance with the order.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 48.15 RCW
16 to read as follows:

17 It is unlawful for any unauthorized person to remove, reproduce,
18 duplicate, or distribute in any form, any question used by the state of
19 Washington to determine the qualifications and competence of surplus
20 line brokers required by this title to be licensed. This section does
21 not prohibit an insurance education provider from creating and using
22 sample test questions in courses approved by the commissioner.

23 Any person violating this section is subject to penalties as
24 provided by RCW 48.01.080 and 48.15.140.

25 NEW SECTION. **Sec. 12.** A new section is added to chapter 48.15 RCW
26 to read as follows:

27 The commissioner may adopt rules to implement and administer this
28 chapter.

29 **Sec. 13.** RCW 48.17.010 and 2007 c 117 s 1 are each amended to read
30 as follows:

31 The definitions in this section apply throughout this ((chapter))
32 title unless the context clearly requires otherwise.

33 (1) "Adjuster" means any person who, for compensation as an
34 independent contractor or as an employee of an independent contractor,

1 or for fee or commission, investigates or reports to the adjuster's
2 principal relative to claims arising under insurance contracts, on
3 behalf solely of either the insurer or the insured. An attorney-at-law
4 who adjusts insurance losses from time to time incidental to the
5 practice of his or her profession, or an adjuster of marine losses, or
6 a salaried employee of an insurer or of a managing general agent, is
7 not deemed to be an "adjuster" for the purpose of this chapter.

8 (a) "Independent adjuster" means an adjuster representing the
9 interests of the insurer.

10 (b) "Public adjuster" means an adjuster employed by and
11 representing solely the financial interests of the insured named in the
12 policy.

13 (2) "Business entity" means a corporation, association,
14 partnership, limited liability company, limited liability partnership,
15 or other legal entity.

16 (3) "Home state" means the District of Columbia and any state or
17 territory of the United States or province of Canada in which an
18 insurance producer maintains the insurance producer's principal place
19 of residence or principal place of business, and is licensed to act as
20 an insurance producer.

21 (4) "Insurance education provider" means any insurer, health care
22 service contractor, health maintenance organization, professional
23 association, educational institution created by Washington statutes, or
24 vocational school licensed under Title 28C RCW, or independent
25 contractor to which the commissioner has granted authority to conduct
26 and certify completion of a course satisfying the insurance education
27 requirements of RCW 48.17.150.

28 (5) "Insurance producer" means a person required to be licensed
29 under the laws of this state to sell, solicit, or negotiate insurance.
30 "Insurance producer" does not include title insurance agents as defined
31 in subsection (15) of this section or surplus line brokers licensed
32 under chapter 48.15 RCW.

33 (6) "Insurer" has the same meaning as in RCW 48.01.050, and
34 includes a health care service contractor as defined in RCW 48.44.010
35 and a health maintenance organization as defined in RCW 48.46.020.

36 (7) "License" means a document issued by the commissioner
37 authorizing a person to act as an insurance producer or title insurance

1 agent for the lines of authority specified in the document. The
2 license itself does not create any authority, actual, apparent, or
3 inherent, in the holder to represent or commit to an insurer.

4 (8) "Limited line credit insurance" includes credit life, credit
5 disability, credit property, credit unemployment, involuntary
6 unemployment, mortgage life, mortgage guaranty, mortgage disability,
7 automobile dealer gap insurance, and any other form of insurance
8 offered in connection with an extension of credit that is limited to
9 partially or wholly extinguishing the credit obligation that the
10 commissioner determines should be designated a form of limited line
11 credit insurance.

12 (9) "NAIC" means national association of insurance commissioners.

13 (10) "Negotiate" means the act of conferring directly with, or
14 offering advice directly to, a purchaser or prospective purchaser of a
15 particular contract of insurance concerning any of the substantive
16 benefits, terms, or conditions of the contract, provided that the
17 person engaged in that act either sells insurance or obtains insurance
18 from insurers for purchasers.

19 (11) "Person" means an individual or a business entity.

20 (12) "Sell" means to exchange a contract of insurance by any means,
21 for money or its equivalent, on behalf of an insurer.

22 (13) "Solicit" means attempting to sell insurance or asking or
23 urging a person to apply for a particular kind of insurance from a
24 particular insurer.

25 (14) "Terminate" means the cancellation of the relationship between
26 an insurance producer and the insurer or the termination of an
27 insurance producer's authority to transact insurance.

28 (15) "Title insurance agent" means a business entity licensed under
29 the laws of this state and appointed by an authorized title insurance
30 company to sell, solicit, or negotiate insurance on behalf of the title
31 insurance company.

32 (16) "Uniform business entity application" means the current
33 version of the NAIC uniform application for business entity insurance
34 license or registration for resident and nonresident business entities.

35 (17) "Uniform application" means the current version of the NAIC
36 uniform application for individual insurance producers for resident and
37 nonresident insurance producer licensing.

1 **Sec. 14.** RCW 48.17.060 and 2007 c 117 s 2 are each amended to read
2 as follows:

3 A person shall not sell, solicit, or negotiate insurance in this
4 state for any line or lines of insurance unless the person is licensed
5 for that line of authority in accordance with this chapter. A person
6 may not act as or hold himself or herself out to be an adjuster in this
7 state unless licensed by the commissioner or otherwise authorized to
8 act as an adjuster under this chapter.

9 **Sec. 15.** RCW 48.17.090 and 2007 c 117 s 7 are each amended to read
10 as follows:

11 (1) (~~A person~~) An individual applying for a resident insurance
12 producer license shall make application to the commissioner on the
13 uniform application and declare under penalty of refusal, suspension,
14 or revocation of the license that the statements made in the
15 application are true, correct, and complete to the best of the
16 individual's knowledge and belief. As a part of or in connection with
17 the application, the individual applicant shall furnish information
18 concerning the applicant's identity, including fingerprints for
19 submission to the Washington state patrol, the federal bureau of
20 investigation, and any governmental agency or entity authorized to
21 receive this information for a state and national criminal history
22 background check. If, in the process of verifying fingerprints,
23 business records, or other information, the commissioner's office
24 incurs fees or charges from another governmental agency or from a
25 business firm, the amount of the fees or charges shall be paid to the
26 commissioner's office by the applicant.

27 (2) Before approving the application, the commissioner shall find
28 that the individual:

- 29 (a) Is at least eighteen years of age;
- 30 (b) Has not committed any act that is a ground for denial,
31 suspension, or revocation set forth in RCW 48.17.530;
- 32 (c) Has completed a prelicensing course of study for the lines of
33 authority for which the person has applied;
- 34 (d) Has paid the fees set forth in RCW 48.14.010; and
- 35 (e) Has successfully passed the examinations for the lines of
36 authority for which the person has applied.

1 (3) A resident business entity acting as an insurance producer is
2 required to obtain an insurance producer license. Application shall be
3 made using the uniform business entity application, and the individual
4 signing the application shall declare under penalty of refusal,
5 suspension, or revocation of the license that the statements made in
6 the application are true, correct, and complete to the best of the
7 individual's knowledge and belief. Before approving the application,
8 the commissioner shall find that:

9 (a) The business entity has paid the fees set forth in RCW
10 48.14.010; ~~((and))~~

11 (b) The business entity has designated a licensed insurance
12 producer responsible for the business entity's compliance with the
13 insurance laws and rules of this state; and

14 (c) The business entity has not committed any act that is a ground
15 for denial, suspension, or revocation set forth in RCW 48.17.530.

16 (4) A resident business entity acting as a title insurance agent is
17 required to obtain a title insurance agent license. Application shall
18 be made to the commissioner on the uniform business entity application,
19 and the individual ~~((signing))~~ submitting the application shall declare
20 under penalty of refusal, suspension, or revocation of the license that
21 the statements made in the application are true, correct, and complete
22 to the best of the individual's knowledge and belief. Before approving
23 the application, the commissioner shall find that the business entity:

24 (a) Has paid the fees set forth in RCW 48.14.010;

25 (b) Maintains a lawfully established place of business in this
26 state ~~((or holds a corresponding license issued by the state of its~~
27 ~~principal place of business, and has complied with the laws of this~~
28 ~~state governing the admission of foreign corporations))~~;

29 (c) Is empowered to be a title insurance agent under a members'
30 agreement, if a limited liability company, or by its articles of
31 incorporation;

32 (d) Is appointed as an agent by one or more authorized title
33 insurance companies; and

34 (e) Has complied with RCW 48.29.155 and 48.29.160.

35 (5) The commissioner may require any documents reasonably necessary
36 to verify the information contained in an application and may, from
37 time to time, require any licensed insurance producer~~((r))~~ or title

1 insurance agent(~~, or adjuster~~) to produce the information called for
2 in an application for license.

3 **Sec. 16.** RCW 48.17.110 and 2007 c 117 s 8 are each amended to read
4 as follows:

5 (1) A resident individual applying for an insurance producer
6 license or an individual applying for an adjuster license shall pass a
7 written examination unless exempt under this section or RCW 48.17.175.
8 The examination shall test the knowledge of the individual concerning
9 the lines of authority for which application is made, the duties and
10 responsibilities of an insurance producer or adjuster, and the
11 insurance laws and rules of this state. Examinations required by this
12 section shall be developed and conducted under the rules prescribed by
13 the commissioner. The commissioner shall prepare, or approve, and make
14 available a manual specifying in general terms the subjects which may
15 be covered in any examination for a particular license.

16 (2) The following are exempt from the examination requirement:

17 (a) Applicants for licenses under RCW 48.17.170(1) (g), (h), and
18 (i), at the discretion of the commissioner;

19 ~~(b) ((Applicants who within the two-year period next preceding date
20 of application have been licensed as a resident in this state under a
21 license requiring qualifications similar to qualifications required by
22 the license applied for, or who have successfully completed a course of
23 study recognized as a mark of distinction by the insurance industry,
24 and who are deemed by the commissioner to be fully qualified and
25 competent;~~

26 ~~(e))~~ Applicants for an adjuster's license who for a period of one
27 year, a portion of which was in the year next preceding the date of
28 application, have been a full-time salaried employee of an insurer or
29 of a managing general agent to adjust, investigate, or report claims
30 arising under insurance contracts;

31 ~~((d))~~ (c) Applicants for a license as a nonresident adjuster who
32 are duly licensed in another state and who are deemed by the
33 commissioner to be fully qualified ((by past experience to deal in
34 ocean marine and related coverages)) and competent for a similar
35 license in this state.

36 (3) The commissioner may make arrangements, including contracting
37 with an outside testing service, for administering examinations.

1 (4) The commissioner may, at any time, require any licensed
2 insurance producer or adjuster to take and successfully pass an
3 examination testing the licensee's competence and qualifications as a
4 condition to the continuance or renewal of a license, if the licensee
5 has been guilty of violating this title, or has so conducted affairs
6 under an insurance license as to cause the commissioner to reasonably
7 desire further evidence of the licensee's qualifications.

8 **Sec. 17.** RCW 48.17.150 and 2007 c 117 s 10 are each amended to
9 read as follows:

10 (1) The commissioner shall by rule establish minimum continuing
11 education requirements for the renewal or reissuance of a license to an
12 insurance producer.

13 (2) The commissioner shall require that continuing education
14 courses will be made available on a statewide basis in order to ensure
15 that persons residing in all geographical areas of this state will have
16 a reasonable opportunity to attend such courses.

17 ~~((+2))~~ (3) The continuing education requirements must be
18 appropriate to the license for the lines of authority specified in RCW
19 48.17.170 or by rule.

20 ~~((+3) The continuing education requirements may be waived by the~~
21 ~~commissioner for good cause shown.))~~

22 **Sec. 18.** RCW 48.17.160 and 2007 c 117 s 11 are each amended to
23 read as follows:

24 (1) An insurance producer or title insurance agent shall not act as
25 an agent of an insurer unless the insurance producer or title insurance
26 agent becomes an appointed agent of that insurer. An insurance
27 producer who is not acting as an agent of an insurer is not required to
28 become appointed.

29 (2) To appoint an insurance producer or title insurance agent as
30 its agent, the appointing insurer shall file, in a format approved by
31 the commissioner, a notice of appointment within fifteen days from the
32 date the agency contract is executed or ~~((when))~~ the first insurance
33 application is submitted, whichever is ~~((later))~~ earlier.

34 (3) Upon receipt of the notice of appointment, the commissioner
35 shall verify within a reasonable time, not to exceed thirty days, that
36 the insurance producer or title insurance agent is eligible for

1 appointment. If the insurance producer or title insurance agent is
2 determined to be ineligible for appointment, the commissioner shall
3 notify the insurer within ten days of the determination.

4 (4) An insurer shall pay an appointment fee, in the amount and
5 method of payment set forth in RCW 48.14.010, for each insurance
6 producer or title insurance agent appointed by the insurer.

7 (5) Contingent upon payment of the appointment renewal fee as set
8 forth in RCW 48.14.010, an appointment shall be effective until
9 terminated by the (~~(insurance company)~~) insurer, insurance producer, or
10 title insurance agent and notice has been given to the commissioner as
11 required by RCW 48.17.595.

12 **Sec. 19.** RCW 48.17.170 and 2007 c 117 s 12 are each amended to
13 read as follows:

14 (1) Unless denied licensure under RCW 48.17.530, persons who have
15 met the requirements of RCW 48.17.090 and 48.17.110 shall be issued an
16 insurance producer license. An insurance producer may receive a
17 license in one or more of the following lines of authority:

18 (a) "Life," which is insurance coverage on human lives, including
19 benefits of endowment and annuities, and may include benefits in the
20 event of death or dismemberment by accident and benefits for disability
21 income;

22 (b) "Disability," which is insurance coverage for accident, health,
23 and disability or sickness, bodily injury, or accidental death, and may
24 include benefits for disability income;

25 (c) "Property," which is insurance coverage for the direct or
26 consequential loss or damage to property of every kind;

27 (d) "Casualty," which is insurance coverage against legal
28 liability, including that for death, injury, or disability or damage to
29 real or personal property;

30 (e) "Variable life and variable annuity products," which is
31 insurance coverage provided under variable life insurance contracts,
32 variable annuities, or any other life insurance or annuity product that
33 reflects the investment experience of a separate account;

34 (f) "Personal lines," which is property and casualty insurance
35 coverage sold to individuals and families for primarily noncommercial
36 purposes;

37 (g) Limited lines:

- 1 (i) Surety;
- 2 (ii) Limited line credit insurance;
- 3 (iii) Travel;
- 4 (h) Specialty lines:
 - 5 (i) Communications equipment or services;
 - 6 (ii) Rental car; or
 - 7 (i) Any other line of insurance permitted under state laws or
 - 8 rules.

9 (2) Unless denied licensure under RCW 48.17.530, persons who have
10 met the requirements of RCW 48.17.090(4) shall be issued a title
11 insurance agent license.

12 (3) All insurance producers', title insurance agents', and
13 adjusters' licenses issued by the commissioner shall be valid for the
14 time period established by the commissioner unless suspended or revoked
15 at an earlier date.

16 (4) Subject to the right of the commissioner to suspend, revoke, or
17 refuse to renew any insurance producer's, title insurance agent's, or
18 adjuster's license as provided in this title, the license may be
19 renewed into another like period by filing with the commissioner by any
20 means acceptable to the commissioner on or before the expiration date
21 a request, by or on behalf of the licensee, for such renewal
22 accompanied by payment of the renewal fee as specified in RCW
23 48.14.010.

24 (5) If the request and fee for renewal of an insurance producer's,
25 title insurance agent's, or adjuster's license (~~((is))~~) are filed with
26 the commissioner prior to expiration of the existing license, the
27 licensee may continue to act under such license, unless sooner revoked
28 or suspended, until the issuance of a renewal license, or until the
29 expiration of fifteen days after the commissioner has refused to renew
30 the license and has mailed (~~((order))~~) notification of such refusal to
31 the licensee. (~~((Any request for renewal not so filed until after date
32 of expiration may be considered by the commissioner as an application
33 for a new license.))~~) If the request and fee for the license renewal are
34 not received by the expiration date, the authority conferred by the
35 license ends on the expiration date.

36 (6) (~~((For all licenses,))~~) If the request for renewal of an
37 insurance producer's, title insurance agent's, or adjuster's license
38 (~~((or))~~) and payment of the fee (~~((is))~~) are not received by the

1 commissioner prior to the expiration date (~~as required under~~
2 ~~subsection (4) of this section~~), the (~~insurer or~~) applicant for
3 renewal shall pay to the commissioner (~~and the commissioner shall~~
4 ~~collect~~), in addition to the (~~regular~~) renewal fee, a surcharge as
5 follows:

6 (a) For the first thirty days or part thereof of delinquency, the
7 surcharge is fifty percent of the renewal fee; (~~for all delinquencies~~
8 ~~extending more than thirty days,~~)

9 (b) For the next thirty days or part thereof of delinquency, the
10 surcharge is one hundred percent of the renewal fee. (~~A surcharge of~~
11 ~~two hundred percent of the renewal fee is required for any delinquency~~
12 ~~extending more than sixty days after the expiration date. This~~
13 ~~subsection shall~~)

14 (7) If the request for renewal of an insurance producer's, title
15 insurance agent's, or adjuster's license and fee for the renewal are
16 received by the commissioner after sixty days but prior to twelve
17 months after the expiration date, the application is for reinstatement
18 of the license and the applicant for reinstatement must pay to the
19 commissioner the license fee and a surcharge of two hundred percent of
20 the license fee.

21 (8) Subsections (6) and (7) of this section do not exempt any
22 person from any penalty provided by law for transacting business
23 without a valid and subsisting license or appointment(~~, or affect the~~
24 ~~commissioner's right, at his or her discretion, to consider such~~
25 ~~delinquent application as one for a new license or appointment~~).

26 ~~((7))~~ (9) An individual insurance producer, title insurance
27 agent, or adjuster who allows his or her license to lapse may, within
28 twelve months after the expiration date, reinstate the same license
29 without the necessity of passing a written examination.

30 ~~((8))~~ (10) A licensed insurance producer who is unable to comply
31 with license renewal procedures due to military service or some other
32 extenuating circumstance such as a long-term medical disability, may
33 request a waiver of those procedures. The producer may also request a
34 waiver of any examination requirement or any other fine or sanction
35 imposed for failure to comply with renewal procedures.

36 ~~((9))~~ (11) The license shall contain the licensee's name,
37 address, personal identification number, and the date of issuance,

1 lines of authority, expiration date, and any other information the
2 commissioner deems necessary.

3 ~~((+10))~~ (12) Licensees shall inform the commissioner by any means
4 acceptable to the commissioner of a change of address within thirty
5 days of the change. Failure to timely inform the commissioner of a
6 change in legal name or address may result in a penalty under either
7 RCW 48.17.530 or 48.17.560, or both.

8 **Sec. 20.** RCW 48.17.173 and 2007 c 117 s 13 are each amended to
9 read as follows:

10 (1) Unless denied licensure under RCW 48.17.530, a nonresident
11 person shall receive a nonresident producer license for the line or
12 lines of authority under RCW 48.17.170 which is substantially
13 equivalent to the line or lines of authority granted to the nonresident
14 person in the person's home state if:

15 (a) The person is currently licensed as a resident and in good
16 standing in the person's home state;

17 (b) The person has submitted the proper request for licensure and
18 has paid the fees required by RCW 48.14.010;

19 (c) The person has submitted or transmitted to the commissioner
20 ~~((the application for licensure that the person submitted to the
21 person's home state, or in lieu,))~~ a completed uniform application;

22 (d) The person's home state awards nonresident producer licenses to
23 residents of this state on the same basis; and

24 (e) ~~((The person))~~ A business entity, it has designated an
25 individual licensed insurance producer responsible for the business
26 entity's compliance with the insurance laws and rules of this state.

27 (2) An individual, as part of the request for licensure, ~~((has~~
28 ~~furnished))~~ shall furnish information concerning the ~~((person's))~~
29 individual's identity, including fingerprints for submission to the
30 Washington state patrol, the federal bureau of investigation, and any
31 governmental agency or entity authorized to receive this information
32 for a state and national criminal history background check. If, in the
33 process of verifying fingerprints, business records, or other
34 information, the commissioner's office incurs fees or charges from
35 another governmental agency or from a business firm, the amount of the
36 fees or charges shall be paid to the commissioner's office by the
37 applicant.

1 ~~((2))~~ (3) A nonresident business entity acting as a title
2 insurance agent is required to obtain a title insurance agent license.
3 Application shall be made to the commissioner on the uniform business
4 entity application, and the individual submitting the application shall
5 declare under penalty of refusal, suspension, or revocation of the
6 license that the statements made in the application are true, correct,
7 and complete to the best of the individual's knowledge and belief.
8 Before approving the application, the commissioner must find that the
9 business entity:

10 (a) Has paid the fees set forth in RCW 48.14.010;

11 (b) Maintains a lawfully established place of business in its home
12 state and holds a corresponding license issued by the state of its
13 principal place of business, and has complied with the laws of this
14 state governing the admission of foreign corporations;

15 (c) Is empowered to be a title agent under a members' agreement, if
16 a limited liability company, or by its articles of incorporation;

17 (d) Is appointed as an agent by one or more authorized title
18 insurance companies; and

19 (e) Has complied with RCW 48.29.155 and 48.29.160.

20 (4) The commissioner shall waive any license application
21 requirements for a nonresident license applicant with a valid license
22 from the applicant's home state, except the requirements imposed by
23 this section, if the applicant's home state awards nonresident licenses
24 to residents of this state on the same basis.

25 ~~((3))~~ (5) A nonresident insurance producer's satisfaction of the
26 nonresident insurance producer's home state's continuing education
27 requirements for licensed insurance producers shall constitute
28 satisfaction of this state's continuing education requirements if the
29 nonresident producer's home state recognizes the satisfaction of its
30 continuing education requirements imposed upon producers from this
31 state on the same basis.

32 ~~((4))~~ (6) The commissioner shall waive the requirement for
33 providing fingerprints for submission to the Washington state patrol,
34 the federal bureau of investigation, and any governmental agency or
35 entity authorized to receive this information for a state and national
36 criminal history background check, if the person possesses a valid
37 insurance producer's or surplus line broker's license from the person's
38 home state and the person's home state requires submission of

1 information concerning a person's identity, including fingerprints for
2 the licensure of its resident insurance producers or surplus line
3 brokers, respectively.

4 ~~((+5))~~ (7) The commissioner may verify the producer's licensing
5 status through the producer database maintained by the NAIC, its
6 affiliates, or subsidiaries.

7 ~~((+6))~~ (8) A nonresident producer who moves from one state to
8 another state or a resident producer who moves from this state to
9 another state shall file a change of address and provide certification
10 from the new resident state within thirty days of the change of legal
11 residence. No fee or license application is required.

12 ~~((+7) A person licensed as a surplus lines producer in the person's
13 home state and complying with the requirements of subsection (1) of
14 this section and chapter 48.15 RCW shall receive a nonresident surplus
15 line broker license under subsection (1) of this section.~~

16 ~~(+8))~~ (9) A person licensed as a limited line credit insurance or
17 other type of limited lines producer in the person's home state and who
18 complies with the requirements of subsection (1) of this section shall
19 receive a nonresident limited lines producer license, under subsection
20 (1) of this section, granting the same scope of authority as granted
21 under the license issued by the producer's home state. For the purpose
22 of this subsection, limited line insurance is any authority granted by
23 the home state which restricts the authority of the license to the
24 lines set out in RCW 48.17.170(1)(g).

25 ~~((+9))~~ (10) Each licensed nonresident insurance producer or title
26 insurance agent shall appoint the commissioner as the insurance
27 producer's or title insurance agent's attorney to receive service of
28 legal process issued against the insurance producer or title insurance
29 agent in this state upon causes of action arising within this state.
30 Service upon the commissioner as attorney shall constitute effective
31 legal service upon the insurance producer or title insurance agent.

32 (a) The appointment shall be irrevocable for as long as there could
33 be any cause of action against the insurance producer or title
34 insurance agent arising out of the insurance producer's or title
35 insurance agent's insurance transactions in this state.

36 (b) Duplicate copies of such legal process against such insurance
37 producer or title insurance agent shall be served upon the commissioner

1 either by a person competent to serve a summons, or through registered
2 mail. At the time of such service the plaintiff shall pay to the
3 commissioner ten dollars, taxable as costs in the action.

4 (c) Upon receiving such service, the commissioner shall forthwith
5 send one of the copies of the process, by registered mail with return
6 receipt requested, to the defendant insurance producer or title
7 insurance agent at the insurance producer's or title insurance agent's
8 last address of record with the commissioner.

9 (d) The commissioner shall keep a record of the day and hour of
10 service upon the commissioner of all such legal process. No
11 proceedings shall be had against the defendant insurance producer or
12 title insurance agent, and the defendant shall not be required to
13 appear, plead, or answer until the expiration of forty days after the
14 date of service upon the commissioner.

15 (11) The commissioner may require any documents reasonably
16 necessary to verify the information contained in an application and
17 may, from time to time, require any licensed insurance producer or
18 title insurance agent to produce the information called for in an
19 application for license.

20 **Sec. 21.** RCW 48.17.250 and 2007 c 117 s 16 are each amended to
21 read as follows:

22 (1) Every insurance producer licensed under this chapter on or
23 after July 1, 2009, who places insurance either directly or indirectly
24 with an insurer with which the insurance producer is not appointed as
25 an agent must maintain in force while so licensed a bond in favor of
26 the people of the state of Washington or a named insured such that the
27 people of Washington are covered by the bond, executed by an authorized
28 corporate surety approved by the commissioner, in the amount of two
29 thousand five hundred dollars, or five percent of the premiums brokered
30 in the previous calendar year, whichever is greater, but not to exceed
31 one hundred thousand dollars total aggregate liability. The bond may
32 be continuous in form, and total aggregate liability on the bond may be
33 limited to the required amount of the bond. The bond shall be
34 contingent on the accounting by the insurance producer to any person
35 requesting the insurance producer to obtain insurance, for moneys or
36 premiums collected in connection therewith.

1 (2) Authorized insurance producers of a business entity may meet
2 the requirements of this section with a bond in the name of the
3 business entity, continuous in form, and in the amounts set forth in
4 subsection (1) of this section. Insurance producers may meet the
5 requirements of this section with a bond in the name of an association.
6 The association must have been in existence for five years, have common
7 membership, and have been formed for a purpose other than obtaining a
8 bond. An individual insurance producer remains responsible for
9 assuring that a bond is in effect and is for the correct amount.

10 (3) The surety may cancel the bond and be released from further
11 liability thereunder upon thirty days' written notice in advance to the
12 principal. The cancellation does not affect any liability incurred or
13 accrued under the bond before the termination of the thirty-day period.

14 (4) The insurance producer's license may be revoked if the
15 insurance producer acts without a bond that is required under this
16 section.

17 (5) If a party injured under the terms of the bond requests the
18 insurance producer to provide the name of the surety and the bond
19 number, the insurance producer must provide the information within
20 three working days after receiving the request.

21 (6) Members of an association may meet the requirements of this
22 section (~~((for all of its members))~~) with a bond in the name of the
23 association that is continuous in form and in the amounts set forth in
24 subsection (1) of this section for each participating member.

25 (7) All records relating to the bond required by this section shall
26 be kept available and open to the inspection of the commissioner at any
27 business time.

28 **Sec. 22.** RCW 48.17.270 and 2007 c 117 s 17 are each amended to
29 read as follows:

30 (1) The sole relationship between an insurance producer and an
31 insurer as to which the insurance producer is appointed as an agent
32 shall, as to transactions arising during the existence of such agency
33 appointment, be that of insurer and agent.

34 (2) Unless the agency-insurer agreement provides to the contrary,
35 an insurance producer may receive the following compensation:

36 (a) A commission paid by the insurer;

37 (b) A fee paid by the insured; or

1 (c) A combination of commission paid by the insurer and a fee paid
2 by the insured from which an insurance producer may offset or reimburse
3 the insured for all or part of the fee.

4 (3) If the compensation received by an insurance producer who is
5 dealing directly with the insured includes a fee, for each policy, the
6 insurance producer must disclose in writing to the insured:

7 (a) The full amount of the fee paid by the insured;

8 (b) The full amount of any commission paid to the insurance
9 producer by the insurer, if one is received;

10 (c) An explanation of any offset or reimbursement of fees or
11 commissions as described in subsection (2)(c) of this section;

12 (d) When the insurance producer may receive additional commission,
13 notice that states the insurance producer:

14 (i) May receive additional commission in the form of future
15 incentive compensation from the insurer, including contingent
16 commissions and other awards and bonuses based on factors that
17 typically include the total sales volume, growth, profitability, and
18 retention of business placed by the insurance producer with the
19 insurer, and incentive compensation is only paid if the performance
20 criteria established in the agency-insurer agreement is met by the
21 insurance producer or the business entity with which the insurance
22 producer is affiliated; and

23 (ii) Will furnish to the insured or prospective insured specific
24 information relating to additional commission upon request; and

25 (e) The full name of the insurer that may pay any commission to the
26 insurance producer.

27 (4) Written disclosure of compensation as required by subsection
28 (3) of this section shall be provided by the insurance producer to the
29 insured prior to the sale of the policy.

30 (5) Written disclosure as required by subsection (3) of this
31 section must be signed by the insurance producer and the insured, and
32 the writing must be retained by the insurance producer for five years.
33 For the purposes of this section, written disclosure means the
34 insured's written consent obtained prior to the insured's purchase of
35 insurance. In the case of a purchase over the telephone or by
36 electronic means for which written consent cannot be reasonably
37 obtained, consent documented by the insurance producer shall be
38 acceptable.

1 **Sec. 23.** RCW 48.17.380 and 2007 c 117 s 18 are each amended to
2 read as follows:

3 (1) Application for a license to be an adjuster shall be made to
4 the commissioner upon forms furnished by the commissioner. As a part
5 of or in connection with the application, an individual applicant shall
6 furnish information concerning his or her identity, including
7 fingerprints for submission to the Washington state patrol, the federal
8 bureau of investigation, and any governmental agency or entity
9 authorized to receive this information for a state and national
10 criminal history background check, personal history, experience,
11 business record, purposes, and other pertinent facts, as the
12 commissioner may reasonably require. If, in the process of verifying
13 fingerprints, business records, or other information, the
14 commissioner's office incurs fees or charges from another governmental
15 agency or from a business firm, the amount of the fees or charges must
16 be paid to the commissioner's office by the applicant.

17 (2) Any person willfully misrepresenting any fact required to be
18 disclosed in any application shall be liable to penalties as provided
19 by this code.

20 (3) The commissioner shall license as an adjuster only an
21 individual or business entity which has otherwise complied with this
22 code therefor and the individual or responsible officer of the business
23 entity has furnished evidence satisfactory to the commissioner that the
24 individual or responsible officer of the business entity is qualified
25 as follows:

26 ~~((1))~~ (a) Is eighteen or more years of age~~((-))~~;

27 ~~((2))~~ (b) Is a bona fide resident of this state, or is a resident
28 of a state which will permit residents of this state to act as
29 adjusters in such other state~~((-))~~;

30 ~~((3))~~ (c) Is a trustworthy person~~((-))~~;

31 ~~((4))~~ (d) Has had experience or special education or training
32 with reference to the handling of loss claims under insurance
33 contracts, of sufficient duration and extent reasonably to make the
34 individual or responsible officer of the business entity competent to
35 fulfill the responsibilities of an adjuster~~((-))~~;

36 ~~((5))~~ (e) Has successfully passed any examination as required
37 under this chapter~~((-))~~;

1 ((+6+)) (f) If for a public adjuster's license, has filed the bond
2 required by RCW 48.17.430.

3 (4) The commissioner may require any documents reasonably necessary
4 to verify the information contained in an application and may, from
5 time to time, require any licensed adjuster to produce the information
6 called for in an application for a license.

7 **Sec. 24.** RCW 48.17.565 and 2007 c 117 s 30 are each amended to
8 read as follows:

9 If an investigation of any insurance education provider culminates
10 in a finding by the commissioner or by any court of competent
11 jurisdiction, that the insurance education provider has failed to
12 comply with or has violated any statute or regulation pertaining to
13 insurance education, the insurance education provider shall pay the
14 expenses reasonably attributable and allocable to such investigation.

15 (1) The commissioner shall calculate such expenses and render a
16 bill therefor by registered mail to the insurance education provider.
17 Within thirty days after receipt of such bill, the insurance education
18 provider shall pay the full amount to the commissioner. The
19 commissioner shall transmit such payment to the state treasurer. The
20 state treasurer shall credit the payment to the office of the insurance
21 commissioner regulatory account, treating such payment as recovery of
22 a prior expenditure.

23 (2) In any action brought under this section, if the ((insurance))
24 commissioner prevails, the court may award to the office of the
25 commissioner all costs of the action, including a reasonable attorneys'
26 fee to be fixed by the court.

27 **Sec. 25.** RCW 48.30.260 and 2008 c 217 s 41 are each amended to
28 read as follows:

29 (1) Every debtor or borrower, when property insurance of any kind
30 is required in connection with the debt or loan, shall have reasonable
31 opportunity and choice in the selection of the insurance producer,
32 surplus line broker, and insurer through whom such insurance is to be
33 placed; but only if the insurance is properly provided for the
34 protection of the creditor or lender, whether by policy or binder, not
35 later than at commencement of risk as to such property as respects such
36 creditor or lender, and in the case of renewal of insurance, only if

1 the renewal policy, or a proper binder therefor containing a brief
2 description of the coverage bound and the identity of the insurer in
3 which the coverage is bound, is delivered to the creditor or lender not
4 later than thirty days prior to the renewal date.

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

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

13 (a) Solicit insurance for the protection of property, after a
14 person indicates interest in securing a loan or credit extension, until
15 such person has received a commitment from the lender as to a loan or
16 credit extension;

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

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

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

1 (e) Require any procedures or conditions of duly licensed insurance
2 producers, surplus line brokers, or insurers not customarily required
3 of those insurance producers, surplus line brokers, or insurers
4 affiliated or in any way connected with the person who lends money or
5 extends credit; or

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

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

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

16 **Sec. 26.** RCW 48.30.270 and 2008 c 217 s 42 are each amended to
17 read as follows:

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

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

36 (3) This section shall not be construed to prevent the exercise by
37 such officer or employee on behalf of the state or such public agency,

1 public authority, or public corporation of its right to approve the
2 form, sufficiency or manner or execution of the surety bonds or
3 contracts of insurance furnished by the insurer selected by the bidder
4 to underwrite such bonds, or contracts of insurance.

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

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

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

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

21 **Sec. 27.** RCW 48.31.111 and 2008 c 217 s 43 are each amended to
22 read as follows:

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

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

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

1 brought by the receiver of a domestic insurer or an alien insurer
2 domiciled in this state:

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

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

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

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

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

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

28 **Sec. 28.** RCW 48.31.141 and 2008 c 217 s 44 are each amended to
29 read as follows:

30 (1)(a) An insurance producer, title insurance agent, surplus line
31 broker, premium finance company, or any other person, other than the
32 policy owner or the insured, responsible for the payment of a premium
33 is obligated to pay any unpaid premium for the full policy term due the
34 insurer at the time of the declaration of insolvency, whether earned or
35 unearned, as shown on the records of the insurer. The liquidator also
36 has the right to recover from the person a part of an unearned premium
37 that represents commission of the person. Credits or setoffs or both

1 may not be allowed to an insurance producer, title insurance agent,
2 surplus line broker, or premium finance company for amounts advanced to
3 the insurer by the insurance producer, title insurance agent, surplus
4 line broker, or premium finance company on behalf of, but in the
5 absence of a payment by, the policy owner or the insured.

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

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

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

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

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

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

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

1 **Sec. 29.** RCW 48.62.121 and 2008 c 217 s 62 are each amended to
2 read as follows:

3 (1) No employee or official of a local government entity may
4 directly or indirectly receive anything of value for services rendered
5 in connection with the operation and management of a self-insurance
6 program other than the salary and benefits provided by his or her
7 employer or the reimbursement of expenses reasonably incurred in
8 furtherance of the operation or management of the program. No employee
9 or official of a local government entity may accept or solicit anything
10 of value for personal benefit or for the benefit of others under
11 circumstances in which it can be reasonably inferred that the
12 employee's or official's independence of judgment is impaired with
13 respect to the management and operation of the program.

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

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

20 (ii) Local government participation in a multistate joint program
21 where control is shared with local government entities from other
22 states; or

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

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

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

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

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

35 (3) Moneys made available and moneys expended by school districts
36 and educational service districts for self-insurance under this chapter
37 are subject to such rules of the superintendent of public instruction
38 as the superintendent may adopt governing budgeting and accounting.

1 However, the superintendent shall ensure that the rules are consistent
2 with those adopted by the state risk manager for the management and
3 operation of self-insurance programs.

4 (4) RCW 48.30.140, 48.30.150, 48.30.155, and 48.30.157 apply to the
5 use of insurance producers and surplus line brokers by local government
6 self-insurance programs.

7 (5) Every individual and joint local government self-insured health
8 and welfare benefits program that provides comprehensive coverage for
9 health care services shall include mandated benefits that the state
10 health care authority is required to provide under RCW 41.05.170 and
11 41.05.180. The state risk manager may adopt rules identifying the
12 mandated benefits.

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

17 **Sec. 30.** RCW 48.62.151 and 2008 c 217 s 63 are each amended to
18 read as follows:

19 A joint self-insurance program approved in accordance with this
20 chapter is exempt from insurance premium taxes, from fees assessed
21 under chapter 48.02 RCW, from chapters 48.32 and 48.32A RCW, from
22 business and occupations taxes imposed under chapter 82.04 RCW, and
23 from any assigned risk plan or joint underwriting association otherwise
24 required by law. This section does not apply to and no exemption is
25 provided for insurance companies issuing policies to cover program
26 risks, nor does it apply to or provide an exemption for third-party
27 administrators, surplus line brokers, or insurance producers serving
28 the self-insurance program.

29 **Sec. 31.** RCW 48.99.030 and 2008 c 217 s 84 are each amended to
30 read as follows:

31 (1) Whenever under the laws of this state an ancillary receiver is
32 to be appointed in delinquency proceedings for an insurer not domiciled
33 in this state, the court shall appoint the commissioner as ancillary
34 receiver. The commissioner shall file a petition requesting the
35 appointment (a) if he or she finds that there are sufficient assets of
36 such insurer located in this state to justify the appointment of an

1 ancillary receiver, or (b) if ten or more persons resident in this
2 state having claims against such insurer file a petition with the
3 commissioner requesting the appointment of such ancillary receiver.

4 (2) The domiciliary receiver for the purpose of liquidating an
5 insurer domiciled in a reciprocal state, shall be vested by operation
6 of law with the title to all of the property, contracts, and rights of
7 action, and all of the books and records of the insurer located in this
8 state, and he or she shall have the immediate right to recover balances
9 due from local insurance producers and surplus line brokers and to
10 obtain possession of any books and records of the insurer found in this
11 state. He or she shall also be entitled to recover the other assets of
12 the insurer located in this state except that upon the appointment of
13 an ancillary receiver in this state, the ancillary receiver shall
14 during the ancillary receivership proceedings have the sole right to
15 recover such other assets. The ancillary receiver shall, as soon as
16 practicable, liquidate from their respective securities those special
17 deposit claims and secured claims which are proved and allowed in the
18 ancillary proceedings in this state, and shall pay the necessary
19 expenses of the proceedings. All remaining assets shall promptly
20 transfer to the domiciliary receiver. Subject to the foregoing
21 provisions the ancillary receiver and his or her deputies shall have
22 the same powers and be subject to the same duties with respect to the
23 administration of such assets, as a receiver of an insurer domiciled in
24 this state.

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

29 **Sec. 32.** RCW 48.135.010 and 2008 c 217 s 97 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) "Insurance fraud" means an act or omission committed by a
34 person who, knowingly, and with intent to defraud, commits, or conceals
35 any material information concerning, one or more of the following:

36 (a) Presenting, causing to be presented, or preparing with
37 knowledge or belief that it will be presented to or by an insurer

1 (~~or~~), insurance producer, or surplus line broker, false information
2 as part of, in support of, or concerning a fact material to one or more
3 of the following:

4 (i) An application for the issuance or renewal of an insurance
5 policy;

6 (ii) The rating of an insurance policy or contract;

7 (iii) A claim for payment or benefit pursuant to an insurance
8 policy;

9 (iv) Premiums paid on an insurance policy;

10 (v) Payments made in accordance with the terms of an insurance
11 policy; or

12 (vi) The reinstatement of an insurance policy;

13 (b) Willful embezzlement, abstracting, purloining, or conversion of
14 moneys, funds, premiums, credits, or other property of an insurer or
15 person engaged in the business of insurance; or

16 (c) Attempting to commit, aiding or abetting in the commission of,
17 or conspiracy to commit the acts or omissions specified in this
18 subsection.

19 The definition of insurance fraud is for illustrative purposes only
20 under this chapter to describe the nature of the behavior to be
21 reported and investigated, and is not intended in any manner to create
22 or modify the definition of any existing criminal acts nor to create or
23 modify the burdens of proof in any criminal prosecution brought as a
24 result of an investigation under this chapter.

25 (2) "Insurer" means an insurance company authorized under chapter
26 48.05 RCW, a health care service contractor registered under chapter
27 48.44 RCW, and a health care maintenance organization registered under
28 chapter 48.46 RCW.

29 **Sec. 33.** RCW 51.12.020 and 2008 c 217 s 98 are each amended to
30 read as follows:

31 The following are the only employments which shall not be included
32 within the mandatory coverage of this title:

33 (1) Any person employed as a domestic servant in a private home by
34 an employer who has less than two employees regularly employed forty or
35 more hours a week in such employment.

36 (2) Any person employed to do gardening, maintenance, or repair, in
37 or about the private home of the employer. For the purposes of this

1 subsection, "maintenance" means the work of keeping in proper
2 condition, "repair" means to restore to sound condition after damage,
3 and "private home" means a person's place of residence.

4 (3) A person whose employment is not in the course of the trade,
5 business, or profession of his or her employer and is not in or about
6 the private home of the employer.

7 (4) Any person performing services in return for aid or sustenance
8 only, received from any religious or charitable organization.

9 (5) Sole proprietors or partners.

10 (6) Any child under eighteen years of age employed by his or her
11 parent or parents in agricultural activities on the family farm.

12 (7) Jockeys while participating in or preparing horses for race
13 meets licensed by the Washington horse racing commission pursuant to
14 chapter 67.16 RCW.

15 (8)(a) Except as otherwise provided in (b) of this subsection, any
16 bona fide officer of a corporation voluntarily elected or voluntarily
17 appointed in accordance with the articles of incorporation or bylaws of
18 the corporation, who at all times during the period involved is also a
19 bona fide director, and who is also a shareholder of the corporation.
20 Only such officers who exercise substantial control in the daily
21 management of the corporation and whose primary responsibilities do not
22 include the performance of manual labor are included within this
23 subsection.

24 (b) Alternatively, a corporation that is not a "public company" as
25 defined in RCW 23B.01.400(24) may exempt eight or fewer bona fide
26 officers, who are voluntarily elected or voluntarily appointed in
27 accordance with the articles of incorporation or bylaws of the
28 corporation and who exercise substantial control in the daily
29 management of the corporation, from coverage under this title without
30 regard to the officers' performance of manual labor if the exempted
31 officer is a shareholder of the corporation, or may exempt any number
32 of officers if all the exempted officers are related by blood within
33 the third degree or marriage. If a corporation that is not a "public
34 company" elects to be covered under subsection (8)(a) of this section,
35 the corporation's election must be made on a form prescribed by the
36 department and under such reasonable rules as the department may adopt.

37 (c) Determinations respecting the status of persons performing
38 services for a corporation shall be made, in part, by reference to

1 Title 23B RCW and to compliance by the corporation with its own
2 articles of incorporation and bylaws. For the purpose of determining
3 coverage under this title, substance shall control over form, and
4 mandatory coverage under this title shall extend to all workers of this
5 state, regardless of honorary titles conferred upon those actually
6 serving as workers.

7 (d) A corporation may elect to cover officers who are exempted by
8 this subsection in the manner provided by RCW 51.12.110.

9 (9) Services rendered by a musician or entertainer under a contract
10 with a purchaser of the services, for a specific engagement or
11 engagements when such musician or entertainer performs no other duties
12 for the purchaser and is not regularly and continuously employed by the
13 purchaser. A purchaser does not include the leader of a group or
14 recognized entity who employs other than on a casual basis musicians or
15 entertainers.

16 (10) Services performed by a newspaper carrier selling or
17 distributing newspapers on the street or from house to house.

18 (11) Services performed by an insurance producer, as defined in RCW
19 48.17.010(5), or a surplus line broker licensed under chapter 48.15
20 RCW.

21 (12) Services performed by a booth renter. However, a person
22 exempted under this subsection may elect coverage under RCW 51.32.030.

23 (13) Members of a limited liability company, if either:

24 (a) Management of the company is vested in its members, and the
25 members for whom exemption is sought would qualify for exemption under
26 subsection (5) of this section were the company a sole proprietorship
27 or partnership; or

28 (b) Management of the company is vested in one or more managers,
29 and the members for whom the exemption is sought are managers who would
30 qualify for exemption under subsection (8) of this section were the
31 company a corporation.

32 **Sec. 34.** RCW 82.04.260 and 2008 c 296 s 1, 2008 c 217 s 100, and
33 2008 c 81 s 4 are each reenacted and amended to read as follows:

34 (1) Upon every person engaging within this state in the business of
35 manufacturing:

36 (a) Wheat into flour, barley into pearl barley, soybeans into
37 soybean oil, canola into canola oil, canola meal, or canola byproducts,

1 or sunflower seeds into sunflower oil; as to such persons the amount of
2 tax with respect to such business shall be equal to the value of the
3 flour, pearl barley, oil, canola meal, or canola byproduct
4 manufactured, multiplied by the rate of 0.138 percent;

5 (b) Beginning July 1, 2012, seafood products that remain in a raw,
6 raw frozen, or raw salted state at the completion of the manufacturing
7 by that person; or selling manufactured seafood products that remain in
8 a raw, raw frozen, or raw salted state at the completion of the
9 manufacturing, to purchasers who transport in the ordinary course of
10 business the goods out of this state; as to such persons the amount of
11 tax with respect to such business shall be equal to the value of the
12 products manufactured or the gross proceeds derived from such sales,
13 multiplied by the rate of 0.138 percent. Sellers must keep and
14 preserve records for the period required by RCW 82.32.070 establishing
15 that the goods were transported by the purchaser in the ordinary course
16 of business out of this state;

17 (c) Beginning July 1, 2012, dairy products that as of September 20,
18 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
19 including byproducts from the manufacturing of the dairy products such
20 as whey and casein; or selling the same to purchasers who transport in
21 the ordinary course of business the goods out of state; as to such
22 persons the tax imposed shall be equal to the value of the products
23 manufactured or the gross proceeds derived from such sales multiplied
24 by the rate of 0.138 percent. Sellers must keep and preserve records
25 for the period required by RCW 82.32.070 establishing that the goods
26 were transported by the purchaser in the ordinary course of business
27 out of this state;

28 (d) Beginning July 1, 2012, fruits or vegetables by canning,
29 preserving, freezing, processing, or dehydrating fresh fruits or
30 vegetables, or selling at wholesale fruits or vegetables manufactured
31 by the seller by canning, preserving, freezing, processing, or
32 dehydrating fresh fruits or vegetables and sold to purchasers who
33 transport in the ordinary course of business the goods out of this
34 state; as to such persons the amount of tax with respect to such
35 business shall be equal to the value of the products manufactured or
36 the gross proceeds derived from such sales multiplied by the rate of
37 0.138 percent. Sellers must keep and preserve records for the period

1 required by RCW 82.32.070 establishing that the goods were transported
2 by the purchaser in the ordinary course of business out of this state;

3 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
4 feedstock, as those terms are defined in RCW 82.29A.135; as to such
5 persons the amount of tax with respect to the business shall be equal
6 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
7 manufactured, multiplied by the rate of 0.138 percent; and

8 (f) Alcohol fuel or wood biomass fuel, as those terms are defined
9 in RCW 82.29A.135; as to such persons the amount of tax with respect to
10 the business shall be equal to the value of alcohol fuel or wood
11 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

12 (2) Upon every person engaging within this state in the business of
13 splitting or processing dried peas; as to such persons the amount of
14 tax with respect to such business shall be equal to the value of the
15 peas split or processed, multiplied by the rate of 0.138 percent.

16 (3) Upon every nonprofit corporation and nonprofit association
17 engaging within this state in research and development, as to such
18 corporations and associations, the amount of tax with respect to such
19 activities shall be equal to the gross income derived from such
20 activities multiplied by the rate of 0.484 percent.

21 (4) Upon every person engaging within this state in the business of
22 slaughtering, breaking and/or processing perishable meat products
23 and/or selling the same at wholesale only and not at retail; as to such
24 persons the tax imposed shall be equal to the gross proceeds derived
25 from such sales multiplied by the rate of 0.138 percent.

26 (5) Upon every person engaging within this state in the business of
27 acting as a travel agent or tour operator; as to such persons the
28 amount of the tax with respect to such activities shall be equal to the
29 gross income derived from such activities multiplied by the rate of
30 0.275 percent.

31 (6) Upon every person engaging within this state in business as an
32 international steamship agent, international customs house broker,
33 international freight forwarder, vessel and/or cargo charter broker in
34 foreign commerce, and/or international air cargo agent; as to such
35 persons the amount of the tax with respect to only international
36 activities shall be equal to the gross income derived from such
37 activities multiplied by the rate of 0.275 percent.

1 (7) Upon every person engaging within this state in the business of
2 stevedoring and associated activities pertinent to the movement of
3 goods and commodities in waterborne interstate or foreign commerce; as
4 to such persons the amount of tax with respect to such business shall
5 be equal to the gross proceeds derived from such activities multiplied
6 by the rate of 0.275 percent. Persons subject to taxation under this
7 subsection shall be exempt from payment of taxes imposed by chapter
8 82.16 RCW for that portion of their business subject to taxation under
9 this subsection. Stevedoring and associated activities pertinent to
10 the conduct of goods and commodities in waterborne interstate or
11 foreign commerce are defined as all activities of a labor, service or
12 transportation nature whereby cargo may be loaded or unloaded to or
13 from vessels or barges, passing over, onto or under a wharf, pier, or
14 similar structure; cargo may be moved to a warehouse or similar holding
15 or storage yard or area to await further movement in import or export
16 or may move to a consolidation freight station and be stuffed,
17 unstuffed, containerized, separated or otherwise segregated or
18 aggregated for delivery or loaded on any mode of transportation for
19 delivery to its consignee. Specific activities included in this
20 definition are: Wharfage, handling, loading, unloading, moving of
21 cargo to a convenient place of delivery to the consignee or a
22 convenient place for further movement to export mode; documentation
23 services in connection with the receipt, delivery, checking, care,
24 custody and control of cargo required in the transfer of cargo;
25 imported automobile handling prior to delivery to consignee; terminal
26 stevedoring and incidental vessel services, including but not limited
27 to plugging and unplugging refrigerator service to containers,
28 trailers, and other refrigerated cargo receptacles, and securing ship
29 hatch covers.

30 (8) Upon every person engaging within this state in the business of
31 disposing of low-level waste, as defined in RCW 43.145.010; as to such
32 persons the amount of the tax with respect to such business shall be
33 equal to the gross income of the business, excluding any fees imposed
34 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

35 If the gross income of the taxpayer is attributable to activities
36 both within and without this state, the gross income attributable to
37 this state shall be determined in accordance with the methods of
38 apportionment required under RCW 82.04.460.

1 (9) Upon every person engaging within this state as an insurance
2 producer or title insurance agent licensed under chapter 48.17 RCW or
3 a surplus line broker licensed under chapter 48.15 RCW; as to such
4 persons, the amount of the tax with respect to such licensed activities
5 shall be equal to the gross income of such business multiplied by the
6 rate of 0.484 percent.

7 (10) Upon every person engaging within this state in business as a
8 hospital, as defined in chapter 70.41 RCW, that is operated as a
9 nonprofit corporation or by the state or any of its political
10 subdivisions, as to such persons, the amount of tax with respect to
11 such activities shall be equal to the gross income of the business
12 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
13 percent thereafter. The moneys collected under this subsection shall
14 be deposited in the health services account created under RCW
15 43.72.900.

16 (11)(a) Beginning October 1, 2005, upon every person engaging
17 within this state in the business of manufacturing commercial
18 airplanes, or components of such airplanes, or making sales, at retail
19 or wholesale, of commercial airplanes or components of such airplanes,
20 manufactured by the seller, as to such persons the amount of tax with
21 respect to such business shall, in the case of manufacturers, be equal
22 to the value of the product manufactured and the gross proceeds of
23 sales of the product manufactured, or in the case of processors for
24 hire, be equal to the gross income of the business, multiplied by the
25 rate of:

26 (i) 0.4235 percent from October 1, 2005, through the later of June
27 30, 2007; and

28 (ii) 0.2904 percent beginning July 1, 2007.

29 (b) Beginning July 1, 2008, upon every person who is not eligible
30 to report under the provisions of (a) of this subsection (11) and is
31 engaging within this state in the business of manufacturing tooling
32 specifically designed for use in manufacturing commercial airplanes or
33 components of such airplanes, or making sales, at retail or wholesale,
34 of such tooling manufactured by the seller, as to such persons the
35 amount of tax with respect to such business shall, in the case of
36 manufacturers, be equal to the value of the product manufactured and
37 the gross proceeds of sales of the product manufactured, or in the case

1 of processors for hire, be equal to the gross income of the business,
2 multiplied by the rate of 0.2904 percent.

3 (c) For the purposes of this subsection (11), "commercial airplane"
4 and "component" have the same meanings as provided in RCW 82.32.550.

5 (d) In addition to all other requirements under this title, a
6 person eligible for the tax rate under this subsection (11) must report
7 as required under RCW 82.32.545.

8 (e) This subsection (11) does not apply on and after July 1, 2024.

9 (12)(a) Until July 1, 2024, upon every person engaging within this
10 state in the business of extracting timber or extracting for hire
11 timber; as to such persons the amount of tax with respect to the
12 business shall, in the case of extractors, be equal to the value of
13 products, including byproducts, extracted, or in the case of extractors
14 for hire, be equal to the gross income of the business, multiplied by
15 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
16 and 0.2904 percent from July 1, 2007, through June 30, 2024.

17 (b) Until July 1, 2024, upon every person engaging within this
18 state in the business of manufacturing or processing for hire: (i)
19 Timber into timber products or wood products; or (ii) timber products
20 into other timber products or wood products; as to such persons the
21 amount of the tax with respect to the business shall, in the case of
22 manufacturers, be equal to the value of products, including byproducts,
23 manufactured, or in the case of processors for hire, be equal to the
24 gross income of the business, multiplied by the rate of 0.4235 percent
25 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July
26 1, 2007, through June 30, 2024.

27 (c) Until July 1, 2024, upon every person engaging within this
28 state in the business of selling at wholesale: (i) Timber extracted by
29 that person; (ii) timber products manufactured by that person from
30 timber or other timber products; or (iii) wood products manufactured by
31 that person from timber or timber products; as to such persons the
32 amount of the tax with respect to the business shall be equal to the
33 gross proceeds of sales of the timber, timber products, or wood
34 products multiplied by the rate of 0.4235 percent from July 1, 2006,
35 through June 30, 2007, and 0.2904 percent from July 1, 2007, through
36 June 30, 2024.

37 (d) Until July 1, 2024, upon every person engaging within this
38 state in the business of selling standing timber; as to such persons

1 the amount of the tax with respect to the business shall be equal to
2 the gross income of the business multiplied by the rate of 0.2904
3 percent. For purposes of this subsection (12)(d), "selling standing
4 timber" means the sale of timber apart from the land, where the buyer
5 is required to sever the timber within thirty months from the date of
6 the original contract, regardless of the method of payment for the
7 timber and whether title to the timber transfers before, upon, or after
8 severance.

9 (e) For purposes of this subsection, the following definitions
10 apply:

11 (i) "Biocomposite surface products" means surface material products
12 containing, by weight or volume, more than fifty percent recycled paper
13 and that also use nonpetroleum-based phenolic resin as a bonding agent.

14 (ii) "Paper and paper products" means products made of interwoven
15 cellulosic fibers held together largely by hydrogen bonding. "Paper
16 and paper products" includes newsprint; office, printing, fine, and
17 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
18 kraft bag, construction, and other kraft industrial papers; paperboard,
19 liquid packaging containers, containerboard, corrugated, and solid-
20 fiber containers including linerboard and corrugated medium; and
21 related types of cellulosic products containing primarily, by weight or
22 volume, cellulosic materials. "Paper and paper products" does not
23 include books, newspapers, magazines, periodicals, and other printed
24 publications, advertising materials, calendars, and similar types of
25 printed materials.

26 (iii) "Recycled paper" means paper and paper products having fifty
27 percent or more of their fiber content that comes from postconsumer
28 waste. For purposes of this subsection (12)(e)(iii), "postconsumer
29 waste" means a finished material that would normally be disposed of as
30 solid waste, having completed its life cycle as a consumer item.

31 (iv) "Timber" means forest trees, standing or down, on privately or
32 publicly owned land. "Timber" does not include Christmas trees that
33 are cultivated by agricultural methods or short-rotation hardwoods as
34 defined in RCW 84.33.035.

35 (v) "Timber products" means:

36 (A) Logs, wood chips, sawdust, wood waste, and similar products
37 obtained wholly from the processing of timber, short-rotation hardwoods
38 as defined in RCW 84.33.035, or both;

1 (B) Pulp, including market pulp and pulp derived from recovered
2 paper or paper products; and

3 (C) Recycled paper, but only when used in the manufacture of
4 biocomposite surface products.

5 (vi) "Wood products" means paper and paper products; dimensional
6 lumber; engineered wood products such as particleboard, oriented strand
7 board, medium density fiberboard, and plywood; wood doors; wood
8 windows; and biocomposite surface products.

9 (13) Upon every person engaging within this state in inspecting,
10 testing, labeling, and storing canned salmon owned by another person,
11 as to such persons, the amount of tax with respect to such activities
12 shall be equal to the gross income derived from such activities
13 multiplied by the rate of 0.484 percent.

14 NEW SECTION. **Sec. 35.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

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