

**2SSB 5540 - S AMD 424**  
By Senator Parlette

ADOPTED 02/12/2014

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply  
4 throughout this chapter unless the context clearly requires otherwise:

5 (1) "Qualifying reciprocal insurer" means a foreign insurer that:

6 (a) Meets the definition of "issuer" pursuant to P.L. 111-148 of  
7 2010, as amended;

8 (b) Is authorized in a state that is a member of the consortium  
9 authorized in section 4 of this act;

10 (c) Proposes to sell in Washington only a qualifying reciprocal  
11 plan;

12 (d) Has and maintains total adjusted capital that is greater than  
13 three times its authorized control level risk-based capital; and

14 (e) To the extent required by the reciprocity agreement between the  
15 primary state of issue and the commissioner, complies with state laws  
16 applicable to issuers in the state of Washington.

17 (2) "Qualifying reciprocal plan" means a plan that:

18 (a) Contains an essential health benefits package that is  
19 substantially equal to the essential health benefit benchmark plan  
20 designated pursuant to RCW 48.43.715 and provides minimum essential  
21 coverage as required by P.L. 111-148 of 2010, as amended;

22 (b) Has been approved by a state regulator for a state with which  
23 the commissioner has a reciprocity agreement;

24 (c) Is not a health savings account or qualified high deductible  
25 health plan; and

26 (d) Complies with the market rules established in RCW 48.43.700 and  
27 48.43.705.

28 NEW SECTION. **Sec. 2.** (1) Each qualifying reciprocal plan issued

1 or renewed must contain the following declaration in bold face type at  
2 the beginning of the document:

3 "The benefits in this policy may not include each of the benefits  
4 required by the state of Washington. (Name of state) initially  
5 approved this policy for sale, and the benefit requirements of that  
6 state are reflected in the policy. The rates applied to calculate  
7 premium were not approved by the state of Washington, but by (Name of  
8 state). Those requirements may be different from the requirements for  
9 policies approved by Washington. Please consult your insurance agent  
10 or insurer to determine which health benefits are covered under the  
11 policy."

12 (2) Each qualifying reciprocal insurer offering a qualifying  
13 reciprocal plan must provide applicants with a written side by side  
14 comparison of health benefits under the plan, including differences in  
15 definition of each benefit between Washington law and the law of the  
16 approving state, whether the benefit is required under Washington law,  
17 and the difference in the premium rate due to the difference in state  
18 laws. Where a producer is offering the plan to an applicant, the  
19 producer must provide the written comparison.

20 (3) A qualifying reciprocal insurer offering qualifying reciprocal  
21 plans must offer the plan through producers licensed under chapter  
22 48.17 RCW. Electronic marketing and sales of out-of-state policies are  
23 permitted under this section.

24 NEW SECTION. **Sec. 3.** (1) A qualifying reciprocal plan must use a  
25 premium rate schedule approved by its state of issue for the plan, and  
26 apply the standards for calculating the premium required by the United  
27 States department of health and human services for out-of-state  
28 coverage.

29 (2) The premium rate schedule for a qualifying reciprocal plan may  
30 not be adjusted more frequently than once a year.

31 (3) A qualifying reciprocal plan may only be offered in the small  
32 group market in Washington.

33 (4) A qualifying reciprocal plan is not required to include health  
34 benefit mandates required under this title that are not included in the  
35 qualifying reciprocal plan.

36 (5) A qualifying reciprocal plan must be filed with the  
37 commissioner for approval prior to use pursuant to RCW 48.18.100. The

1 commissioner shall approve the plan for use in Washington state if the  
2 plan meets the requirements of this chapter and shall disapprove it if  
3 it does not. When determining whether the qualifying reciprocal plan  
4 contains an essential health benefits package that is substantially  
5 equal to the essential health benefit benchmark plan designated  
6 pursuant to RCW 48.43.715, the commissioner shall utilize the same  
7 standards and procedures applicable to carriers licensed in Washington.  
8 The commissioner may not rely upon the determination of a member  
9 consortium state as to whether the qualifying reciprocal plan contains  
10 an essential health benefits package substantially equal to the  
11 essential health benefit benchmark plan designated pursuant to RCW  
12 48.43.715.

13 (6) Except as provided in this section, RCW 48.18.110 may not be  
14 grounds for disapproval of a qualifying reciprocal plan.

15 (7) To the extent consistent with federal law, and except as  
16 provided in this chapter, the requirements of chapter 48.43 RCW do not  
17 apply to a qualifying reciprocal plan.

18 NEW SECTION. **Sec. 4.** (1) Beginning July 1, 2015, the commissioner  
19 is authorized to contract with other states to establish and operate a  
20 consortium formed through written agreement governing the sale to small  
21 groups of a qualifying reciprocal plan, by qualifying reciprocal  
22 insurers admitted in one of the states in the consortium. A  
23 reciprocity agreement must be executed between the commissioner and the  
24 appropriate entity in a participating state prior to the offer and  
25 issue of a qualifying reciprocal plan under this chapter. The  
26 consortium is not intended to operate as a compact.

27 (2) The commissioner may not enter into a reciprocity agreement  
28 until the commissioner has identified a minimum of five states whose  
29 regulatory requirements for the offer and issue of health benefit plans  
30 meets or exceeds those of Washington in the areas of network adequacy,  
31 consumer protection, marketing requirements, and claims adjudication  
32 and processing. The consortium may commence with a reciprocity  
33 agreement with just one of the states.

34 (3) A state may not join the consortium if it has admitted two or  
35 more issuers domiciled in Washington that offer health benefit plans,  
36 unless five or more other states have joined the consortium.

1 (4) The commissioner may enter into separate reciprocity  
2 agreements, or one uniform agreement. Each reciprocity agreement must  
3 establish rules for the management of consumer questions and complaints  
4 related to health benefit plans approved by one member state but sold  
5 in another. The commissioner may adopt rules to implement consortium  
6 rules as necessary to comply with the consortium agreement.

7 (5) Consortium member states must agree to provide the commissioner  
8 with a list of approved qualifying reciprocal plans that meet the  
9 standards under this chapter, and their premium rate schedules as they  
10 are approved. If a qualifying reciprocity plan is disapproved or  
11 otherwise removed from the market pursuant to regulatory action or  
12 order, the primary state of issue must notify the commissioner of this  
13 action.

14 (6) The reciprocity agreement must establish a mechanism for  
15 payment of premium tax pursuant to chapter 48.14 RCW, payment of  
16 regulatory surcharge pursuant to RCW 48.02.190, and collection of any  
17 reinsurance or risk adjustment assessments that would otherwise be  
18 applicable but for the domicile of the selling insurer.

19 (7) Qualifying reciprocal insurers must inform each consortium  
20 state in writing of the intent to offer a qualifying reciprocal policy  
21 in a state not less than sixty days prior to the first date of offer.  
22 Reciprocity consortium member states may establish additional  
23 requirements for notification and offer applicable to that state.

24 (8) The commissioner may enter into one or more personal services  
25 contracts with third-party contractors to provide services necessary to  
26 accomplish the commissioner's responsibilities under this act.

27 NEW SECTION. **Sec. 5.** A qualifying reciprocal plan may be  
28 certified as a qualified health plan through the exchange only if it,  
29 and its qualifying reciprocal insurer, meet the requirements of the  
30 exchange for certification as a qualified health plan, and if the plan  
31 follows the market rules established in RCW 48.43.700.

32 NEW SECTION. **Sec. 6.** (1) By January 1, 2015, the commissioner  
33 must report to the legislature which states have been identified under  
34 section 4(2) of this act, and include a plan for seeking a reciprocity  
35 agreement with at least one state.

1 (2) The commissioner must report to the legislature by December 1,  
2 2016, and December 1st of each year following, the status of the  
3 reciprocity consortium's formation, membership, the number of  
4 qualifying reciprocal plans offered in Washington through the  
5 consortium, the effect on the marketplace in Washington, including the  
6 health benefits exchange, and must recommend whether continuing  
7 reciprocity sales serves the public health and welfare.

8 **Sec. 7.** RCW 48.05.070 and 1947 c 79 s .05.07 are each amended to  
9 read as follows:

10 To apply for an original certificate of authority an insurer shall:

11 (1) File with the commissioner its request therefor showing:

12 (a) Its name, home office location, type of insurer, organization  
13 date, and state or country of its domicile.

14 (b) The kinds of insurance it proposes to transact.

15 (c) Additional information as the commissioner may reasonably  
16 require.

17 (2) File with the commissioner:

18 (a) A copy of its charter as amended, certified, if a foreign or  
19 alien insurer, by the proper public officer of the state or country of  
20 domicile.

21 (b) A copy of its bylaws, certified by its proper officer.

22 (c) A statement of its financial condition, management, and affairs  
23 on a form satisfactory to or furnished by the commissioner.

24 (d) If a foreign or alien insurer, or a domestic reciprocal  
25 insurer, an appointment of the commissioner as its attorney to receive  
26 service of legal process.

27 (e) If an alien insurer, a copy of the appointment and authority of  
28 its United States manager, certified by its proper officer.

29 (f) If a foreign or alien insurer, a certificate from the proper  
30 public official of its state or country of domicile showing that it is  
31 duly organized and is authorized to transact the kinds of insurance  
32 proposed to be transacted.

33 (g) If a domestic reciprocal insurer, the declaration required by  
34 RCW 48.10.090 of this code.

35 (h) Other documents or stipulations as the commissioner may  
36 reasonably require to evidence compliance with the provisions of this  
37 code.

1       (3) A qualifying reciprocal insurer, as defined in section 1 of  
2 this act, is not required to comply with subsection (2)(a), (b), (c),  
3 (e), or (g) of this section.

4       (4) Deposit with the commissioner the fees required by this code to  
5 be paid for filing the accompanying documents, and for the certificate  
6 of authority, if granted.

7       **Sec. 8.** RCW 48.21.047 and 2010 c 292 s 8 are each amended to read  
8 as follows:

9       (1) An insurer may not offer any health benefit plan to any small  
10 employer without complying with RCW 48.21.045(3).

11       (2) Employers purchasing health plans provided through associations  
12 or through member-governed groups formed specifically for the purpose  
13 of purchasing health care are not small employers and the plans are not  
14 subject to RCW 48.21.045(3).

15       (3) A qualifying reciprocal plan as defined in section 1 of this  
16 act, is not subject to RCW 48.21.045.

17       (4) For purposes of this section, "health benefit plan," "health  
18 plan," and "small employer" mean the same as defined in RCW 48.43.005.

19       (~~(4)~~) (5) For purposes of this section, "census date" has the  
20 same meaning as defined in RCW 48.44.010.

21       NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act constitute  
22 a new chapter in Title 48 RCW.

23       NEW SECTION. **Sec. 10.** If specific funding for the purposes of  
24 section 6 of this act, referencing section 6 of this act by bill or  
25 chapter number and section number, is not provided by June 30, 2014, in  
26 the omnibus appropriations act, section 6 of this act is null and  
27 void."

28       Correct the title.

**EFFECT:** (1) Requires a qualifying reciprocal insurer to meet the  
definition of "issuer" in the federal Patient Protection and Affordable  
Care Act (PPACA).

- (2) Requires qualifying reciprocal insurers to comply with state laws to the extent required by the reciprocity agreement.
- (3) Requires a qualifying reciprocal plan to contain an essential health benefits package that is substantially equal (as opposed to equivalent) to Washington's essential health benefit benchmark plan and to provide minimum essential coverage as required in the PPACA.
- (4) Requires a qualifying reciprocal plan to be approved by a state regulator, instead of a state.
- (5) Requires the disclosure a qualifying reciprocal plan must make to consumers to inform them that the benefits in the qualifying reciprocal plan may not (instead of "do not") include each of the benefits required in Washington.
- (6) Requires the written comparison to be provided by a producer if he or she is offering the plan to the applicant.
- (7) Requires a producer offering a qualifying reciprocal plan to be licensed in Washington (instead of in compliance with the Washington laws relating to producers).
- (8) Removes the requirement that a producer be available for discussion if a qualifying reciprocal plan is marketed or sold electronically.
- (9) Requires a qualifying reciprocal plan to use a premium rate schedule approved by its issuing state and apply the standards for calculating the premium required by the federal government for out-of-state coverage.
- (10) Prohibits the rate schedule of a qualifying reciprocal plan from being adjusted more than once per year.
- (11) Restricts qualifying reciprocal plans to the small group market.
- (12) Requires a qualifying reciprocal plan to be filed with the Office of the Insurance Commissioner (OIC) prior to use.
- (13) Requires the OIC to utilize the same standards and procedures applicable to domestic carriers when determining whether a qualifying reciprocal plan contains an essential health benefits package that is substantially equal to Washington's essential health benefit benchmark plan.
- (14) Prohibits the OIC from relying on a foreign state's determination as to whether the qualifying reciprocal plan contains an essential health benefits package that is substantially equal to Washington's essential health benefit benchmark plan.
- (15) Clarifies that the consortium is not intended to operate as a compact.
- (16) Delays the date upon which the OIC may enter into a consortium agreement to July 1, 2015 (from July 1, 2014).
- (17) Delays the OIC's obligation to report on the states that have been identified for the consortium to January 1, 2015 (from January 1, 2014).
- (18) Delays the start of the annual reporting requirement to December 1, 2016 (from December 1, 2014).
- (19) Allows the OIC to enter into one or more personal service contracts with third-party contractors to provide the services necessary to accomplish the OIC's responsibilities under the act.
- (20) Makes the reporting requirements null and void if specific funding is not appropriated for that purpose.

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