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**HOUSE BILL 2104**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representative Kirby

AN ACT Relating to protection product guarantee providers by clarifying that more than one reimbursement insurance policy, risk retention group, or both may be used to meet the requirements of RCW 48.110.055; and amending RCW 48.110.055.

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

**Sec.**  RCW 48.110.055 and 2016 c 224 s 4 are each amended to read as follows:

(1) This section applies to protection product guarantee providers.

(2)(a) A person must not act as, or offer to act as, or hold himself or herself out to be a protection product guarantee provider in this state, nor may a protection product be sold to a consumer in this state, unless the protection product guarantee provider has:

((~~(a)~~)) (i) A valid registration as a protection product guarantee provider issued by the commissioner; and

((~~(b)~~)) (ii) Either demonstrated its financial responsibility or assured the faithful performance of the protection product guarantee provider's obligations to its protection product guarantee holders by insuring all protection product guarantees under ((~~a~~)) one or more reimbursement insurance policy or policies issued by an insurer or insurers each holding a certificate of authority from the commissioner, or alternatively a risk retention group or groups, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as ((~~that~~)) each risk retention group ((~~is in full compliance~~)) or groups fully complies with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

((~~(i) The~~)) (A) An insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

((~~(ii)~~)) (B) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one.

(b) In the event a protection product guarantee provider has more than one reimbursement policy, risk retention group, or both otherwise meeting the requirements of this subsection (2)(b), the product protection guarantee provider may choose which reimbursement policy, risk retention group, or both to utilize for a protection product guarantee.

(3) Applicants to be a protection product guarantee provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) The names of the protection product guarantee provider's executive officer or officers directly responsible for the protection product guarantee provider's protection product guarantee business and their biographical affidavits on a form prescribed by the commissioner;

(b) The name, address, and telephone number of any administrators designated by the protection product guarantee provider to be responsible for the administration of protection product guarantees in this state;

(c) A copy of the protection product guarantee reimbursement insurance policy or policies;

(d) A copy of each protection product guarantee the protection product guarantee provider proposes to use in this state;

(e) The most recent annual financial statements, if available, or the most recent financial statements certified as accurate by two or more officers of the applicant which prove that the applicant is solvent; and

(f) A nonrefundable application fee of two hundred fifty dollars.

(4) Each registered protection product guarantee provider must appoint the commissioner as the protection product guarantee provider's attorney to receive service of legal process issued against the protection product guarantee provider in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes effective legal service upon the protection product guarantee provider.

(a) With the appointment the protection product guarantee provider must designate the person to whom the commissioner must forward legal process so served upon him or her.

(b) The appointment is irrevocable, binds any successor in interest or to the assets or liabilities of the protection product guarantee provider, and remains in effect for as long as there could be any cause of action against the protection product guarantee provider arising out of any of the protection product guarantee provider's contracts or obligations in this state.

(c) The service of process must be accomplished and processed in the manner prescribed under RCW 48.02.200.

(5) The commissioner may refuse to issue a registration if the commissioner determines that the protection product guarantee provider, or any individual responsible for the conduct of the affairs of the protection product guarantee provider under subsection (3)(a) of this section, is not competent, trustworthy, financially responsible, or has had a license as a protection product guarantee provider or similar license denied or revoked for cause by any state.

(6) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the protection product guarantee provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the protection product guarantee provider and payment of a fee of two hundred fifty dollars. If not so renewed, the registration expires on the June 30th next preceding.

(7) A protection product guarantee provider must keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

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