
HOUSE BILL 2355

State of Washington

65th Legislature

2018 Regular Session

By Representatives Cody, McBride, Tharinger, Robinson, Ormsby, Appleton, and Jinkins; by request of Insurance Commissioner

Prefiled 01/03/18. Read first time 01/08/18. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to establishment of an individual health
2 insurance market claims-based reinsurance program; amending RCW
3 48.41.030; reenacting and amending RCW 42.56.400; adding a new
4 section to chapter 48.43 RCW; adding new sections to chapter 48.41
5 RCW; making appropriations; and declaring an emergency.

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

7 **Sec. 1.** RCW 48.41.030 and 2004 c 260 s 25 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Accounting year" means a twelve-month period determined by
12 the board for purposes of recordkeeping and accounting. The first
13 accounting year may be more or less than twelve months and, from time
14 to time in subsequent years, the board may order an accounting year
15 of other than twelve months as may be required for orderly management
16 and accounting of the pool.

17 (2) "Administrator" means the entity chosen by the board to
18 administer the pool under RCW 48.41.080.

19 (3) "Attachment point" means the threshold amount for claims
20 costs incurred by an eligible health carrier for an enrolled
21 individual's covered benefits in a benefit year, above which the

1 claims costs for benefits are eligible for reinsurance payments under
2 the Washington reinsurance program.

3 (4) "Benefit year" means the calendar year during which an
4 eligible health carrier provides coverage through an individual
5 health plan.

6 (5) "Board" means the board of directors of the pool.

7 ~~((4))~~ (6) "Coinsurance rate" means the percentage rate at which
8 the program will reimburse an eligible health carrier for claims
9 incurred for an enrolled individual's covered benefits in a benefit
10 year above the attachment point and below the reinsurance cap.

11 (7) "Commissioner" means the insurance commissioner.

12 ~~((5))~~ (8) "Covered lives" for purposes of the Washington
13 reinsurance program means all persons in Washington state who are:

14 (a) Covered under an individual or group health benefit plan
15 issued or delivered in Washington state or an individual or group
16 health plan that otherwise provides benefits to Washington residents;
17 or

18 (b) Enrolled in a group health plan administered by a third-party
19 administrator.

20 (9) "Covered person" means any individual resident of this state
21 who is eligible to receive benefits from any member, or other health
22 plan.

23 ~~((6))~~ (10) "Eligible health carrier" means a health carrier
24 offering nongrandfathered individual health plans to consumers in
25 Washington state.

26 (11) "Health care facility" has the same meaning as in RCW
27 70.38.025.

28 ~~((7))~~ (12) "Health care provider" means any physician,
29 facility, or health care professional, who is licensed in Washington
30 state and entitled to reimbursement for health care services.

31 ~~((8))~~ (13) "Health care services" means services for the
32 purpose of preventing, alleviating, curing, or healing human illness
33 or injury.

34 ~~((9))~~ (14) "Health carrier" or "carrier" has the same meaning
35 as in RCW 48.43.005.

36 ~~((10))~~ (15) "Health coverage" means any group or individual
37 disability insurance policy, health care service contract, and health
38 maintenance agreement, except those contracts entered into for the
39 provision of health care services pursuant to Title XVIII of the
40 social security act, 42 U.S.C. Sec. 1395 et seq. The term does not

1 include short-term care, long-term care, dental, vision, accident,
2 fixed indemnity, disability income contracts, limited benefit or
3 credit insurance, coverage issued as a supplement to liability
4 insurance, insurance arising out of the worker's compensation or
5 similar law, automobile medical payment insurance, or insurance under
6 which benefits are payable with or without regard to fault and which
7 is statutorily required to be contained in any liability insurance
8 policy or equivalent self-insurance. For purposes of the Washington
9 reinsurance program, "health coverage" does not include contracts
10 entered into for the provision of health care services pursuant to
11 Title XIX of the social security act, 42 U.S.C. Sec. 1396 et seq.

12 ~~((11))~~ (16) "Health plan" means any arrangement by which
13 persons, including dependents or spouses, covered or making
14 application to be covered under this pool, have access to hospital
15 and medical benefits or reimbursement including any group or
16 individual disability insurance policy; health care service contract;
17 health maintenance agreement; uninsured arrangements of group or
18 group-type contracts including employer self-insured, cost-plus, or
19 other benefit methodologies not involving insurance or not governed
20 by Title 48 RCW; coverage under group-type contracts which are not
21 available to the general public and can be obtained only because of
22 connection with a particular organization or group; and coverage by
23 medicare or other governmental benefits. This term includes coverage
24 through "health coverage" as defined under this section, and
25 specifically excludes those types of programs excluded under the
26 definition of "health coverage" in subsection ~~((10))~~ (15) of this
27 section.

28 ~~((12))~~ (17) "Individual health plan" means a health plan as
29 defined in RCW 48.43.005 that is offered by a health carrier to
30 individuals other than in connection with a group health plan, and
31 that is not a grandfathered health plan as defined in RCW 48.43.005.

32 (18) "Individual market" has the same meaning as in RCW
33 48.43.005.

34 (19) "Medical assistance" means coverage under Title XIX of the
35 federal social security act (42 U.S.C., Sec. 1396 et seq.) and
36 chapter 74.09 RCW.

37 ~~((13))~~ (20) "Medicare" means coverage under Title XVIII of the
38 social security act, (42 U.S.C. Sec. 1395 et seq., as amended).

39 ~~((14))~~ (21) "Member" means any commercial insurer which
40 provides disability insurance or stop loss insurance, any health care

1 service contractor, any health maintenance organization licensed
2 under Title 48 RCW, and any self-funded multiple employer welfare
3 arrangement as defined in RCW 48.125.010. "Member" also means the
4 Washington state health care authority as issuer of the state uniform
5 medical plan. "Member" shall also mean, as soon as authorized by
6 federal law, employers and other entities, including a self-funding
7 entity and employee welfare benefit plans that provide health plan
8 benefits in this state on or after May 18, 1987. "Member" does not
9 include any insurer, health care service contractor, or health
10 maintenance organization whose products are exclusively dental
11 products or those products excluded from the definition of "health
12 coverage" set forth in subsection ~~((10))~~ (15) of this section.

13 ~~((15))~~ (22) "Network provider" means a health care provider who
14 has contracted in writing with the pool administrator or a health
15 carrier contracting with the pool administrator to offer pool
16 coverage to accept payment from and to look solely to the pool or
17 health carrier according to the terms of the pool health plans.

18 ~~((16) "Plan of operation" means the pool, including articles,~~
19 ~~by laws, and operating rules, adopted by the board pursuant to RCW~~
20 ~~48.41.050.~~

21 ~~(17))~~ (23) "Payment parameters" means the attachment point,
22 reinsurance cap, and coinsurance rate for the program.

23 (24) "Point of service plan" means a benefit plan offered by the
24 pool under which a covered person may elect to receive covered
25 services from network providers, or nonnetwork providers at a reduced
26 rate of benefits.

27 ~~((18))~~ (25) "Pool" means the Washington state health insurance
28 pool as created in RCW 48.41.040.

29 (26) "Pool plan of operation" means the pool, including articles,
30 bylaws, and operating rules, adopted by the board pursuant to RCW
31 48.41.050.

32 (27) "Reinsurance cap" means the threshold amount for claims
33 costs incurred by an eligible health carrier for an enrolled
34 individual's covered benefits, over which the claims costs for
35 benefits are no longer eligible for reinsurance payments.

36 (28) "Reinsurance payments" means an amount paid by the
37 Washington reinsurance program administrator to an eligible health
38 carrier under the program.

1 (29) "Reinsurance plan of operation" means the Washington
2 reinsurance program, including operational processes adopted by the
3 board pursuant to section 4 of this act.

4 (30) "Reinsurance program" or "program" means the Washington
5 reinsurance program established in section 2 of this act.

6 (31) "Third-party administrator" means any person or entity who,
7 on behalf of a health carrier or health care purchaser, receives or
8 collects charges, contributions, or premiums for, or adjusts or
9 settles claims on or for, residents of Washington state or Washington
10 health care providers and facilities.

11 (32) "Washington reinsurance program" means the state-based
12 reinsurance program authorized under section 2 of this act.

13 NEW SECTION. Sec. 2. WASHINGTON REINSURANCE PROGRAM—CREATION,
14 ADMINISTRATION, BOARD DUTIES. (1) The Washington reinsurance program
15 is established for the purposes of stabilizing the rates and premiums
16 for individual health plans and providing greater financial certainty
17 to consumers of health insurance in this state.

18 (2) The program must be operated by the Washington state health
19 insurance pool and the board. The board must undertake the following
20 activities related to operation of the Washington reinsurance
21 program:

22 (a) Prepare and adopt amendments to the articles of organization
23 and bylaws of the Washington state health insurance pool to provide
24 for operation of the Washington reinsurance program;

25 (b) Prepare and adopt a reinsurance plan of operation as provided
26 in section 4 of this act and submit it to the commissioner for
27 approval;

28 (c) Conduct all activities in accordance with the approved
29 reinsurance plan of operation;

30 (d) Enter into contracts as necessary to collect and disburse the
31 assessment for reinsurance payments;

32 (e) Enter into contracts as necessary to operate and administer
33 the Washington reinsurance program;

34 (f) Sue or be sued, including taking any legal action necessary
35 or proper for the recovery of any assessment for, on behalf of, or
36 against health carriers and third-party administrators or other
37 participating persons for reinsurance payments;

1 (g) Appoint, from among members of the board, committees as
2 necessary to provide technical assistance in the operation of the
3 program;

4 (h) Hire independent consultants as necessary for operation of
5 the Washington reinsurance program;

6 (i) Conduct periodic audits to assure the general accuracy of the
7 financial data submitted to the program. In designing the audit
8 procedures, the board shall take into consideration the auditing
9 conducted by the federal department of health and human services'
10 risk adjustment program under 42 U.S.C. Sec. 18063;

11 (j) Cause the reinsurance program to be audited by an independent
12 certified public accountant, who may be the same accountant as the
13 administrator for the pool;

14 (k) Borrow and repay such working capital, reserve, or other
15 funds as, in the judgment of the board, may be necessary for the
16 operation of the program; and

17 (l) Perform any other functions to carry out the reinsurance plan
18 of operation and to affect any or all of the purposes for which the
19 program is organized.

20 (3) This section does not require or authorize the adoption of
21 rules by the board under chapter 34.05 RCW.

22 NEW SECTION. **Sec. 3.** EXAMINATION AND REPORT. (1) The program is
23 subject to examination by the commissioner as provided under chapter
24 48.03 RCW.

25 (2) The board shall submit to the commissioner, by November 1st
26 of the year following the applicable benefit year or sixty calendar
27 days following the final disbursement of reinsurance payments for the
28 applicable benefit year, whichever is later, a financial report for
29 the applicable benefit year in a form approved by the commissioner.
30 The report must include the following information for the benefit
31 year that is the subject of the report, at a minimum:

32 (a) Funds deposited in the Washington reinsurance program account
33 created in section 8 of this act;

34 (b) Requests for reinsurance payments received from eligible
35 health carriers;

36 (c) Reinsurance payments made to eligible health carriers; and

37 (d) Administrative and operational expenses incurred for the
38 program.

1 (3) The report must be posted on the Washington state health
2 insurance pool web site.

3 NEW SECTION. **Sec. 4.** REINSURANCE PROGRAM PLAN OF OPERATION. (1)
4 The reinsurance plan of operation for the Washington reinsurance
5 program must be submitted by the board to the commissioner for review
6 and approval on or before May 1, 2018, and must:

7 (a) Provide for the operation of the Washington reinsurance
8 program separate and apart from the pool;

9 (b) Establish procedures for the handling and accounting of
10 assets and moneys of the program;

11 (c) Establish regular times and places for meetings of the board
12 in connection with operation of the program;

13 (d) Establish data and information requirements for submission of
14 reinsurance payment requests by eligible health carriers, processes
15 for notification of eligible health carriers regarding reinsurance
16 payments and issuing payments, and processes to resolve eligible
17 health carrier appeals related to the amount of reinsurance payments,
18 as provided in section 5 of this act;

19 (e) Establish procedures for the collection of assessments from
20 all health carriers and third-party administrators to provide for
21 reinsurance claims paid under the program and for administrative
22 expenses incurred or estimated to be incurred during the period for
23 which the assessment is made as provided in section 6 of this act;

24 (f) Establish procedures for records to be kept of all financial
25 transactions and for an annual fiscal reporting to the commissioner
26 as provided in section 3 of this act;

27 (g) Establish procedures for the submission of data by the
28 program administrator to the commissioner for preparation of
29 quarterly and annual reports required under the terms of a waiver
30 approved under section 9 of this act; and

31 (h) Contain additional provisions necessary for the execution of
32 the powers and duties of the program.

33 (2) The board shall contract with those entities that are under
34 contract with the board on the effective date of this section as
35 needed for operation of the Washington reinsurance program for the
36 period of the current contract. Any subsequent contract for
37 administration of the pool under RCW 48.41.080 must include duties as
38 may be assigned by the board that are necessary for operation of the

1 Washington reinsurance program for the period during which the
2 program will be in effect.

3 NEW SECTION. **Sec. 5.** PROGRAM PAYMENTS TO ELIGIBLE HEALTH
4 CARRIERS. (1)(a) The commissioner shall determine the payment
5 parameters for the program annually, in order to:

6 (i) Manage the program within available assessment resources and
7 federal funding not to exceed the total program funding authorized by
8 the legislature;

9 (ii) Mitigate the impact of high-cost individuals on premium
10 rates in the individual market;

11 (iii) Stabilize or reduce premium rates in the individual market;
12 and

13 (iv) Increase participation in the individual market.

14 (b) The payment parameters for benefit year 2019 must be
15 consistent with the parameters included in the state innovation
16 waiver approved by the federal government as provided in section 9 of
17 this act. The payment parameters for subsequent years must be
18 established by the commissioner by March 31st of the year before the
19 applicable benefit year. The commissioner must identify any data
20 needed from the program to determine annual payment parameters for
21 each upcoming benefit year, and such data must be timely provided to
22 the commissioner by the program upon the commissioner's request.

23 (c) The attachment point for the program must be set by the
24 commissioner at an amount between seventy-five thousand dollars and
25 the reinsurance cap. The coinsurance rate shall be set by the
26 commissioner at a percentage rate between fifty and eighty percent.
27 The reinsurance cap shall be set by the commissioner at an amount
28 between five hundred thousand dollars and one million dollars.

29 (2) An eligible health carrier becomes eligible for a reinsurance
30 payment when:

31 (a) The claims costs for a reinsurance eligible individual's
32 covered benefits in a benefit year exceed the attachment point. The
33 amount of the payment shall be the product of the coinsurance rate
34 and the carrier's claims costs for the reinsurance eligible
35 individual that exceed the attachment point, up to the reinsurance
36 cap;

37 (b) The eligible health carrier has implemented care management
38 practices for enrollees who are the subject of reinsurance claims
39 through the program;

1 (c) The eligible health carrier makes its requests for
2 reinsurance payments in accordance with any requirements established
3 by the board including, but not limited to, requirements related to
4 the format, structure, and timing for submission of claims for
5 reinsurance payments. The claims data needed for submission of claims
6 for reinsurance payments must be drawn from the dedicated data
7 environment established by the eligible health carrier under the
8 federal risk adjustment program under 42 U.S.C. Sec. 18063.

9 (3) Claims submitted under this section are confidential and are
10 not subject to public disclosure under chapter 42.56 RCW.

11 (4) For each applicable benefit year, on April 1st of the year
12 following the applicable benefit year, the program administrator must
13 send an initial settlement report to each eligible health carrier in
14 response to their final claims submission for the applicable benefit
15 year. By June 30th of the year following the applicable benefit year,
16 after resolution of any appeals related to the amount of reinsurance
17 payments received, the program administrator shall disburse all
18 applicable reinsurance payments to an eligible health carrier.

19 (5) Reinsurance payments to eligible health carriers cannot
20 exceed two hundred million dollars for any applicable benefit year.
21 If, for any applicable benefit year, the final disbursement of
22 reinsurance payments to eligible health carriers is less than two
23 hundred million dollars, funds remaining in the Washington
24 reinsurance program account created in section 8 of this act must be
25 used to reduce assessments for the subsequent applicable calendar
26 year.

27 NEW SECTION. **Sec. 6.** PROGRAM ASSESSMENTS. (1) On or before
28 September 1, 2018, for calendar year 2019 assessments and on or
29 before September 1st of each subsequent year for upcoming calendar
30 year assessments, the board shall determine the covered lives
31 assessment necessary to generate two hundred million dollars per year
32 in the upcoming benefit year for reinsurance claims payments to
33 eligible health carriers for eligible claims incurred during that
34 year, plus program expenses of administration, including those
35 incurred in connection with start-up of the program prior to January
36 1, 2019. The aggregate amount to be raised through the assessment in
37 any year may be reduced by any surpluses in the account remaining
38 from prior years.

1 (2) In developing the procedures for collection of assessments
2 under sections 2 through 9, 11 through 13, and 15 of this act and
3 section 10 of this act, the board shall give strong consideration to
4 the procedures utilized in the federal transitional reinsurance
5 program established under 42 U.S.C. Sec. 18061. The board must
6 notify, in writing, each health carrier and third-party administrator
7 on behalf of its clients' health plans of their estimated total
8 assessment by October 1st of each year and its payment obligation for
9 the upcoming year. The board must determine a payment schedule for
10 receipt of assessments under this section.

11 (3)(a) Each health carrier's and third-party administrator's
12 assessment is determined based on annual statements and other reports
13 deemed necessary by the board and is determined by multiplying the
14 amount determined under subsection (1) of this section by a fraction.
15 The numerator of the fraction equals that health carrier's or third-
16 party administrator's total number of covered lives, including spouse
17 and dependents, covered under all health plans in the state by that
18 health carrier or third-party administrator during the preceding
19 calendar year. The denominator of the fraction equals the total
20 number of covered lives, including spouses and dependents, covered
21 under all health plans in the state by all health carriers and third-
22 party administrators during the preceding calendar year.

23 (b) If an assessment against a health carrier or third-party
24 administrator is prohibited by court order, the assessment that would
25 have been collected but for the prohibition must be assessed against
26 the other health carriers and third-party administrators under this
27 subsection.

28 (4) The board shall allow each health carrier and third-party
29 administrator no more than ninety days after the notification
30 required by subsection (2) of this section to remit any amounts in
31 arrears or submit a payment plan, subject to approval by the board
32 and initial payment under an approved payment plan.

33 (5) The board may abate or defer, in whole or in part, the
34 assessment of a health carrier or third-party administrator if, in
35 the opinion of the board, payment of the assessment would endanger
36 the ability of the health carrier or third-party administrator to
37 fulfill its contractual obligations. If an assessment against a
38 health carrier or third-party administrator is abated or deferred in
39 whole or in part, the amount by which such assessment is abated or
40 deferred may be assessed against the other health carriers and third-

1 party administrators in a manner consistent with the basis for
2 assessments in subsection (3) of this section. The health carrier or
3 third-party administrator receiving such abatement or deferment shall
4 remain liable to the program for the deficiency. Upon receipt of
5 payment of any abatement or deferment by a health carrier or third-
6 party administrator, the board shall adjust future assessments made
7 against other health carriers and third-party administrators under
8 this subsection to reflect receipt of the payment.

9 (6) The board shall cause the program administrator to submit an
10 annual report to the commissioner listing those health carriers and
11 third-party administrators that failed to remit their assessments.

12 (7) The board shall cause the program administrator to deposit
13 annual assessments collected under this section, less the reinsurance
14 program's administrative expenses, with the state treasurer to the
15 credit of the Washington reinsurance program account created in
16 section 8 of this act.

17 (8) If the legislature, after receiving the study and
18 recommendations submitted under section 13 of this act, does not
19 enact an alternative financing source for the program on or before
20 June 30, 2019, the board shall determine and collect assessments as
21 provided in this section for calendar years 2021 through 2023 or
22 until the legislature has enacted an alternative financing source,
23 whichever is earlier.

24 NEW SECTION. **Sec. 7.** THIRD-PARTY ADMINISTRATOR—REGISTRATION.

25 (1) A third-party administrator shall register and renew annually
26 with the office of the insurance commissioner, on or before January
27 1, 2019. Registrants shall report a change of legal name, business
28 name, business address, or business telephone number to the
29 commissioner within ten days after the change.

30 (2) The commissioner shall define the data elements and
31 procedures necessary to implement this section and may establish a
32 registration and renewal fees. To minimize administrative burdens on
33 third-party administrators, in developing the data elements and
34 procedures for registration and renewal, the commissioner must, to
35 the extent practicable, adopt the data elements and procedures
36 adopted by the Washington vaccine association under RCW 70.290.075.

37 NEW SECTION. **Sec. 8.** WASHINGTON REINSURANCE PROGRAM ACCOUNT.

38 The Washington reinsurance program account is created in the custody

1 of the state treasurer. All receipts from assessments collected under
2 section 6 of this act, any funds received by the commissioner or
3 other state agency pursuant to a state innovation waiver approved by
4 the federal government as provided in section 9 of this act, any
5 federal funds received by the commissioner under section 13(3) of
6 this act, and any additional funding specifically appropriated to the
7 account must be deposited in the account. Expenditures from the
8 account shall be used to operate the program and to make reinsurance
9 payments to eligible health carriers under the program. Only the
10 board may authorize expenditures from the account. The account is
11 subject to the allotment procedures under chapter 43.88 RCW, but an
12 appropriation is not required for expenditures. In making
13 expenditures from the account, available federal funding available
14 must be expended first.

15 NEW SECTION. **Sec. 9.** STATE INNOVATION WAIVER APPLICATION. (1)
16 The commissioner shall apply to the secretary of health and human
17 services under 42 U.S.C. Sec. 18052 for a state innovation waiver to
18 implement the Washington reinsurance program for benefit years
19 beginning January 1, 2019, and future years to maximize federal
20 funding. The waiver application must clearly state that operation of
21 the Washington reinsurance program is contingent on approval of the
22 waiver request.

23 (2) The commissioner shall submit the waiver application to the
24 United States secretary of health and human services on or before
25 April 1, 2018. The commissioner shall make a draft application
26 available for tribal consultation and for public review and comment
27 by March 1, 2018. The commissioner shall notify the chairs and
28 ranking minority members of the house of representatives health care
29 and wellness committee and appropriations committee and the senate
30 health care committee and ways and means committee, and the board of
31 directors of the Washington state health insurance pool of any
32 federal actions regarding the waiver request.

33 NEW SECTION. **Sec. 10.** A new section is added to chapter 48.43
34 RCW to read as follows:

35 CARRIER RATE FILINGS. The commissioner shall require eligible
36 health carriers, as defined in RCW 48.41.030, to calculate the
37 premium amount the eligible health carrier would have charged for the
38 benefit year if the Washington reinsurance program had not been

1 established. The eligible health carrier must submit this information
2 as part of its rate filing. The commissioner must consider this
3 information as part of the rate review.

4 NEW SECTION. **Sec. 11.** REINSURANCE PROGRAM CONTINGENT ON FEDERAL
5 WAIVER. If the state innovation waiver request in section 9 of this
6 act is not approved, the Washington state health insurance pool and
7 its board of directors may not operate the Washington reinsurance
8 program or provide reinsurance payments to eligible health carriers.

9 NEW SECTION. **Sec. 12.** REQUIRED RULE MAKING. The commissioner
10 may adopt rules necessary to carry out the provisions of sections 2
11 through 9, 11 through 13, and 15 of this act and section 10 of this
12 act including, but not limited to, rules prescribing the annual
13 establishment of reinsurance payment parameters and measures to
14 enforce payment of applicable assessments.

15 NEW SECTION. **Sec. 13.** ALTERNATIVE FINANCING MECHANISMS. (1) The
16 commissioner, in consultation with the office of financial
17 management, the department of revenue, the health care authority, and
18 the health benefit exchange, shall conduct a study and submit
19 recommendations to the legislature related to alternative financing
20 mechanisms for the Washington reinsurance program for calendar years
21 2021 through 2023. In reviewing alternative financing mechanisms, the
22 commissioner must evaluate the feasibility of a health care paid
23 claims assessment, such as that codified at Michigan Compiled Laws,
24 sections 550.1731 through 550.1741.

25 (2) The commissioner must solicit input from interested parties
26 in the course of the study and may contract with third parties for
27 actuarial or economic analysis necessary to fully evaluate
28 alternative financing options. The commissioner must submit his or
29 her report to relevant committees of the legislature on or before
30 November 30, 2018.

31 (3) If additional federal funding to support administration and
32 implementation of state-based reinsurance programs becomes available
33 to states, distinct from an application submitted under section 9 of
34 this act, the commissioner shall notify the relevant policy and
35 fiscal committees of the legislature and pursue such funding to
36 offset state costs associated with the reinsurance program
37 established in sections 2 through 9, 11 through 13, and 15 of this

1 act and section 10 of this act. The commissioner must deposit any
2 funds received under this subsection with the state treasurer to the
3 credit of the Washington reinsurance program account created in
4 section 8 of this act.

5 **Sec. 14.** RCW 42.56.400 and 2017 3rd sp.s. c 30 s 2 and 2017 c
6 193 s 2 are each reenacted and amended to read as follows:

7 The following information relating to insurance and financial
8 institutions is exempt from disclosure under this chapter:

9 (1) Records maintained by the board of industrial insurance
10 appeals that are related to appeals of crime victims' compensation
11 claims filed with the board under RCW 7.68.110;

12 (2) Information obtained and exempted or withheld from public
13 inspection by the health care authority under RCW 41.05.026, whether
14 retained by the authority, transferred to another state purchased
15 health care program by the authority, or transferred by the authority
16 to a technical review committee created to facilitate the
17 development, acquisition, or implementation of state purchased health
18 care under chapter 41.05 RCW;

19 (3) The names and individual identification data of either all
20 owners or all insureds, or both, received by the insurance
21 commissioner under chapter 48.102 RCW;

22 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

23 (5) Information provided under RCW 48.05.510 through 48.05.535,
24 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
25 48.46.600 through 48.46.625;

26 (6) Examination reports and information obtained by the
27 department of financial institutions from banks under RCW 30A.04.075,
28 from savings banks under RCW 32.04.220, from savings and loan
29 associations under RCW 33.04.110, from credit unions under RCW
30 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and
31 from securities brokers and investment advisers under RCW 21.20.100,
32 all of which is confidential and privileged information;

33 (7) Information provided to the insurance commissioner under RCW
34 48.110.040(3);

35 (8) Documents, materials, or information obtained by the
36 insurance commissioner under RCW 48.02.065, all of which are
37 confidential and privileged;

38 (9) Documents, materials, or information obtained by the
39 insurance commissioner under RCW 48.31B.015(2) (l) and (m),

1 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential
2 and privileged;

3 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
4 7.70.140 that, alone or in combination with any other data, may
5 reveal the identity of a claimant, health care provider, health care
6 facility, insuring entity, or self-insurer involved in a particular
7 claim or a collection of claims. For the purposes of this subsection:

8 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
9 (b) "Health care facility" has the same meaning as in RCW
10 48.140.010(6).
11 (c) "Health care provider" has the same meaning as in RCW
12 48.140.010(7).
13 (d) "Insuring entity" has the same meaning as in RCW
14 48.140.010(8).
15 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

16 (11) Documents, materials, or information obtained by the
17 insurance commissioner under RCW 48.135.060;

18 (12) Documents, materials, or information obtained by the
19 insurance commissioner under RCW 48.37.060;

20 (13) Confidential and privileged documents obtained or produced
21 by the insurance commissioner and identified in RCW 48.37.080;

22 (14) Documents, materials, or information obtained by the
23 insurance commissioner under RCW 48.37.140;

24 (15) Documents, materials, or information obtained by the
25 insurance commissioner under RCW 48.17.595;

26 (16) Documents, materials, or information obtained by the
27 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
28 (7)(a)(ii);

29 (17) Documents, materials, or information obtained by the
30 insurance commissioner in the commissioner's capacity as receiver
31 under RCW 48.31.025 and 48.99.017, which are records under the
32 jurisdiction and control of the receivership court. The commissioner
33 is not required to search for, log, produce, or otherwise comply with
34 the public records act for any records that the commissioner obtains
35 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as
36 a receiver, except as directed by the receivership court;

37 (18) Documents, materials, or information obtained by the
38 insurance commissioner under RCW 48.13.151;

39 (19) Data, information, and documents provided by a carrier
40 pursuant to section 1, chapter 172, Laws of 2010;

1 (20) Information in a filing of usage-based insurance about the
2 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

3 (21) Data, information, and documents, other than those described
4 in RCW 48.02.210(2) as it existed prior to repeal by 2017 3rd sp.s. c
5 7 s 2, that are submitted to the office of the insurance commissioner
6 by an entity providing health care coverage pursuant to RCW
7 28A.400.275 as it existed prior to elimination of the report by 2017
8 3rd sp.s. c 7 s 1, and 48.02.210 as it existed prior to repeal by
9 2017 3rd sp.s. c 7 s 2;

10 (22) Data, information, and documents obtained by the insurance
11 commissioner under RCW 48.29.017;

12 (23) Information not subject to public inspection or public
13 disclosure under RCW 48.43.730(5);

14 (24) Documents, materials, or information obtained by the
15 insurance commissioner under chapter 48.05A RCW;

16 (25) Documents, materials, or information obtained by the
17 insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6),
18 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents,
19 materials, or information independently qualify for exemption from
20 disclosure as documents, materials, or information in possession of
21 the commissioner pursuant to a financial conduct examination and
22 exempt from disclosure under RCW 48.02.065; (~~and~~))

23 (26) Nonpublic personal health information obtained by, disclosed
24 to, or in the custody of the insurance commissioner, as provided in
25 RCW 48.02.068; (~~and~~))

26 (27) Data, information, and documents obtained by the insurance
27 commissioner under RCW 48.02.230; and

28 (28) Data, information, and documents necessary to prepare the
29 state innovation waiver application submitted under section 9 of this
30 act, to determine reinsurance parameters obtained by the commissioner
31 under section 5 of this act and to determine reinsurance claims
32 payments.

33 NEW SECTION. Sec. 15. CIVIL AND CRIMINAL IMMUNITY. The program,
34 health carriers, and third-party administrators assessed by the
35 program, board directors of the program, officers of the program,
36 employees of the program, the commissioner, the commissioner's
37 representatives, and the commissioner's employees are not civilly or
38 criminally liable and may not have any penalty or cause of action of
39 any nature arise against them for any action taken or not taken,

1 including any discretionary decision or failure to make a
2 discretionary decision, when the action or inaction is done in good
3 faith and in the performance of the powers and duties under this
4 chapter. This section does not prohibit legal actions against the
5 program to enforce the program's statutory or contractual duties or
6 obligations.

7 NEW SECTION. **Sec. 16.** APPROPRIATIONS. (1) The sum of four
8 hundred fifty thousand dollars, or as much thereof as may be
9 necessary, is appropriated for the fiscal biennium ending June 30,
10 2019, from the general fund to the Washington reinsurance program
11 account created in section 8 of this act for the purposes of
12 implementation and operation of the Washington reinsurance program
13 for the period between the effective date of this section and the
14 receipt of program assessments collected under section 6 of this act.

15 (2) The sum of two hundred ninety thousand dollars, or as much
16 thereof as may be necessary, is appropriated for the fiscal biennium
17 ending June 30, 2019, from the insurance commissioner's regulatory
18 account to the office of the insurance commissioner for the purposes
19 of carrying out the commissioner's duties under sections 2 through 9,
20 11 through 13, and 15 of this act and section 10 of this act,
21 including rule making, annual establishment of reinsurance program
22 payment parameters, program oversight, and implementation of a state
23 innovation waiver granted pursuant to section 9 of this act.

24 (3) The sum of one hundred thousand dollars, or as much thereof
25 as may be necessary, is appropriated for the fiscal biennium ending
26 June 30, 2019, from the general fund-state to the office of the
27 insurance commissioner for implementation of section 13 of this act.

28 NEW SECTION. **Sec. 17.** CODIFICATION. Sections 2 through 9, 11
29 through 13, and 15 of this act are each added to chapter 48.41 RCW.

30 NEW SECTION. **Sec. 18.** SEVERABILITY. If any provision of this
31 act or its application to any person or circumstance is held invalid,
32 the remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 19.** EMERGENCY EFFECTIVE DATE. This act is
35 necessary for the immediate preservation of the public peace, health,

1 or safety, or support of the state government and its existing public
2 institutions, and takes effect immediately.

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