CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1266**

68th Legislature

2023 Regular Session

|  |  |
| --- | --- |
| Passed by the House February 28, 2023Yeas 97 Nays 0**Speaker of the House of Representatives**Passed by the Senate March 22, 2023Yeas 49 Nays 0**President of the Senate** | CERTIFICATEI, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1266** as passed by the House of Representatives and the Senate on the dates hereon set forth.Chief Clerk |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1266**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Consumer Protection & Business (originally sponsored by Representatives Santos, Corry, and Reeves)

AN ACT Relating to the use of email by the office of the insurance commissioner when communicating with licensees; amending RCW 48.17.170, 48.17.450, 48.17.475, and 48.15.103; adding a new section to chapter 48.02 RCW; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 48.17.170 and 2012 c 154 s 5 are each amended to read as follows:

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

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

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

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

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

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

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

(g) Limited lines:

(i) Surety;

(ii) Limited line credit insurance;

(iii) Travel;

(h) Specialty lines:

(i) Portable electronics;

(ii) Rental car;

(iii) Self-service storage; or

(i) Any other line of insurance permitted under state laws or rules.

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

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

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

(5) If the request and fee for renewal of an insurance producer's, title insurance agent's, or adjuster's license are filed with the commissioner prior to expiration of the existing license, the licensee may continue to act under such license, unless sooner revoked or suspended, until the issuance of a renewal license, or until the expiration of ((~~fifteen~~)) 15 days after the commissioner has refused to renew the license and has mailed notification of such refusal to the licensee. If the request and fee for the license renewal are not received by the expiration date, the authority conferred by the license ends on the expiration date.

(6) If the request for renewal of an insurance producer's, title insurance agent's, or adjuster's license and payment of the fee are not received by the commissioner prior to the expiration date, the applicant for renewal shall pay to the commissioner, in addition to the renewal fee, a surcharge as follows:

(a) For the first ((~~thirty~~)) 30 days or part thereof of delinquency, the surcharge is ((~~fifty~~)) 50 percent of the renewal fee;

(b) For the next ((~~thirty~~)) 30 days or part thereof of delinquency, the surcharge is ((~~one hundred~~)) 100 percent of the renewal fee.

(7) If the request for renewal of an insurance producer's, title insurance agent's, or adjuster's license and fee for the renewal are received by the commissioner after ((~~sixty~~)) 60 days but prior to ((~~twelve~~)) 12 months after the expiration date, the application is for reinstatement of the license and the applicant for reinstatement must pay to the commissioner the license fee and a surcharge of ((~~two hundred~~)) 200 percent of the license fee.

(8) Subsections (6) and (7) of this section do not exempt any person from any penalty provided by law for transacting business without a valid and subsisting license or appointment.

(9) An individual insurance producer, title insurance agent, or adjuster who allows his or her license to lapse may, within ((~~twelve~~)) 12 months after the expiration date, reinstate the same license without the necessity of passing a written examination.

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

(11) The license shall contain the licensee's name, address, personal identification number, and the date of issuance, lines of authority, expiration date, and any other information the commissioner deems necessary.

(12) Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address and email address within ((~~thirty~~)) 30 days of the change. Failure to timely inform the commissioner of a change in legal name ((~~or~~)), address, or email address, may result in a penalty under either RCW 48.17.530 or 48.17.560, or both.

**Sec.**  RCW 48.17.450 and 2007 c 117 s 22 are each amended to read as follows:

(1) Every licensed insurance producer, title insurance agent, and adjuster, other than an insurance producer licensed for life or disability insurances only, shall have and maintain in this state, or, if a nonresident insurance producer or title insurance agent, in this state or in the state of the licensee's domicile, a place of business accessible to the public. Such place of business shall be that wherein the insurance producer or title insurance agent principally conducts transactions under that person's licenses. A licensee maintaining more than one place of business in this state shall obtain a duplicate license or licenses for each additional such place, and shall pay the full fee therefor.

(2) Any notice, order, or written communication, including any notification of investigation; notification of audit and findings resulting from such audit; or written communication from the commissioner under RCW 48.17.475(2)(c)(ii), from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last address of record with the commissioner.

(3) Every insurance producer, title insurance agent, adjuster, and other person licensed under this chapter shall provide the commissioner with a current email address. The commissioner may send a written communication by email to a licensee's last email address of record with the commissioner if:

(a) The communication is not required to be sent to the person's mailing address pursuant to subsection (2) of this section;

(b) The person has affirmatively consented to receive communications from the commissioner by email; and

(c)(i) The email from the commissioner does not require a response; or

(ii) If a response is required, the requirements under RCW 48.17.475(2)(b) are met prior to the commissioner sending the email.

(4) Email communication sent to an applicant prior to the issuance of a license, and auto-generated system emails regarding a license application or license renewal processes, are excluded from the requirements of subsection (3) of this section.

**Sec.**  RCW 48.17.475 and 2007 c 117 s 25 are each amended to read as follows:

(1) Every insurance producer, title insurance agent, adjuster, or other person licensed under this chapter shall ((~~promptly reply~~)) timely respond in writing to an inquiry of the commissioner sent to a person's mailing address relative to the business of insurance. A timely response is one that is received by the commissioner within ((~~fifteen~~)) 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section and may result in a penalty under either RCW 48.17.530 or 48.17.560, or both.

(2)(a) Every insurance producer, title insurance agent, adjuster, and other person licensed under this chapter shall timely respond in writing to an inquiry of the commissioner sent to a person's email address relative to the business of insurance. A timely response is one that is received by the commissioner within 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this subsection if the requirements under (c) of this subsection are met.

(b)(i) When an email from the commissioner requires a response, the commissioner shall:

(A) Send no fewer than two separate emails with a subject line stating "Response Required"; and

(B) Prominently display in large font type in the body of each email the following: "FAILURE TO TIMELY RESPOND TO THIS EMAIL IS A VIOLATION OF RCW 48.17.475 AND IS SUBJECT TO PENALTIES UNDER RCW 48.17.530 AND 48.17.560 INCLUDING FINES AND LICENSE REVOCATION. A TIMELY RESPONSE IS ONE RECEIVED BY THE COMMISSIONER WITHIN 15 BUSINESS DAYS OF YOUR RECEIPT OF THIS INQUIRY."

(ii) If the commissioner sends an inquiry by email and is notified that the email is undeliverable, the commissioner shall resend the notice once by mail to the person's last known address on record with the commissioner.

(c) A person is in violation of this subsection only if: (i) The commissioner complies with the requirements under (b) of this subsection; (ii) the commissioner sends a third and final written inquiry by certified mail to the person's last mailing address registered with the commissioner that follows the requirements of (b)(i)(B) of this subsection; and (iii) the commissioner fails to receive a response within 15 business days of the licensee's receipt of the inquiry.

**Sec.**  RCW 48.15.103 and 2009 c 162 s 6 are each amended to read as follows:

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

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

(3) Every licensed surplus line broker and other person licensed under this chapter shall provide the commissioner with a current email address and update the commissioner within 30 days of any change in email address. The commissioner may send a written communication by email to a licensee's last email address of record with the commissioner if:

(a) The communication is not required to be sent to the person's mailing address pursuant to subsection (4) of this section;

(b) The person has affirmatively consented to receive communications from the commissioner by email; and

(c)(i) The email from the commissioner does not require a response; or

(ii) If a response is required, the requirements under subsection (8)(b) of this section are met prior to the commissioner sending the email.

(4) Any notice, order, or written communication, including any notification of investigation; notification of audit and findings resulting from such audit; or written communication from the commissioner under subsection (8)(c)(ii) of this section, from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last address of record with the commissioner.

((~~(4)~~)) (5) The license or licenses of each surplus line broker shall be displayed in a conspicuous place in that part of the place of business which is customarily open to the public.

((~~(5)~~)) (6) If a surplus line broker is dealing directly with the insured in any capacity, the surplus line broker must comply with the disclosure requirements contained in RCW 48.17.270.

((~~(6)~~)) (7) Every surplus line broker or other person licensed under this chapter shall ((~~promptly reply~~)) timely respond in writing to an inquiry of the commissioner sent to the person's mailing address relative to the business of insurance. A timely response is one that is received by the commissioner within ((~~fifteen~~)) 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section and may result in a penalty under RCW 48.17.530 or 48.17.560.

((~~(7)~~)) (8)(a) A surplus line broker or other person licensed under this chapter shall timely respond in writing to an inquiry of the commissioner sent to the person's email address relative to the business of insurance. A timely response is one that is received by the commissioner within 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this subsection if the requirements of (c) of this subsection are met.

(b)(i) When an email from the commissioner requires a response in accordance with this subsection, the commissioner shall:

(A) Send no fewer than two separate emails with a subject line stating "Response Required"; and

(B) Prominently display in large font type in the body of each email the following: "FAILURE TO TIMELY RESPOND TO THIS EMAIL IS A VIOLATION OF RCW 48.15.103 AND IS SUBJECT TO PENALTIES UNDER RCW 48.15.140 AND 48.17.560 INCLUDING FINES AND LICENSE REVOCATION. A TIMELY RESPONSE IS ONE RECEIVED BY THE COMMISSIONER WITHIN 15 BUSINESS DAYS OF YOUR RECEIPT OF THIS INQUIRY."

(ii) If the commissioner sends an inquiry by email and is notified that the email is undeliverable, the commissioner shall resend the notice once by mail to the person's last known address on record with the commissioner.

(c) A person is only in violation of this section if: (i) The commissioner complies with the requirements in (b) of this subsection; (ii) the commissioner sends a third and final written inquiry by certified mail to the person's last mailing address registered with the commissioner that follows the requirements of (b)(i)(B) of this subsection; and (iii) the commissioner fails to receive a response within 15 business days of the licensee's receipt of the inquiry.

(9) Email communication sent to an applicant prior to the issuance of a license, and auto-generated system emails regarding a license application or license renewal processes, are excluded from the requirements of subsection (8) of this section.

(10) A surplus line broker shall report to the commissioner any administrative action taken against the surplus line broker in another jurisdiction or by another governmental agency in this state within ((~~thirty~~)) 30 days of the final disposition of the matter. This report must include a copy of the order, consent to order, or other relevant legal documents.

((~~(8)~~)) (11) Within ((~~thirty~~)) 30 days of the initial pretrial hearing date, a surplus line broker shall report to the commissioner any criminal prosecution of the surplus line broker taken in any jurisdiction. The report must include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

NEW SECTION. **Sec.**  A new section is added to chapter 48.02 RCW to read as follows:

(1) The commissioner shall develop and implement a process for an affected licensee to petition the commissioner for the removal of any disciplinary investigations and orders on the affected licensee's public disciplinary record related solely to an email-based violation of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023. An affected licensee who petitions the commissioner shall provide documentation demonstrating that the disciplinary investigations and orders on the affected licensee's record were solely the result of an email-based violation of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023. Upon receipt of a petition with appropriate documentation, the commissioner shall immediately:

(a) Remove any related disciplinary investigations and orders from the affected licensee's public disciplinary record;

(b) Send a notice to the national insurance producer registry that the commissioner erroneously took administrative action against the affected licensee and request that the national insurance producer registry expunge any related record of the administrative action from the affected licensee's history; and

(c) Send to the affected licensee, by certified mail, a copy of the commissioner's notice to the national insurance producer registry.

(2) The commissioner shall identify the amount of money collected as fines from each affected licensee solely for email-based violations of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023, and, as soon as practicable, refund such money to each affected licensee from the existing operating budget for the commissioner's office.

(3) As used in this section:

(a) "Affected licensee" means any licensee regulated by the commissioner who was penalized by the commissioner solely for an email-based violation of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023.

(b) "Email-based violation" means a violation solely of RCW 48.15.103 or 48.17.475, as those sections existed prior to July 1, 2023, resulting from an affected licensee's failure to provide a timely response to an inquiry of the commissioner where such inquiry was only sent to the affected licensee by email. A violation of RCW 48.17.475 or 48.15.103 that is connected to a different violation of any insurance laws or rules is not an email-based violation subject to this section.

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

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

**--- END ---**