

Chapter 48.06 RCW
ORGANIZATION OF DOMESTIC INSURERS

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RCW 48.06.010 Types of domestic insurers permitted. An insurer formed in this state shall be either

- (1) An incorporated stock insurer, or
- (2) An incorporated mutual insurer, or
- (3) An incorporated specific risks mutual property insurer, or
- (4) An incorporated mutual assessment property insurer only, or
- (5) An incorporated farm mutual assessment property insurer only,

or

- (6) A reciprocal insurer, with respective powers, duties, and restrictions as provided in this code. [1947 c 79 s .06.01; Rem. Supp. 1947 s 45.06.01.]

RCW 48.06.020 Assessment mutuals prohibited—Exceptions. No insurer shall be formed or be authorized in this state to issue contracts of insurance the performance of which is contingent upon the payment of assessments, assessment premiums, or calls made upon its members. Mutual assessment property insurers and farm mutual assessment property insurers shall be the only exception to this provision. [1947 c 79 s .06.02; Rem. Supp. 1947 s 45.06.02.]

RCW 48.06.030 Solicitation permit. (1) No person forming or proposing to form in this state an insurer, or insurance holding corporation, or stock corporation to finance an insurer or insurance production therefor, or corporation to manage an insurer, or corporation to be attorney-in-fact for a reciprocal insurer, or a syndicate for any of such purposes, shall advertise, or solicit or receive any funds, agreement, stock subscription, or membership on

account thereof unless he or she has applied for and has received from the commissioner a solicitation permit.

(2) Any person violating this section is guilty of a class B felony and shall be subject to a fine of not more than ten thousand dollars or imprisonment for not more than ten years, or by both fine and imprisonment. [2003 c 53 s 267; 1947 c 79 s .06.03; Rem. Supp. 1947 s 45.06.03.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 48.06.040 Application for solicitation permit. To apply for a solicitation permit the person shall:

(1) File with the commissioner a request showing:

(a) Name, type, and purpose of insurer, corporation, or syndicate proposed to be formed;

(b) Biographical reports on forms prescribed by the national association of insurance commissioners evidencing the general trustworthiness and competence of each individual who is serving or who will serve as an officer, director, trustee, employee, or fiduciary of the insurer, corporation, or syndicate to be formed;

(c) Third-party verification reports from a vendor authorized by the national association of insurance commissioners to perform a state, national, and international background history check of any person who exercises control over the financial dealings and operations of the insurer, corporation, or syndicate;

(d) Full disclosure of the terms of all understandings and agreements existing or proposed among persons so associated relative to the proposed insurer, corporation, or syndicate, or the formation thereof;

(e) The plan according to which solicitations are to be made; and

(f) Additional information as the commissioner may reasonably require.

(2) File with the commissioner:

(a) Original and copies in triplicate of proposed articles of incorporation, or syndicate agreement; or, if the proposed insurer is a reciprocal, original and duplicate of the proposed subscribers' agreement and attorney-in-fact agreement;

(b) Original and duplicate copy of any proposed bylaws;

(c) Copy of any security proposed to be issued and copy of application or subscription agreement for that security;

(d) Copy of any insurance contract proposed to be offered and copy of application for that contract;

(e) Copy of any prospectus, advertising, or literature proposed to be used; and

(f) Copy of proposed form of any escrow agreement required.

(3) Deposit with the commissioner the fees required by law to be paid for the application including fees associated with the state and national criminal history background check, for filing of the articles of incorporation of an insurer, for filing the subscribers' agreement and attorney-in-fact agreement if the proposed insurer is a reciprocal, for the solicitation permit, if granted, and for filing articles of incorporation with the secretary of state. [2012 c 211 s 3; 2002 c 227 s 1; 1967 c 150 s 6; 1947 c 79 s .06.04; Rem. Supp. 1947 s 45.06.04.]

Effective date—2002 c 227: "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 immediately [March 28, 2002]." [2002 c 227 s 6.]

RCW 48.06.050 Procedure upon application. The commissioner shall expeditiously examine the application for a solicitation permit and make any investigation relative thereto deemed necessary. If the commissioner finds that

- (1) the application is complete; and
- (2) the documents therewith filed are equitable in terms and proper in form; and
- (3) the management of the company, whether by its directors, officers, or by any other means is competent and trustworthy and not so lacking in managerial experience as to make a proposed operation hazardous to the insurance-buying public; and that there is no reason to believe the company is affiliated, directly or indirectly, through ownership, control, reinsurance, or other insurance or business relations, with any other person or persons whose business operations are or have been marked, to the detriment of the policyholders or stockholders or investors or creditors or of the public, by bad faith or by manipulation of assets, or of accounts, or of reinsurance; and
- (4) the agreements made or proposed are equitable to present and future shareholders, subscribers, members or policyholders, he or she shall give notice to the applicant that he or she will issue a solicitation permit, stating the terms to be contained therein, upon the filing of the bond required by RCW 48.06.110 of this code.

If the commissioner does not so find, he or she shall give notice to the applicant that the permit will not be granted, stating the grounds therefor, and shall refund to the applicant all sums so deposited except the application fee. [2009 c 549 s 7021; 1967 c 150 s 7; 1947 c 79 s .06.05; Rem. Supp. 1947 s 45.06.05.]

RCW 48.06.060 Issuance of permit—Bond. Upon the filing of the bond required by RCW 48.06.110 after notice by the commissioner, the commissioner shall:

- (1) File the articles of incorporation of the proposed incorporated insurer or other corporation; and
- (2) Issue to the applicant a solicitation permit. [1998 c 23 s 1; 1947 c 79 s .06.06; Rem. Supp. 1947 s 45.06.06.]

RCW 48.06.070 Duration of permit—Contents. Every solicitation permit issued by the commissioner shall:

- (1) Be for a period of not over two years, subject to the right of the commissioner to grant a reasonable extension for good cause.
- (2) State the securities for which subscriptions are to be solicited, the number, classes, par value, and selling price thereof, or identify the insurance contract for which applications and advance premiums or deposits are to be solicited.
- (3) Limit the portion of funds received on account of stock or syndicate subscriptions, if any are proposed to be taken, which may be used for promotion and organization expenses to such amount as he or

she deems adequate, but in no event to exceed fifteen percent of such funds as and when actually received.

(4) If to be a mutual or reciprocal insurer, limit the portion of funds received on account of applications for insurance which may be used for promotion or organization expenses to a reasonable commission upon such funds, giving consideration to the kind of insurance and policy involved and to the costs incurred by insurers generally in the production of similar business, and provide that no such commission shall be deemed to be earned nor be paid until the insurer has received its certificate of authority and the policies applied for and upon which such commission is to be based, have been actually issued and delivered.

(5) Contain such other information required by this chapter or reasonable conditions relative to accounting and reports or otherwise as the commissioner deems necessary. [2009 c 549 s 7022; 1953 c 197 s 1; 1947 c 79 s .06.07; Rem. Supp. 1947 s 45.06.07.]

RCW 48.06.080 Permit as inducement. The granting of a solicitation permit is permissive only and shall not constitute an endorsement by the commissioner of any person or thing related to the proposed insurer, corporation, or syndicate and the existence of the permit shall not be advertised or used as an inducement in any solicitation. The substance of this section in boldfaced type not less than ten point shall be printed at the top of each solicitation permit. [1947 c 79 s .06.08; Rem. Supp. 1947 s 45.06.08.]

RCW 48.06.090 Solicitors' licenses. Solicitation for sale of securities to members of the public under a solicitation permit shall be made only by individuals licensed therefor pursuant to the provisions of the securities act. [1949 c 190 s 5; 1947 c 79 s .06.09; Rem. Supp. 1949 s 45.06.09.]

RCW 48.06.100 Modification, revocation of permit. (1) The commissioner may, for cause, modify a solicitation permit, or may, after a hearing, revoke any solicitation permit for violation of any provision of this code, or of the terms of the permit, or of any proper order of the commissioner, or for misrepresentation.

(2) The commissioner shall revoke a solicitation permit if requested in writing by a majority of the syndicate members, or by a majority of the incorporators and two-thirds of the subscribers to stock or applicants for insurance in the proposed incorporated insurer or corporation, or if he or she is so requested by a majority of the subscribers of a proposed reciprocal insurer. [2009 c 549 s 7023; 1947 c 79 s .06.10; Rem. Supp. 1947 s 45.06.10.]

RCW 48.06.110 Bond—Cash deposit. (1) The commissioner shall not issue a solicitation permit until the person applying therefor files with him or her a corporate surety bond in the penalty of fifty thousand dollars, in favor of the state and for the use and benefit of the state and of subscribers and creditors of the proposed organization.

The bond shall be conditioned upon the payment of costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the proposed organization before completion of organization or in event a certificate of authority is not granted; and upon a full accounting for funds received until the proposed insurer has been granted its certificate of authority, or until the proposed corporation or syndicate has completed its organization as defined in the solicitation permit.

(2) In lieu of filing such bond, the person may deposit with the commissioner fifty thousand dollars in cash or in United States government bonds at par value, to be held in trust upon the same conditions as required for the bond.

(3) The commissioner may waive the requirement for a bond or deposit in lieu thereof if the permit provides that:

(a) The proposed securities are to be distributed solely and finally to those few persons who are the active promoters intimate to the formation of the insurer, or other corporation or syndicate, or

(b) The securities are to be issued in connection with subsequent financing as provided in RCW 48.06.180.

(4) Any bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement or termination of all liabilities against it. [2009 c 549 s 7024; 1969 ex.s. c 241 s 2; 1955 c 86 s 2; 1953 c 197 s 2; 1947 c 79 s .06.11; Rem. Supp 1947 s 45.06.11.]

Effective date—Supervision of transfers—1955 c 86: See notes following RCW 48.05.080.

RCW 48.06.120 Escrow of funds. (1) All funds received pursuant to a solicitation permit shall be deposited and held in escrow in a bank or trust company under an agreement approved by the commissioner. No part of any such deposit shall be withdrawn, except:

(a) For the payment of promotion and organization expenses as authorized by the solicitation permit; or

(b) for the purpose of making any deposit with the commissioner required for the issuance of a certificate of authority to an insurer; or

(c) if the proposed organization is not to be an insurer, upon completion of payments on stock or syndicate subscriptions made under the solicitation permit and deposit or appropriation of such funds to the purposes specified in the solicitation permit; or

(d) for making of refunds as provided in RCW 48.06.170.

(2) When the commissioner has issued a certificate of authority to an insurer any such funds remaining in escrow for its account shall be released to the insurer. [1947 c 79 s .06.12; Rem. Supp. 1947 s 45.06.12.]

RCW 48.06.130 Liability of organizers—Organization expense.

(1) The incorporators of any insurer or other corporation, or the persons proposing to form a reciprocal insurer, or a syndicate, shall be jointly and severally liable for its debts or liabilities until it has secured a certificate of authority, if an insurer, or has completed its organization if a corporation other than an insurer or a syndicate.

(2) Any portion of funds received on account of stock or syndicate subscriptions which is allowed therefor under the solicitation permit, may be applied concurrently toward the payment of promotion and organization expense theretofore incurred. [1947 c 79 s .06.13; Rem. Supp. 1947 s 45.06.13.]

RCW 48.06.150 Payment for subscriptions—Forfeiture. (1) No such proposed stock insurer, corporation, or syndicate shall issue any share of stock or participation agreement except for payment in cash or in securities eligible for investment of funds of insurers. No such shares or agreement shall be issued until all subscriptions received under the solicitation permit have been so fully paid, nor, if an insurer, until a certificate of authority has been issued to it.

(2) Every subscription contract to shares of a stock insurer or other corporation calling for payment in installments, together with all amounts paid thereon may be forfeited at the option of the corporation, upon failure to make good a delinquency in any installment upon not less than forty-five days' notice in writing, and every such contract shall so provide. [1947 c 79 s .06.15; Rem. Supp. 1947 s 45.06.15.]

RCW 48.06.160 Insurance applications—Mutual and reciprocal insurers. All applications for insurance obtained in forming a mutual or reciprocal insurer shall provide that:

(1) Issuance of the policy is contingent upon completion of organization of the insurer and issuance to it of a certificate of authority; and

(2) the prepaid premium or deposit will be refunded in full to the applicant if the organization is not completed and certificate of authority issued prior to the solicitation permit's date of expiration; and

(3) the agreement for insurance is not effective until a policy has been issued under it. [1947 c 79 s .06.16; Rem. Supp. 1947 s 45.06.16.]

RCW 48.06.170 Procedure on failure to complete organization or to qualify. The commissioner shall withdraw all funds held in escrow and refund to subscribers or applicants all sums paid in on stock or syndicate subscriptions, less that part of such sums paid in on subscriptions as has been allowed and used for promotion and organization expenses, and all sums paid in on insurance applications, and shall dissolve the proposed insurer, corporation or syndicate if

(1) the proposed insurer, corporation or syndicate fails to complete its organization and obtain full payment for subscriptions and applications, and, if an insurer, it fails to secure its certificate of authority, all before expiration of the solicitation permit; or

(2) the commissioner revokes the solicitation permit. [1947 c 79 s .06.17; Rem. Supp. 1947 s 45.06.17.]

RCW 48.06.180 Subsequent financing. (1) No domestic insurer, or insurance holding corporation, or stock corporation for financing

operations of a mutual insurer, or attorney-in-fact corporation of a reciprocal insurer, after

(a) it has received a certificate of authority, if an insurer, or

(b) it has completed its initial organization and financing if a corporation other than an insurer, shall solicit or receive funds in exchange for any new issue of its corporate securities, other than through a stock dividend, until it has applied to the commissioner for, and has been granted, a solicitation permit.

(2) The commissioner shall issue such a permit unless he or she finds that:

(a) The funds proposed to be secured are excessive in amount for the purpose intended, or

(b) the proposed securities or the manner of their distribution are inequitable, or

(c) the issuance of the securities would jeopardize the interests of policyholders or the holders of other securities of the insurer or corporation.

(3) Any such solicitation permit granted by the commissioner shall be for such duration, and shall contain such terms and be issued upon such conditions as the commissioner may reasonably specify or require. [2009 c 549 s 7025; 1949 c 190 s 6; 1947 c 79 s .06.18; Rem. Supp. 1949 s 45.06.18.]

RCW 48.06.190 Penalty for exhibiting false accounts, etc. Every person who, with intent to deceive, knowingly exhibits any false account, or document, or advertisement, relative to the affairs of any insurer, or of any corporation or syndicate of the kind enumerated in RCW 48.06.030, formed or proposed to be formed, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 s 268; 1947 c 79 s .06.19; Rem. Supp. 1947 s 45.06.19.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 48.06.200 Incorporation, articles of—Contents. (1) This section applies to insurers incorporated in this state, but no insurer heretofore lawfully incorporated in this state is required to reincorporate or change its articles of incorporation by reason of any provisions of this section.

(2) The incorporators shall be individuals who are United States citizens, of whom two-thirds shall be residents of this state. The number of incorporators shall be not less than five if a stock insurer, nor less than ten if a mutual insurer.

(3) The incorporators shall execute articles of incorporation in duplicate, acknowledge their signatures thereunto before an officer authorized to take acknowledgments of deeds, and file both copies with the commissioner.

(4) After approval of the articles by the commissioner, one copy shall be filed in the office of the commissioner and the other copy shall be returned to the insurer.

(5) The articles of incorporation shall state:

First: The names and addresses of the incorporators.

Second: The name of the insurer. If a mutual insurer the name shall include the word "mutual."

Third: (a) The objects for which the insurer is formed;

(b) whether it is a stock or mutual insurer, and if a mutual property insurer only, whether it will insure on the cash premium or assessment plan;

(c) the kinds of insurance it will issue, according to the designations made in this code.

Fourth: If a stock insurer, the amount of its capital, the aggregate number of shares, and the par value of each share, which par value shall be not less than ten dollars, except that after the corporation has transacted business as an authorized insurer in the state for five years or more, its articles of incorporation may be amended, at the option of its stockholders, to provide for a par value of not less than one dollar per share. If a mutual insurer, the maximum contingent liability of its policyholders for the payment of its expenses and losses occurring under its policies.

Fifth: The duration of its existence, which may be perpetual.

Sixth: The names and addresses of the directors, not less than five in number, who shall constitute the board of directors of the insurer for the initial term, not less than two nor more than six months, as designated in the articles of incorporation.

Seventh: The name of the city or town of this state in which the insurer's principal place of business is to be located.

Eighth: Other provisions not inconsistent with law as may be deemed proper by the incorporators. [1998 c 23 s 2; 1981 c 302 s 37; 1963 c 60 s 1; 1949 c 190 s 7; 1947 c 79 s .06.20; Rem. Supp. 1949 s 45.06.20.]

Severability—1981 c 302: See note following RCW 19.76.100.