

**Chapter 48.10 RCW  
RECIPROCAL INSURERS**

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*Dividends not to be guaranteed: RCW 48.30.100.*

*Merger or consolidation: RCW 48.31.010.*

*Organization of domestic insurers: Chapter 48.06 RCW.*

*Policy dividends are payable to real party in interest: RCW 48.18.340.*

**RCW 48.10.010 "Reciprocal insurance" defined.** "Reciprocal insurance" is that resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interexchange being effectuated through an "attorney-in-fact" common to all such persons. [1947 c 79 s .10.01; Rem. Supp. 1947 s 45.10.01.]

**RCW 48.10.020 "Reciprocal insurer" defined.** A "reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves. [1947 c 79 s .10.02; Rem. Supp. 1947 s 45.10.02.]

**RCW 48.10.030 Scope of chapter.** All authorized reciprocal insurers shall be governed by those sections of this chapter not expressly made applicable to domestic reciprocal insurers. [1947 c 79 s .10.03; Rem. Supp. 1947 s 45.10.03.]

**RCW 48.10.050 Insuring powers of reciprocals.** (1) A reciprocal insurer may, upon qualifying therefor as provided by this code, transact any kind or kinds of insurance defined by this code, other than life or title insurances.

(2) A reciprocal insurer may purchase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any kind of insurance which it is authorized to transact direct. [1947 c 79 s .10.05; Rem. Supp. 1947 s 45.10.05.]

**RCW 48.10.055 Real property—Attorney's duty.** A reciprocal insurer may purchase, sell, mortgage, encumber, lease, or otherwise affect the title to real property for the purposes and objects of the reciprocal insurer. All deeds, notes, mortgages, or other documents relating to the real property may be executed in the name of the reciprocal insurer by its attorney. [1991 c 266 s 1.]

**RCW 48.10.060 Name—Suits.** A reciprocal insurer shall:

(1) Have and use a business name. The name shall include the word "reciprocal," or "interinsurer," or "interinsurance," or "exchange," or "underwriters," or "underwriting."

(2) Sue and be sued in its own name. [1947 c 79 s .10.06; Rem. Supp. 1947 s 45.10.06.]

**RCW 48.10.070 Surplus funds required.** (1) A domestic reciprocal insurer hereafter formed, if it has otherwise complied with the provisions of this code, may be authorized to transact insurance if it initially possesses surplus in an amount equal to or exceeding the capital and surplus requirements required under RCW 48.05.340(1) plus special surplus, if any, required under \*RCW 48.05.360 and thereafter possesses, and maintains surplus funds equal to the paid-in capital stock required under RCW 48.05.340 of a stock insurer transacting like kinds of insurance, and the special surplus, if any, required under \*RCW 48.05.360.

(2) A domestic reciprocal insurer which under prior laws held authority to transact insurance in this state may continue to be so authorized so long as it otherwise qualifies therefor and maintains surplus funds in amount not less than as required under laws of this state in force at the time such authority to transact insurance in this state was granted.

(3) A domestic reciprocal insurer heretofore formed shall maintain on deposit with the commissioner surplus funds of not less than the sum of one hundred thousand dollars, and to transact kinds of insurance transacted by it in addition to that authorized by its original certificate of authority, shall have and maintain surplus (including the amount of such deposit) in amount not less than the paid-in capital stock required under RCW 48.05.340(1) plus special surplus, if any, required under \*RCW 48.05.360, of a domestic stock insurer formed after 1967 and transacting the same kinds of insurance. Such additional surplus funds need not be deposited with the commissioner. [1985 c 264 s 4; 1975 1st ex.s. c 266 s 5; 1963 c 195 s 5; 1947 c 79 s .10.07; Rem. Supp. 1947 s 45.10.07.]

**\*Reviser's note:** RCW 48.05.360 was repealed by 2005 c 223 s 35.

**Severability—1975 1st ex.s. c 266:** See note following RCW 48.01.010.

**RCW 48.10.080 Attorney.** (1) "Attorney" as used in this chapter refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, firm, or corporation.

(2) The attorney of a foreign or alien reciprocal insurer, which insurer is duly authorized to transact insurance in this state, shall not, by virtue of discharge of its duties as such attorney with respect to the insurer's transactions in this state, be thereby deemed to be doing business in this state within the meaning of any laws of this state applying to foreign persons, firms, or corporations.

(3) The subscribers and the attorney-in-fact comprise a reciprocal insurer and a single entity for the purposes of chapter 48.14 RCW as to all operations under the insurer's certificate of authority. [1965 ex.s. c 70 s 35; 1947 c 79 s .10.08; Rem. Supp. 1947 s 45.10.08.]

**RCW 48.10.090 Organization of reciprocal.** (1) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and in compliance with this code make application to the commissioner for a certificate of authority to transact insurance.

(2) When applying for a certificate of authority, the original subscribers and the proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner a declaration setting forth:

- (a) the name of the insurer;
- (b) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;
- (c) the kinds of insurance proposed to be transacted;
- (d) the names and addresses of the original subscribers;
- (e) the designation and appointment of the proposed attorney and a copy of the power of attorney;
- (f) the names and addresses of the officers and directors of the attorney, if a corporation, or of its members, if a firm;
- (g) the powers of the subscribers' advisory committee and the names and terms of office of the members thereof;

(h) that all moneys paid to the reciprocal, after deducting therefrom any sum payable to the attorney, shall be held in the name of the insurer and for the purposes specified in the subscriber's agreement;

(i) a copy of the subscriber's agreement;

(j) a statement that each of the original subscribers has in good faith applied for insurance of the kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at the rate theretofore filed with and approved by the commissioner;

(k) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by RCW 48.10.070 is on hand;

(l) a copy of each policy, endorsement, and application form it then proposes to issue or use.

Such declaration shall be acknowledged by each such subscriber and by the attorney in the manner required for the acknowledgment of deeds to real estate. [1947 c 79 s .10.09; Rem. Supp. 1947 s 45.10.09.]

**RCW 48.10.100 Policies of original subscribers, effective when.**

Any policy applied for by an original subscriber shall become effective coincidentally with the issuance of a certificate of authority to the reciprocal insurer. [1947 c 79 s .10.10; Rem. Supp. 1947 s 45.10.10.]

**RCW 48.10.110 Certificate of authority.**

(1) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(2) The commissioner may refuse, suspend, or revoke the certificate of authority, in addition to other grounds therefor, for failure of its attorney to comply with any provision of this code. [1947 c 79 s .10.11; Rem. Supp. 1947 s 45.10.11.]

**RCW 48.10.120 Power of attorney.**

(1) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

(2) The power of attorney must set forth:

(a) The powers of the attorney;

(b) that the attorney is empowered to accept service of process on behalf of the insurer and to authorize the commissioner to receive service of process in actions against the insurer upon contracts exchanged;

(c) the services to be performed by the attorney in general;

(d) the maximum amount to be deducted from advance premiums or deposits to be paid to the attorney;

(e) except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount which amount shall be not less than one nor more than ten times the premium or premium deposit stated in the policy.

(3) The power of attorney may:

(a) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(b) impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(c) provide for the exercise of any right reserved to the subscribers directly or through their advisory committee;

(d) contain other lawful provisions deemed advisable.

(4) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement or any amendment thereof, shall be used or be effective in this state until approved by the commissioner. [1949 c 190 s 15; 1947 c 79 s .10.12; Rem. Supp. 1949 s 45.10.12.]

**RCW 48.10.130 Modification of subscriber's agreement or power of attorney.** Modification of the terms of the subscriber's agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No such modification shall be effective retroactively, nor as to any insurance contract issued prior thereto. [1947 c 79 s .10.13; Rem. Supp. 1947 s 45.10.13.]

**RCW 48.10.140 Attorney's bond.** (1) Concurrently with the filing of the declaration provided for in RCW 48.10.090, (or, if an existing domestic reciprocal insurer, within ninety days after the effective date of this code) the attorney of a domestic reciprocal shall file with the commissioner a bond running to the state of Washington. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the commissioner's approval.

(2) The bond shall be in the penal sum of twenty-five thousand dollars, conditioned that the attorney will faithfully account for all moneys and other property of the insurer coming into his or her hands, and that he or she will not withdraw or appropriate for his or her own use from the funds of the insurer any moneys or property to which he or she is not entitled under the power of attorney.

(3) The bond shall provide that it is not subject to cancellation unless thirty days advance notice in writing of intent to cancel is given to both the attorney and the commissioner. [2009 c 549 s 7041; 1947 c 79 s .10.14; Rem. Supp. 1947 s 45.10.14.]

**RCW 48.10.150 Deposit in lieu of bond.** In lieu of such bond, the attorney may maintain on deposit with the commissioner a like amount in cash or in value of securities qualified under this code as insurers' investments, and subject to the same conditions as the bond. [1947 c 79 s .10.15; Rem. Supp. 1947 s 45.10.15.]

**RCW 48.10.160 Actions on bond.** Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any one time by one or more subscribers suffering loss through a violation of the conditions thereof or by a receiver or liquidator of the insurer. Amounts so recovered shall be deposited in and become part of the insurer's funds. [1947 c 79 s .10.16; Rem. Supp. 1947 s 45.10.16.]

**RCW 48.10.170 Service of legal process.** (1) Each authorized reciprocal insurer must appoint the commissioner as its attorney to receive service of, and upon whom service must be served, all legal process issued against it in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes service upon the insurer.

(2) With the appointment the insurer must designate the person to whom the commissioner must forward legal process so served upon him or her.

(3) The appointment of the commissioner as attorney is irrevocable, binds any successor in interest or to the assets or liabilities of the insurer, and remains in effect as long as there is in force in this state any contract made by the insurer or liabilities or duties arising under that contract.

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

(5) In lieu of service on the commissioner, legal process may be served upon a domestic reciprocal insurer by serving the insurer's attorney at his or her principal offices.

(6) Any judgment against the insurer based upon legal process so served is binding upon each of the insurer's subscribers as their respective interests may appear and in an amount not exceeding their respective contingent liabilities. [2011 c 47 s 7; 2009 c 549 s 7042; 1947 c 79 s .10.17; Rem. Supp. 1947 s 45.10.17.]

**RCW 48.10.180 Annual statement.** The annual statement of a reciprocal insurer shall be made and filed by the attorney. [1947 c 79 s .10.18; Rem. Supp. 1947 s 45.10.18.]

**RCW 48.10.190 Attorney's contribution—Repayment.** No contribution to a domestic reciprocal insurer's surplus by the attorney shall be retrievable by the attorney except under such terms and in such circumstances as the commissioner approves. [1947 c 79 s .10.19; Rem. Supp. 1947 s 45.10.19.]

**RCW 48.10.200 Determination of financial condition.** In determining the financial condition of a reciprocal insurer the commissioner shall apply the following rules:

(1) He or she shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposit delinquent for ninety days shall first be charged against such surplus deposit.

(3) The surplus deposits of subscribers shall not be charged as a liability.

(4) All premium deposits delinquent less than ninety days shall be allowed as assets.

(5) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(6) The contingent liability of subscribers shall not be allowed as an asset.

(7) The computation of reserves shall be based upon premium deposits other than membership fees and without any deduction for the compensation of the attorney. [2009 c 549 s 7043; 1947 c 79 s .10.20; Rem. Supp. 1947 s 45.10.20.]

**RCW 48.10.220 Who may become subscriber.** Any person, government or governmental agency, state or political subdivision thereof, public or private corporation, board, association, estate, trustee, or fiduciary may be a subscriber of a reciprocal insurer. [1947 c 79 s .10.22; Rem. Supp. 1947 s 45.10.22.]

**RCW 48.10.230 Subscribers' advisory committee.** (1) The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscribers adopt.

(2) Not less than three-fourths of such committee shall be composed of subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

(3) The committee shall:

(a) Supervise the finances of the insurer;

(b) supervise the insurer's operations to such extent as to assure their conformity with the subscribers' agreement and power of attorney;

(c) procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer;

(d) have such additional powers and functions as may be conferred by the subscribers' agreement. [1947 c 79 s .10.23; Rem. Supp. 1947 s 45.10.23.]

**RCW 48.10.250 Assessment liability of subscriber.** (1) The liability of each subscriber subject to assessment for the obligations of the reciprocal insurer shall not be joint, but shall be individual and several.

(2) Each subscriber who is subject to assessment shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his or her policy was in force. Such contingent liability may be at the rate of not less than one nor more than ten times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in RCW 48.10.290.

(3) Each assessable policy issued by the insurer shall plainly set forth a statement of the contingent liability. [2009 c 549 s 7044; 1947 c 79 s .10.25; Rem. Supp. 1947 s 45.10.25.]

**RCW 48.10.260 Action against subscriber requires judgment against insurer.** (1) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for thirty days.

(2) Any such judgment shall be binding upon each subscriber only in such proportion as his or her interests may appear and in an amount

not exceeding his or her contingent liability, if any. [2009 c 549 s 7045; 1947 c 79 s .10.26; Rem. Supp. 1947 s 45.10.26.]

**RCW 48.10.270 Assessments.** (1) Assessments may be levied from time to time upon the subscribers of a domestic reciprocal insurer, other than as to nonassessable policies, by the attorney upon approval in advance by the subscribers' advisory committee and the commissioner; or by the commissioner in liquidation of the insurer.

(2) Each such subscriber's share of a deficiency for which an assessment is made, not exceeding in any event his or her aggregate contingent liability as computed in accordance with RCW 48.10.290, shall be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(3) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(4) No subscriber shall have an offset against any assessment for which he or she is liable, on account of any claim for unearned premium or losses payable. [2009 c 549 s 7046; 1947 c 79 s .10.27; Rem. Supp. 1947 s 45.10.27.]

**RCW 48.10.280 Time limit for assessment.** Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his or her share of any assessment, as computed and limited in accordance with this chapter, if:

(1) While his or her policy is in force or within one year after its termination, he or she is notified by either the attorney or the commissioner of his or her intention to levy such assessment; or

(2) If an order to show cause why a receiver, conservator, rehabilitator, or liquidator of the insurer should not be appointed is issued pursuant to RCW 48.31.190 while his or her policy is in force or within one year after its termination. [2009 c 549 s 7047; 1947 c 79 s .10.28; Rem. Supp. 1947 s 45.10.28.]

**RCW 48.10.290 Aggregate liability.** No one policy or subscriber as to such policy, shall be assessed or be charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year, in excess of the number of times the premium as stated in the policy as computed solely upon premium earned on such policy during that year. [1947 c 79 s .10.29; Rem. Supp. 1947 s 45.10.29.]

**RCW 48.10.300 Nonassessable policies.** (1) Subject to the special surplus requirements of \*RCW 48.05.360, if a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the commissioner shall issue his or her certificate authorizing the insurer to extinguish the contingent liability of subscribers under



its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.

(2) Upon impairment of such surplus, the commissioner shall forthwith revoke the certificate. No policy shall thereafter be issued or renewed without providing for the contingent assessment liability of subscribers.

(3) The commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state. [2009 c 549 s 7048; 1983 c 3 s 148; 1947 c 79 s .10.30; Rem. Supp. 1947 s 45.10.30.]

**\*Reviser's note:** RCW 48.05.360 was repealed by 2005 c 223 s 35.

**RCW 48.10.310 Return of savings to subscribers.** A reciprocal insurer may from time to time return to its subscribers any savings or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks, or policies, or between subscribers. [1947 c 79 s .10.31; Rem. Supp. 1947 s 45.10.31.]

**RCW 48.10.320 Distribution of assets upon liquidation.** Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contribution of the attorney to its surplus made as provided in RCW 48.10.190, and the return of any unused deposits, savings, or credits, shall be distributed to its subscribers who were such within the twelve months prior to the last termination of its certificate of authority according to such formula as may have been approved by the commissioner. [1947 c 79 s .10.32; Rem. Supp. 1947 s 45.10.32.]

**RCW 48.10.330 Merger—Conversion to stock or mutual insurer.**

(1) A domestic reciprocal insurer, upon affirmative vote of not less than two-thirds of the subscribers who vote upon such merger pursuant to such notice as may be approved by the commissioner and with the approval of the commissioner of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

(2) Such a stock or mutual insurer shall be subject to the same capital requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance.

(3) The commissioner shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer

proportionate to his or her interest in the reciprocal insurer as determined in accordance with RCW 48.10.320 and a reasonable length of time within which to exercise such right. [2009 c 549 s 7049; 1947 c 79 s .10.33; Rem. Supp. 1947 s 45.10.33.]

**RCW 48.10.340 Impairment of assets—Procedure.** (1) If the assets of a domestic reciprocal insurer are at any time insufficient to discharge its liabilities other than any liability on account of funds contributed by the attorney, and to maintain the surplus required for the kinds of insurance it is authorized to transact, its attorney shall forthwith levy an assessment upon subscribers made subject to assessment by the terms of their policies for the amount needed to make up the deficiency.

(2) If the attorney fails to make the assessment within thirty days after the commissioner orders him or her to do so, or if the deficiency is not fully made up within sixty days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this code.

(3) If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscribers for such an amount, subject to limits as provided by this chapter, as the commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney, but including the reasonable cost of the liquidation. [2009 c 549 s 7050; 1947 c 79 s .10.34; Rem. Supp. 1947 s 45.10.34.]