

# Title 284 WAC

## INSURANCE COMMISSIONER

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### DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

#### Chapter 284-08

#### PRACTICE AND PROCEDURE

Reviser's note: Practice and procedure rules 284-08-010 through 284-08-590 were filed with the code reviser's office 3/22/60. By Insurance Commissioner Order No. R 68-3, the above rules were repealed. See material portion of the repealer below.

WAC 284-08-001 repeal of rules of PRACTICE and PROCEDURE (chapter 284-08 WAC). "I, LEE I. KUECKELHAN, Insurance Commissioner of the State of Washington, . . . do hereby repeal the above-entitled rules effective July 11, 1968, on the grounds that such rules and regulations are substantially contained in Title 1, Washington Administrative Code, which are intended to be the uniform rules of practice and procedure for state administrative agencies . . ." [Order No. R 68-3 (part), filed 6/12/68.]

#### Chapter 284-17

#### ACQUISITION OF OR OFFERS TO ACQUIRE CAPITAL STOCK

### OF AN INSURANCE COMPANY OR OF A CORPORATION WHICH OWNS THE STOCK OF AN INSURANCE COMPANY

- 284-17-010 Application. [Order R-68-12, § 284-17-010, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-020 Definitions. [Order R-68-12, § 284-17-020, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-030 Prohibited actions. [Order R-68-12, § 284-17-030, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-040 Filings required. [Order R-68-12, § 284-17-040, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-045 Review not approval. [Order R-68-12, § 284-17-045, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-050 Filing precondition to solicitation. [Order R-68-12, § 284-17-050, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-060 Exclusions. [Order R-68-12, § 284-17-060, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-070 Examination powers not diminished. [Order R-68-12, § 284-17-070, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-080 Enforcement. [Order R-68-12, § 284-17-080, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.
- 284-17-090 Severability. [Order R-68-12, § 284-17-090, filed 1/13/69.] Repealed by Order R77-4, filed 6/17/77.

### Chapter 284-02 WAC

### DESCRIPTION OF INSURANCE COMMISSIONER'S OFFICE—ORGANIZATION OPERATIONS AND OBTAINING INFORMATION

#### WAC

- 284-02-010 Authority of Insurance Commissioner.
- 284-02-020 Organization and operations.
- 284-02-030 Obtaining service of process over foreign and alien insurers.
- 284-02-040 Applying for a license as agent, adjuster, broker or solicitor.
- 284-02-050 Application for admission as an authorized insurer, health care service contractor.
- 284-02-060 Filing complaint against company, agent/broker or adjuster.
- 284-02-070 Hearings of the insurance commissioner.
- 284-02-080 Publications and information available.
- 284-02-090 Public access to information and records.

**WAC 284-02-010 Authority of Insurance Commissioner.** (1) **The Office Generally.** The position of Insurance Commissioner was established by the legislature as an independent, elective office in 1907. The Insurance Commissioner's powers are set forth in chapter 48.02 RCW. Essentially, he is charged with enforcing the provisions of Title 48 RCW of the Revised Code of Washington. To carry out the task of enforcing the Insurance Code the Commissioner may make rules and regulations governing activities under the Insurance Code consistent therewith; he may conduct investigations to determine whether any person has violated any

provision of the Code, including formal hearings; he may take action against an insurance company and a health care service contractor by revocation or suspension of its certificate of authority; he may fine insurance companies, and he may revoke or suspend the licenses of insurance agents or fine them. In lieu of any disciplinary action he may issue a cease and desist order pursuant to the general enforcement powers granted to him by RCW 48.04.080, or pursuant to that section, he may bring an action in court to enjoin some act conducted by an individual licensed by his office.

(2) **Duties and Responsibilities Imposed By Title 48 RCW.** (a) Title 48 RCW embraces the Insurance Code proper, which is defined by RCW 48.01.010 to include chapters 48.01 to 48.36 RCW and chapter 48.48 RCW. Chapters 48.01 to 48.36 RCW deal largely with the Commissioner's regulation of insurance companies, insurance agents, brokers, solicitors and adjusters, although he also licenses and examines insurance rating organizations and examining bureaus.

(b) Chapter 48.36 RCW, relating to fraternal societies, while contained in the Insurance Code proper, establishes separate licensing examination and regulatory provisions for such societies. The offering of burial insurance by fraternal, benevolent associations and labor unions is, however, exempt from the operation of the Insurance Code by virtue of RCW 48.40.090 and RCW 24.16.120.

(c) Chapter 48.48 RCW is the chapter governing the State Fire Marshal's office. The Insurance Commissioner is, by virtue of RCW 48.48.010, made ex-officio State Fire Marshal. The description of that office's organization and operations is contained in WAC 212-02-010.

(d) The two remaining chapters presently in Title 48 RCW which are not part of the Insurance Code are chapter 48.44 RCW, which regulates health care service contractors as defined therein, and chapter 48.52 RCW, which regulates employee welfare trust funds as defined therein. The regulatory powers of the Insurance Commissioner over health care service contractors and employee welfare trusts are not as extensive as his powers with organizations and individuals subject to the Insurance Code proper.

(e) The Insurance Code contains a number of substantive provisions which relate to the rights of policyholders in general and which are enforced for their benefit by the Insurance Commissioner. Those, for the most part, are contained in chapter 48.18 RCW, which is entitled the "Insurance Contract", and chapter 48.30 RCW, entitled "Unfair Practices and Frauds". Additional substantive provisions, however, are contained in chapters of the Insurance Code dealing with specific lines of insurance. For example, certain standard provisions are required to be placed in a disability insurance contract. See chapter 48.20 RCW. Similarly, substantive provisions appear in chapter 48.21 RCW, entitled "Group and Blanket Disability Insurance", chapter 48.23 RCW, entitled "Life Insurance and Annuities",

chapter 48.24 RCW, entitled "Group Life and Annuities", chapter 48.22 RCW, entitled "Casualty Insurance", and chapter 48.34 RCW, entitled "Credit Life Insurance and Credit Accident and Health Insurance".

(3) **Additional Duties of the Insurance Commissioner.** The State Insurance Commissioner is, by statute, made a member of a number of boards and commissions in addition to his regular duties. See RCW 41.40.030, RCW 43.43.140, RCW 43.35.010 and RCW 41.32.040. In addition to these responsibilities he has been assigned the special duty of preparing annuity tables for calculation of the reserve fund in cases of death or permanent disability under the Workmen's Compensation Act. See RCW 51.44.070. He must also publish for use of the state courts and appraisers, tables showing the average expectancy of life, and values of annuities and life and term estates. (RCW 48.02.160) [Order R-68-6, § 284-02-010, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-020 Organization and operations.** (1) **Administrative.** The Insurance Commissioner is the head of an agency generally referred to as the Insurance Commissioner's office, and as such is the chief administrative officer. He has a chief deputy who is given the same powers as are granted to the Insurance Commissioner himself.

(2) **Examination Division.** (a) The Examination Division is headed by a chief examiner and is divided into two sections, insurance and employee welfare trusts.

(b) The insurance section conducts examinations of each domestic company licensed in the state of Washington at least once every three years. It examines each rating organization and examining bureau licensed in this state not less than once every five years. It may examine each advisory organization and each joint underwriting or joint reinsurance group association organization as often as the Commissioner deems advisable. In the case of non-domestic insurance companies the Commissioner may accept a full report of the latest examination, certified by the insurance supervisory official of the state of domicile or of entry. Frequently examiners from the Washington Insurance Commissioner's office participate in examination of non-domestic insurance companies under a participating arrangement of the National Association of Insurance Commissioners.

(c) The Employee Welfare Trust Fund section conducts examination of employee health and welfare funds and trusts and profit-sharing and pension trusts at least once every five years. An employee welfare trust fund is defined by RCW 48.52.010 to mean "any fund established for employees of one or more employers for providing employees, their families or dependents medical or hospital care, disability benefits, death benefits, retirement benefits, annuity benefits, health care services, or any insurance benefits, whether such benefits or services are to be paid directly from such fund or interest therefrom, or paid under contracts entered into by the trustees of the fund with an insurer or health care service contractor".

(d) Examinations by the Insurance Commissioner's office include analyses of the various operating accounts, physical inspection of assets, examination of records and

files relating to assets and liabilities, policies and practices, surveys of the systems of internal control, accounting procedures, and determination of the financial condition as of the close of the period under examination. Close attention is paid to ascertain whether the business is conducted in conformity with the laws and regulations relating to insurance and employee welfare trusts, and with the charters and bylaws adopted by the governing board of the organization. Insurance examiners work from a manual guide prepared, and continually updated, by a committee of the National Association of Insurance Commissioners. Detailed auditing of vouchers and other records is performed only to the extent necessary for verification of assets and liabilities.

(e) Reports of examination are furnished to the organization, which then has no less than 10 days to request a hearing for the purpose of considering objections to that report. A report may not be made public until after such hearing and until such modifications deemed necessary by the Commissioner have been made. Assuming no further action is to be taken, the Commissioner may then make the examination report a public document; though he may withhold the report from public inspection if it is in the public interest to do so, pursuant to RCW 48.03.050.

(3) **Policyholder Complaints.** Claims deputies located in offices of the Insurance Commissioner in Olympia, Seattle, Spokane and Yakima handle written and oral complaints by policyholders against their insurers. Additionally, once a month Commissioner's deputies are available in Wenatchee, Kennewick and Vancouver to hear policyholder complaints. These sessions are announced in advance by the press in those areas. Assistance in connection with complaints against insurers is rendered by the Insurance Commissioner pursuant to his authority to enforce the various provisions of the Insurance Code and to take disciplinary action against an insurance company, pursuant to RCW 48.05.140. One of the grounds for the Insurance Commissioner to take disciplinary action against an insurer pursuant to that statute is if the insurer "usually compels claimants under policies either to accept less than the amount due them or to bring suit against it to secure full payment of the amount due". (RCW 48.05.140(4)). The policyholder complaint section maintains a file on complaints against individual insurers and health care service contractors. The policyholder complaint section deals with contractual relations between an insurer and its insureds. It does not, except in connection with specific statutory violations or unusual situations, have jurisdiction in disputes between a third party and the insurer of another party. These latter disputes are considered matters for the courts to resolve.

(4) **Licensing Division.** The Licensing Division issues the licenses to individuals, partnerships and corporate firms acting as insurance agents, brokers, solicitors and adjusters.

(5) **Company Division.** (a) Oversees admission of insurance companies, health care service contractors.

(b) Approves proxy statements of domestic stock companies pursuant to RCW 48.08.090 and Commissioner's Regulation 246 (chapter 284-28, WAC).

(c) Supervises insider trading law (RCW 48.08.100 - 48.08.170).

(d) Handles certification of official documents; approval of company names.

(6) **Actuarial, Rates and Forms Divisions.** These divisions of the Insurance Commissioner's office approve policy forms, other than surety bond forms and wet marine forms, as well as application forms, policy riders and endorsements, etc., pursuant to RCW 48.18.100, and may disapprove such forms pursuant to grounds set forth in RCW 48.18.110. They also approve rates for property, surety and casualty insurance (chapter 48.19 RCW), and title insurers (RCW 48.29.140). The standard for qualifying rates of property, surety, casualty and title insurers is that the rates shall not be excessive, inadequate, or unfairly discriminatory. See RCW 48.19.020. In addition, these divisions of the Insurance Commissioner's office may disapprove rates for disability insurance pursuant to RCW 48.18.110, and for credit life and disability insurance pursuant to RCW 48.34.100, where the rates charged are not reasonable in relation to the benefits conferred. Prima facie acceptable rates have been established for credit life and credit disability insurance in a regulation promulgated by the Insurance Commissioner's office.

(7) **Legal and Investigative Division.** A full-time assistant attorney general is assigned to the Insurance Commissioner's office to render legal advice, to represent the commissioner in disciplinary hearings and court cases, and to draft legislation and regulations. A full-time investigator is employed to investigate complaints against insurance agents and insurance companies for possible disciplinary action against them. For procedures, see *Hearings*, WAC 284-02-070, *infra*.

(8) **Tax and Accounting Division.** The taxation of both domestic and foreign insurance companies is a function imposed on the Insurance Commissioner's office. Insurance companies are taxed on their gross premiums in this state, pursuant to RCW 48.14.020. This premium tax for all insurers, except title insurers, is in lieu of all other taxes except taxes on real and tangible personal property and excise taxes on the sale, purchase or use of such property. Title insurers are not taxed, pursuant to chapter 48.14 RCW, and fraternal societies are exempt from all taxation, pursuant to RCW 48.36.320. Surplus line insurers are taxed, pursuant to the provisions of RCW 48.15.120. Health care service contractors are not currently subject to taxation by the Insurance Commissioner. At the present time the premiums of domestic insurers are taxed at 1 per cent. Premiums of foreign and alien insurers are taxed at 2 per cent, except that, under the retaliatory provisions of RCW 48.14.040 the premium tax applicable to a foreign or alien insurer is the rate charged a Washington incorporated insurer by its state of incorporation, if this rate exceeds 2 per cent. The Taxation and Accounting Division also collects and accounts for fees paid by insurance companies, health care service contractors, insurance agents, brokers, etc. Fees charged by the Insurance Commissioner's office are

listed in a fee schedule contained in RCW 48.14.010. The retaliatory provision, RCW 48.14.040, also operates with respect to fees charged by the Insurance Commissioner.

(9) **Insurance Advisory Examining Board.** An insurance advisory examining board was created pursuant to chapter 150, Laws of 1967, § 14. The board has power to recommend general policy concerning the scope, content, procedure and conduct of examinations to be given for licenses as insurance agents, brokers or solicitors. The board is composed of seven members, including the Commissioner who acts as ex officio chairman. Three of these members must be engaged in the life or disability fields, and the remaining three in other insurance fields. [Order R-68-6, § 284-02-020, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-030 Obtaining service of process over foreign and alien insurers.** Although domestic insurers are served with legal process personally, the Insurance Commissioner is the party on whom service of process should be made on all foreign and alien insurers, whether authorized to transact business in this state or not. The exact procedures are set forth in the applicable statutes. Service of process against authorized foreign and alien insurers, other than surplus line insurers, must be made pursuant to RCW 48.05.200 and RCW 48.05.210. RCW 48.05.220 specifies where the proper venue is for such actions. Service of process against surplus line insurers can be made on the Commissioner, pursuant to the procedures set forth in RCW 48.15.150. (A surplus lines insurer markets coverage which cannot be procured in the ordinary market from authorized insurers.) Service of process against unauthorized insurers may be made on the Commissioner, pursuant to the procedures set forth in RCW 48.05.215. [Order R-68-6, § 284-02-030, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-040 Applying for a license as agent, adjuster, broker or solicitor.** Licensing requirements and procedures for obtaining a license as an insurance agent, adjuster, broker or solicitor may be obtained by writing to the Licensing Division in Olympia. This information is contained in a manual published by the Commissioner, along with a study guide for the qualifying examination. The manual is sold at cost, contains reference sources, pertinent Insurance Code provisions, as well as regulations and bulletins of the Insurance Commissioner's office current as of the printing date of the manual. [Order R-68-6, § 284-02-040, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-050 Application for admission as an authorized insurer, health care service contractor.** A check list of documents required for an application for admission is available from the admissions deputy. The statutory requirements are contained in chapter 48.05 RCW (all insurance companies); chapter 48.06 RCW (domestic companies); chapter 48.07 RCW (domestic stock companies); chapter 48.09 RCW (mutual companies); chapter 48.10 RCW (reciprocal companies); chapter 48.15 RCW (surplus line companies); chapter

48.44 RCW (health care service contractors). Of particular interest are the capital and surplus requirements required of stock insurance companies. These are contained in RCW 48.05.340. [Order R-68-6, § 284-02-050, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-060 Filing complaint against company, agent/broker or adjuster.** A grievance against an insurance company, health care service contractor, agent, broker or adjuster may be filed with the Insurance Commissioner. To do so the Insurance Commissioner should be supplied with as many facts as possible to assist in the investigation of the complaint. This should include the correct name of the insurance company, the policy and/or claim number, the name of the agent, adjuster, date of loss and complete explanation of the loss. [Order R-68-6, § 284-02-060, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-070 Hearings of the Insurance Commissioner.** (1) Hearings of the Insurance Commissioner's office are conducted according to the Administrative Procedure Act (chapter 34.04 RCW), and chapter 48.04 RCW. Essentially there are two types of hearings conducted - rule making hearings and contested cases, the latter including appeals from disciplinary actions taken by the Commissioner. Under RCW 48.04.010 the Commissioner is required to hold a hearing upon demand by any person aggrieved by any act, threatened act, or failure of the Commissioner to act, if such failure is deemed an act under the code, or by any report, promulgation, or order of the Commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing. Requests for hearings must be made in writing, must specify how the person making the demand has been aggrieved by the office of Insurance Commissioner, and the demand must specify the grounds to be relied upon as the basis for the relief sought.

(2) **"Contested Cases".** (a) Provisions specifically relating to disciplinary action taken against insurance agents, brokers, solicitors or adjusters are contained in RCW 48.17.530, RCW 48.17.540, RCW 48.17.550, and RCW 48.17.560. Provisions applicable to other "contested cases" are contained in chapters 34.04 and 48.04 RCW. The Uniform Rules of Practice and Procedure adopted by the Code Reviser's office, which appears in Title 1 of the Washington Administrative Code, govern procedures not contained in the statutes. The grounds for disciplinary action against insurance agents, brokers, solicitors and adjusters are contained in RCW 48.17.530; grounds of similar action against insurance companies are contained in RCW 48.05.140, and grounds for action against health care service contractors are contained in RCW 48.44.160. Essentially, these statutes provide that the Insurance Commissioner may suspend or revoke a licensee's license, or an insurer's or health care service contractor's certificate of authority. In addition, he may, under RCW 48.17.560, fine an insurance agent, broker, solicitor or adjuster, and may likewise fine an insurance company, pursuant to RCW 48.05.185; or

in case of violations of the rating section (chapter 48.19 RCW), may impose a fine pursuant to RCW 48.19.430.

(b) "Contested case" hearings of the Insurance Commissioner are informal in nature, and formal rules of pleading and evidence are not required. Generally the Commissioner or his chief deputy sit as hearing examiner, but the Commissioner may appoint a special hearing examiner in technical matters, who would then prepare a decision to the Commissioner for his action. A person wishing a full stenographic record of the proceeding must seasonably make a written request to the Insurance Commissioner. Where such requests are not made, the hearing is recorded on tape and transcribed if appeal from the Commissioner's order is made to the Superior Court. The Commissioner allows any person affected by the hearing to be present during the giving of all testimony and will allow him a reasonable opportunity to inspect all documentary evidence, to examine witnesses and to present evidence in support of his interest. Any person heard must make full disclosure of the facts pertinent to the inquiry. (The foregoing is provided by chapter 34.04 RCW.)

(c) Unless a person aggrieved by an order of the Commissioner demands a hearing thereon within 90 days after receiving notice of such order, the right to such a hearing shall conclusively be deemed to have been waived. RCW 48.04.010(3).

(d) The Commissioner must hold any hearing demanded within 30 days after receipt of the demand, unless postponed by mutual consent.

(3) **Rule-Making Hearings.** Rule-making hearings of the Insurance Commissioner are conducted pursuant to chapter 34.04 RCW (the Administrative Procedure Act) chapter 42.32 RCW and chapter 48.04 RCW. Under applicable law all interested parties must be afforded an opportunity to express their views concerning a proposed regulation of the Insurance Commissioner's office, either orally or in writing; provided, however, that no rule or regulation can be adopted unless in a public meeting, as required by chapter 42.32 RCW and the Administrative Procedure Act, chapter 34.04 RCW. Notice of Intention of the Insurance Commissioner to adopt a proposed rule or regulation is sent to the press, as required by chapter 42.32 RCW, to anyone who has requested in advance that the notice be given to them, and to all persons whom the Commissioner determines would be interested in the proceeding. [Order R-68-6, § 284-02-070, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-080 Publications and information available.** (1) **Insurance Code.** The Insurance Commissioner publishes a copy of Title 48 RCW, pursuant to authority of RCW 48.02.180, which is sold by this office at cost. Title 48 RCW is also available in any law library, as well as in most general libraries.

(2) **List of Authorized Insurers.** The Insurance Commissioner publishes bi-annually a list of all insurance companies authorized to do business in this state. Such lists are available on request from the Insurance Commissioner's office. An insurer not authorized to do business in the state is forbidden by law from soliciting business in this state. See RCW 48.15.020. Consistent

with recent case law, the Insurance Commissioner's office has taken the position that solicitation by an unauthorized insurer, whether by mail or otherwise, violates the Insurance Code.

(3) **Annual Report.** The Insurance Commissioner publishes an annual report, as required by RCW 48.02.170, which is available on request. The annual report not only contains a list of all insurers authorized to transact insurance in this state, showing the insurer's name, location, date of incorporation, date of admission, capital funds, and kinds of insurance transacted; but it also tabulates abstracts of the annual statements of all authorized insurers; and contains a summary of the operations of the Insurance Commissioner's office, including action taken against insurance companies; and recommended legislative proposals.

(4) **Policy Forms and Rates.** Rates of insurance companies and all policy forms required to be filed and/or approved by the Insurance Commissioner's office are on file in that office and are public records.

(5) **Examination Reports, Annual Reports.** Reports of examination and annual reports of insurance companies and health and welfare trusts are likewise on file in the Insurance Commissioner's office and are open for public inspection.

(6) **Official Actions of the Insurance Commissioner.** As required by chapter 34.04 RCW, Administrative Procedure Act, actions taken by the Insurance Commissioner's office relating to adoption of rules or the discipline of insurance companies, health care service contractors, insurance agents, brokers, solicitors or adjusters are on file in that office and are also a matter of public record.

(7) **Deposits of Insurers.** Records of deposits of insurers, required by chapter 48.16 RCW and other sections of the Insurance Code, are on file in the Insurance Commissioner's office.

(8) **Articles of Incorporation, Bylaws of Insurers.** All insurers are required to file their articles of incorporation and bylaws, and any amendments thereto, with the Insurance Commissioner's office. These are open for public inspection in the Insurance Commissioner's office.

(9) **Reports of Adjusters.** Adjusters investigating fire loss claims must report to the Commissioner pursuant to RCW 48.17.440. Any facts or circumstances indicating fraud may have been committed or attempted and full information on claims adjusted on any policy issued by an unauthorized insurer.

(10) **Administrative Rules and Regulations, Bulletins of the Insurance Commissioner.** Administrative rules and regulations of the Insurance Commissioner are available in pamphlet form on request from the State Code Reviser. Individual copies of rules and regulations of the Insurance Commissioner, and any bulletins issued by the Insurance Commissioner, also available on request, without charge, from the Insurance Commissioner's office. [Order R-68-6, § 284-02-080, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-090 Public access to information and records.** Notwithstanding anything contained in this chapter or this title to the contrary, access by the public

to information and records of the Insurance Commissioner shall be governed by chapter 284-03 WAC. [Order R-75-2, § 284-02-090, filed 5/19/75.]

**Chapter 284-03 WAC**  
**PUBLIC ACCESS TO INFORMATION AND RECORDS**

**WAC**

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284-03-110	Review of denials of public records request.
284-03-120	Protection of public records.
284-03-130	Consumer complaints and inquiries.
284-03-140	Adoption of forms.
284-03-990.	Form 276-1—Request for inspection of records.
284-03-99001	Form 276-2—Request for photocopy of record(s).

**WAC 284-03-010 Purpose.** The purpose of this chapter is to provide rules implementing RCW 42.17.250—42.17.320 (chapter 1, §§ 25 through 32, Laws of 1973). [Order R-75-1, § 284-03-010, filed 5/19/75.]

**WAC 284-03-020 Definitions.** (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) "Office" is the office of the insurance commissioner of the state of Washington, which includes by operation of law the office of the state fire marshal. [Order R-75-1, § 284-03-020, filed 5/19/75.]

**WAC 284-03-030 Functions—Organization—Administration.** (1) For purposes of this chapter, the functions, organization and administration of the office relating to insurance matters shall be as set forth in chapter 284-02 WAC.

(2) For purposes of this chapter, the functions, organization and administration of this office relating to the state fire marshal shall be as set forth in chapter 212-02 WAC. [Order R-75-1, § 234-03-030 (codified as WAC 284-03-030), filed 5/19/75.]

**WAC 284-03-040 Public records available.** Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by RCW 42.17.310 and these rules. [Order R-75-1, § 284-03-040, filed 5/19/75.]

**WAC 284-03-050 Public records officer.** The public records officer for the office shall be the administrative officer, as designated by the state insurance commissioner, for all records maintained by such office whether located at the central office thereof at Olympia, Washington, or at such other offices throughout the state maintained by the state insurance commissioner. The public records officer shall be located at such central office. The public records officer shall be responsible

for implementation of this chapter regarding release of public records, coordinating the staff of the office in this regard, generally insuring compliance by the staff with the public records disclosure requirements of RCW 42.17.250—42.17.320, and maintaining the records index of such office as required. [Order R-75-1, § 284-03-050, filed 5/19/75.]

**WAC 284-03-060 Records index.** The office has available to all persons a current index which provides identifying information as to public records received, issued, adopted or promulgated since its inception. The current index adopted by the office shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order R-75-1, § 284-03-060, filed 5/19/75.]

**WAC 284-03-070 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the office. For purposes of this chapter, the customary office hours shall be from 9:00 A.M. to noon and from 1:00 P.M. to 4:00 P.M., Monday through Friday, excluding legal holidays. [Order R-75-1, § 284-03-070, filed 5/19/75.]

**WAC 284-03-080 Requests for public records.** In accordance with requirements of RCW 42.17.250—42.17.320 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures: (1) A request shall be made in writing upon a form prescribed by the office which shall be available at its public records officer; or to any member of the office staff, if the public records officer is not available, at the administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested. [Order R-75-1, § 284-03-080, filed 5/19/75.]

**WAC 284-03-090 Copying fees.** No fee shall be charged for the inspection of public records. The office shall charge a fee of 35¢ (thirty-five cents) per page of copy for providing copies of public records; when copies

of photographs are desired, a nominal fee shall be charged to cover the actual duplicating costs. These charges are necessary to reimburse the office for the costs of providing the copies and the use of the copying equipment. [Order R-75-1, § 284-03-090, filed 5/19/75.]

**WAC 284-03-100 Exemptions.** (1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 284-03-080 is exempt under the provisions of RCW 42.17.260 and/or such other laws as may be deemed applicable.

(2) In addition, pursuant to RCW 42.17.260 the office reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy or as otherwise provided in WAC 284-03-040. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. [Order R-75-1, § 284-03-100, filed 5/19/75.]

**WAC 284-03-110 Review of denials of public records request.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted, or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the insurance commissioner or a designated deputy insurance commissioner. The commissioner or his designee shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the members of the office staff necessary to properly consider the matter and/or request a legal review thereof by the assistant attorney general representing the office. In any case, the request shall be returned with a final decision, within five business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the office has returned the petition with a decision or until the close of the fifth business day following denial of inspection, whichever occurs first. [Order R-75-1, § 284-03-110, filed 5/19/75.]

**WAC 284-03-120 Protection of public records.** The public records officer shall to the extent practicable insure that records requested are not removed from the

premises nor portions thereof removed by members of the public. [Order R-75-1, § 284-03-120, filed 5/19/75.]

**WAC 284-03-130 Consumer complaints and inquiries.** Unless a consumer complainant or inquirer specifically provides to the contrary, the public records officer or other members of the office staff are authorized when deemed appropriate to forward a copy of the letter or other writings pertinent to the complaint or inquiry to the firm or person which is the subject of the complaint or to any firm or person who may provide assistance relative to the complaint or inquiry. [Order R-75-1, § 284-03-130, filed 5/19/75.]

**WAC 284-03-140 Adoption of forms.** The office hereby adopts for use by all persons requesting inspection and/or copies of records the forms attached hereto entitled "request for inspection of records" and "request for photocopy of records". [Order R-75-1, § 284-06-140 (codified as WAC 284-03-140), filed 5/19/75.]

**WAC 284-03-990 Form 276-1—Request for Inspection of records.**

-----  
Request Number

-----  
Date requested

-----  
Date provided

-----  
(For office use only)

OFFICE OF INSURANCE COMMISSIONER

Request for Inspection of Records

The information requested in Blocks 1 through 6 is not mandatory, however, the completion of these blocks will enable this office to expedite your request and contact you should the record you seek not be immediately available.

1. Name	4. Phone number
2. Address	5. Representing (if applicable)
3. Zip code	6. If urgent - date needed

Below please state what record(s) you wish to inspect and be as specific as possible. If you are uncertain as to

the type or identification of specific record or records we will assist you.

I certify that the information requested from the above record(s) will not be part of a list of individuals to be used for commercial purposes.

(Signed) -----

Date -----

Insurance Commissioner Form 276 - 1 (Page 1 of 2 - Exhibit 1)

[Order R-75-1, Form 276-1 (codified as WAC 284-03-990), filed 5/19/75.]

WAC 284-03-99001 Form 276-2 - Request for photocopy of record(s).

----- Request Number

----- Date Requested

----- Date Provided

(Office use only)

OFFICE OF INSURANCE COMMISSIONER

Request for Photocopy of Record(s)

Please state below the pages of the documents or records you wish to have photocopied. A reasonable standard fee for each page or record will be charged for this service.

I wish the following page(s) of documents or records to be photocopied and made available for my possession, I agree to pay a reasonable standard charge for this service.

I certify that the photocopies of records received as listed above will not be part of a list of individuals to be used for commercial purposes.

Signed -----

Date -----

Office use only

Number of pages copied ----- @ ----- per copy.

Total charge ----- Amount paid -----

Insurance Commissioner Form 276 - 2 (Page 2 of 2 - Exhibit 2)

[Order R-75-1, Form 276-2 (codified as WAC 284-03-99001), filed 5/19/75.]

Chapter 284-05 WAC

WASHINGTON ACTUARIES REGULATION

WAC

- 284-05-010 Title.
284-05-020 Purpose.
284-05-030 Scope.
284-05-040 Restriction on signing as actuary.
284-05-050 Actuarial representation.
284-05-060 Qualified actuary defined.
284-05-070 Effective date.

WAC 284-05-010 Title. These rules, WAC 284-05-010 through WAC 284-05-070, shall be known and may be cited as the "Washington Actuaries Regulation." [Order R-72-1, § 284-05-010, filed 2/8/72, effective 7/1/72.]

WAC 284-05-020 Purpose. The purpose of this regulation is to establish standards for use of the terms "actuary" or "actuarial." It is not the purpose of this regulation to require any insurer or other person subject to the insurance code to employ an actuary except as may be otherwise required by statute or other administrative rule. [Order R-72-1, § 284-05-020, filed 2/8/72, effective 7/1/72.]

WAC 284-05-030 Scope. This regulation shall apply to all reports, statements, and other documents filed with the insurance commissioner or issued to the public in relation to the business of insurance. [Order R-72-1, § 284-05-030, filed 2/8/72, effective 7/1/72.]



**WAC 284-05-040 Restriction on signing as actuary.** No report, statement, or document shall be filed with the insurance commissioner or issued to the public in relation to the business of insurance if it is signed by a person who represents himself in such instrument to be an actuary unless such person signing as an actuary is a qualified actuary. [Order R-72-1, § 284-05-040, filed 2/8/72, effective 7/1/72.]

**WAC 284-05-050 Actuarial representation.** No person in any representation made to the public or to the insurance commissioner in respect to any matter subject to this regulation shall use the word "actuary" or "actuarial" to indicate a degree of professional competence unless such representation was prepared or approved by a qualified actuary. [Order R-72-1, § 284-05-050, filed 2/8/72, effective 7/1/72.]

**WAC 284-05-060 Qualified actuary defined.** (1) For the purpose of this regulation, a "qualified actuary" is an individual who in each particular case or assignment is acting within the scope of his or her training, experience and qualifications, and

(a) Is a member of the American Academy of Actuaries, or

(b) Has otherwise demonstrated his or her actuarial competence to the satisfaction of the insurance commissioner, or to the satisfaction of the insurance regulatory official of the domiciliary state of an insurer in the case of any actuarial certification required in connection with an annual statement filed by such insurer.

(2) Insofar as activities or conduct under the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) may be considered to relate to the business of insurance, an "enrolled actuary" pursuant to federal regulations issued under that Act shall be deemed a "qualified actuary" with respect to such activities or conduct. [Order R-76-1, § 284-05-060, filed 2/25/76; Order R-72-1, § 284-05-060, filed 2/8/72, effective 7/1/72.]

**WAC 284-05-070 Effective date.** The effective date of this regulation shall be July 1, 1972. [Order R-72-1, § 284-05-070, filed 2/8/72, effective 7/1/72.]

**Chapter 284-12 WAC**

**AGENTS, BROKERS AND ADJUSTERS**

<b>WAC</b>	
284-12-010	Qualifications of agents of insurers authorized to transact more than one kind of insurance—Exceptions.
284-12-025	Brokers—Surplus line—Qualifications and examination.
284-12-026	Surplus line brokers—Must file power of attorney for the service of process.
284-12-030	Nonresident agent, broker, or adjuster's license.
284-12-040	Adjusters' licenses, RCW 48.14.010, 48.17.050, 48.17.060, 48.17.070, 48.17.110, 48.17.120, 48.17.380.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

284-12-100 Twisting. [Rule filed 12/1/61, effective 12/1/61.] Repealed by Order R-68-1 (part), filed 4/23/68, effective 10/1/68.

**WAC 284-12-010 Qualifications of agents of insurers authorized to transact more than one kind of insurance—Exceptions.** (1) Except as provided in subsection (2) of this rule, and except where the commissioner otherwise permits after good cause is shown therefor in writing, applicants for agents' licenses must take and pass a qualifying examination for all those kinds of insurance which the appointing insurer is authorized to transact in the state of Washington.

(2) Insurers authorized to write kinds of insurance in addition to vehicle insurance or surety insurance may appoint agents to write vehicle insurance or surety insurance only, and such appointees may take a qualifying examination for vehicle insurance or surety insurance only: *Provided, however,* That the appointing insurers shall file with this office a written statement in which they agree to accept from such appointees only vehicle or surety insurance, as the case may be, until such time as these appointees have qualified to write additional kinds of insurance and the insurers have verified such qualification.

(3) Insurers making appointments limited to vehicle insurance or surety insurance only must indicate such limitation clearly on each appointment form. In the event such limited agents subsequently qualify for the additional kinds of insurance authorized to be written by their appointing insurers, these insurers must file a new appointment form for each such agent and pay the regular appointment fee for each.

(4) This rule does not apply to or affect the "limited licenses" permitted by RCW 48.17.190. [Order R 76-6, § 284-12-010, filed 11/10/76; Rule dated 5/1/54, filed 3/22/60.]

**WAC 284-12-025 Brokers—Surplus line—Qualifications and examination.**

(1) Each applicant for license as a surplus line broker shall, prior to issuance of any such license, personally take and pass to the satisfaction of the commissioner an examination given by the commissioner as a test of his qualifications and competence, such examination to be given in the same manner and under the same requirements as are prescribed for brokers in chapter 48.17 RCW, except that such surplus line examination may not be taken by an applicant more often than every thirty days.

(2) This requirement shall not apply to the following:

(a) Applicants who within the five year period next preceding date of application have been licensed in this state as/or under a surplus line broker's license and who are deemed by the commissioner to be fully qualified and competent.

(b) Applicants for renewal of a surplus line broker's license in force on January 1, 1958, or issued thereafter except as provided in this regulation or in the Insurance Code.

(3) For the purpose of this regulation "applicant" and "surplus line broker" is defined to include any individual

who is to be empowered and designated in the license as authorized to exercise the powers conferred thereby. [Rule dated 1/20/58, filed 3/22/60.]

**WAC 284-12-026 Surplus line brokers—Must file power of attorney for the service of process.** On and after November 1, 1954, no surplus line broker shall place insurance with an unauthorized company unless the broker or the insurer he represents has filed in the office of the insurance commissioner a duly executed power of attorney for the service of legal process on a form which will be furnished by the insurance commissioner's office on request. [Rule dated 8/2/54, filed 3/22/60.]

**WAC 284-12-030 Nonresident agent, broker, or adjuster's license.** The insurance code of the state of Washington provides: (1) Section 17.33 (RCW 48.17.330) *Nonresident agents and brokers—reciprocity.*"(1) The commissioner may license as a life and/or disability insurance agent only, or as a broker, a person who is otherwise qualified therefor under this code but who is not a resident of or domiciled in this state, if by the laws of the state or province of his residence or domicile a similar privilege is extended to residents of or corporations domiciled in this state. (2) Any such licensee shall be subject to the same obligations and limitations, and to the commissioner's supervision as though resident or domiciled in this state, subject to RCW 48.14.040 (Retaliatory provision). (3) No such person shall be so licensed unless he files the power of attorney provided for in RCW 48.17.340 (Service of process against nonresident agent or broker), and, if a corporation, it must have complied with the laws of this state governing the admission of foreign corporations."

(2) In part in section 17.38 (RCW 48.17.380) *Adjusters—Qualifications for license.* The commissioner shall license as an adjuster only an individual who has otherwise complied with this code therefor and who has furnished evidence satisfactory to the commissioner that he is qualified as follows:

\_\_\_\_\_ (2) .....is a resident of a state which will permit residents of this state to act as adjusters in such other state.

This section is also subject to RCW 48.14.040 (Retaliatory provisions).

(3) Now therefore pursuant to authority vested in me by section .02.06 (RCW 48.02.060) of the insurance code of the state of Washington to make reasonable rules and regulations for effectuating any provision of the insurance code, the following ruling is hereby adopted.

(a) All applicants for a nonresident agent or broker's license, either as an individual, firm or corporation, must have and maintain a similar license in their state of residence except where the state of residence does not issue a resident broker's license the applicant must be licensed in that state as an agent for all classes of insurance, except title, as same are defined in the insurance code of this state and further that state of residence must reciprocate as to resident brokers and/or agents of this state.

(b) All applicants for a nonresident independent adjuster's license must have and maintain an adjuster's license in their state of residence, except that if a state of residence does not provide for the licensing of adjusters this provision will not apply if the applicant is considered to have met the requirements of his state relating to adjusters.

(c) To comply with one and two immediately above all applicants for a nonresident agent, broker or adjuster's license shall have furnished on their behalf from the appropriate official of their state of residence:

(i) Evidence as to their licensing status o.e. as agent or broker, individual, firm or corporation.

(ii) That their license is in good standing with no complaints outstanding.

(iii) The classes of insurance for which they are licensed and/or qualified. [Rule dated 11/4/57, filed 3/22/60.]

**WAC 284-12-040 Adjusters' licenses, RCW 48.14.010, 48.17.050, 48.17.060, 48.17.070, 48.17.110, 48.17.120, 48.17.380.** Pursuant to authority invested in me by the insurance code to make rules and regulations for effectuating any provisions of the code, the following regulations is hereby made pertaining to requirements of the above indicated code sections. The regulation set forth herein shall take effect immediately.

(1) RCW 48.17.050 defines adjuster to be "1. 'Adjuster' means any person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates or reports to his principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured. An attorney-at-law who adjusts insurance losses from time to time incidental to the practice of his profession, or an adjuster of marine losses, or a salaried employee of an insurer, or of a general agent, is not deemed to be an 'adjuster' for the purposes of this article."

(2) RCW 48.17.060 provides in part "1. No person shall in this state act as or hold himself out to be an agent, broker, solicitor, or adjuster unless then licensed therefor by this state."

(3) RCW 48.17.070 provides in part that the commissioner shall not issue a license unless and until he is satisfied that the person is qualified for such license.

(4) RCW 48.17.110 provides in part that an applicant, who has been licensed within the five-year period preceding date of application, may be issued a license and not have to take any further examination if the new license requires qualification similar to those qualifications required under his previous license. This section has been interpreted to apply also to applicants who may furnish evidence of being so licensed in another state within the last five years, in which state he has had a satisfactory record and further, if that state will extend like privileges to residents or former residents of the state of Washington.

(5) RCW 48.17.120 provides for the scope of the examination and further requires the commissioner to prepare and make available a manual to assist such prospective licensees. This provision is limited, however,

to agents, brokers and solicitors; hence, no manual has been prepared or is available from this office for applicants for licenses as adjusters.

(6) RCW 48.17.380 establishes certain qualifications before an applicant may be issued or receive an adjuster's license. In summary, these requirements are that an adjuster's license may be issued only to an individual (an adjuster's license may not be issued to a corporation or a partnership, or in any name other than that of the individual himself), the licensee must be twenty-one years of age or older; the licensee must be a bona fide resident of this state, or a resident of a state which will permit residents of this state to hold nonresident licenses in their state; and be a trustworthy person. This section also provides that the applicant "4. Has had experience or special education or training with reference to the handling of loss claims under insurance contracts, of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster. 5. Has successfully passed any examination as required under this article."

(7) As will be seen from the provisions of sections four and five immediately above RCW 48.17.380(4) and (5), it is necessary for an applicant for license to have both passed an examination given by this department and to have had experience or special education or training. It is the intent of these regulations to establish a method in which such experience may be acquired. Subject to the following requirements persons may be employed for a limited period as "trainees", and trained in the adjustment of losses and shall be known and referred to only as "trainees".

(a) As used herein or hereafter the term "trainee" shall refer to anyone employed to receive training and experience to qualify as an adjuster. The regulations set forth herein or hereafter shall apply to all acts relative to adjustment activities performed by any trainee. Unless and until the regulations set forth herein are complied with in full the benefits of these regulations shall not be available to any person.

(b) Trainees shall at all times be under the supervision of a licensed adjuster, and all adjusting transactions shall be in the name of such licensed adjuster who shall be responsible for the acts of the trainee.

(c) Activities of the trainee shall be restricted to participation in factual investigation and tentative closing of losses, subject always to review and final confirmation by the licensed adjuster.

(d) Both the individual trainee and his supervisory licensed adjuster shall be residents of this state. Compensation of such trainees shall be on a salary basis only. No person may be a trainee under the provisions of this regulation more than one time.

(e) Anyone employing trainees shall immediately advise the insurance commissioner by letter, of such employment, giving the exact date of employment of each trainee and enclosing an adjuster's license application form properly completed with a remittance for \$3.00 to cover the application fee.

(f) Each trainee shall, within six months from the date of his employment and in no event later than six months after receipt of his application, take and pass the

adjusters examination required by the insurance commissioner. A violation of this requirement or any provision of the insurance code shall subject both the trainee and his supervisory adjuster to penalties of the code.

(8) The adjusters examination given by this office consists of 50 questions divided between the insurance code, property losses, and vehicle losses. A passing grade is 70%. Examinations are given weekly in our Olympia, Seattle and Spokane offices and monthly in Bellingham, Vancouver, Yakima, Wenatchee and Walla Walla, Washington.

(9) Fees applicable to adjusters are: Independent adjuster's license, each year, \$10.00; public adjuster's license, each year, \$10.00; examination for license, each examination, \$2.00; first application, \$3.00. [Rule dated 11/15/55, filed 3/22/60.]

**Chapter 284-16 WAC  
INSURERS**

<b>WAC</b>	
284-16-030	Title insurers—Defining "complete set of tract indexes".
284-16-050	Accounting for salvage and subrogation recoveries, annual statement.
284-16-060	Disability insurance—Minimum reserve standards.
284-16-100	Investments—Encumbrance—Interpretation of RCW 48.13.130.
284-16-110	F.H.A. mortgage loans and investments.
284-16-150	Purpose.
284-16-160	Definitions.
284-16-170	Usual valuation of stock of a subsidiary.
284-16-180	Other methods of valuing stock of a subsidiary.
284-16-190	Limitation on values.
284-16-200	Additional provisions.
284-16-210	Adjustment procedure.
284-16-220	Cumulative limitations.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

284-16-010	Health care services—Certificates of registration. [Rule made 5/25/55, filed with code reviser 3/22/60.] Repealed by Order R-68-2, filed 5/1/68.
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**WAC 284-16-030 Title insurers—Defining "complete set of tract indexes."** (1) The phrase "a complete set of tract indexes," as used in RCW 48.29.020 and 48.29.040, is defined to mean a set of indexes from which the record ownership and condition of title to all land within the particular county can be traced and ascertained, such set of indexes to be complete from the inception of title from the United States of America.

(2) The basic component parts of such a set of indexes are:

(a) An index or indexes in which the reference is to geographic subdivisions of land, classified according to legal description (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to:

(i) All filed or recorded instruments affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and

(ii) All judicial proceedings in the particular county affecting title to particularly described parcels of real

property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in subparagraph (b) below.

(b) A name index or indexes wherein notations of or references to all instruments, proceedings and other matters of record in the particular county which affect or may affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named therein and affected thereby, are posted, filed, entered or otherwise included in that part of the indexing system which designates that name.

(3) The indexes prescribed in numbered subsection (2) above, may be maintained in bound books, loose-leaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems.

(4) The extent to which the prescribed indexes shall be sub-divided or defined is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirement, are entitled to consideration in such determination. [Order 127, adopted 12/12/60, filed 12/14/60.]

**WAC 284-16-050 Accounting for salvage and subrogation recoveries, annual statement.** (1) Each authorized insurer is required to file with the commissioner an annual statement, pursuant to RCW 48.05.250, which statement shall be in general form and context as approved by the National Association of Insurance Commissioners (NAIC). The instructions for completing fire and casualty annual statement blanks, approved by the NAIC, provide that an insurer is to make no deductions for *anticipated* salvage or subrogation recoveries. Because of that and because of the difficulty in ascertaining the value of items received as salvage and in determining the amount which might be recovered by subrogation, each insurer authorized to do business in this state shall comply with the following:

(a) It shall not take credit, in any annual statement or interim statement filed with the commissioner, for salvage or subrogation recoveries until such recoveries shall have been reduced to cash or its equivalent.

(b) It shall account for salvage or subrogation recoveries as an offset to losses paid when such recoveries are reduced to cash or its equivalent.

(2) This rule reaffirms the commissioner's long-standing express position regarding the treatment of salvage and subrogation. [Order R-76-3, § 284-16-050, filed 7/26/76.]

**WAC 284-16-060 Disability insurance—Minimum reserve standards.** All insurers authorized to write

disability insurance in the state of Washington shall use the recommendations in the report of the industry advisory committee adopted by the national association of insurance commissioners on December 2, 1964, as minimum reserve standards for individual accident and health policies issued on and after January 1, 1967, provided that any insurer may elect to establish and maintain said minimum reserve standards for such policies issued prior to January 1, 1967. In case of such noncancellable accident and health loss of time contracts subject to the provisions of RCW 48.12.060, all insurers authorized to write disability insurance in the state of Washington shall use the 1964 commissioner's disability table as a minimum reserve standard, provided that the aggregate of the active and disabled life reserves according to said table is at least equal to the statutory minimum reserve. [Order 282, filed 7/22/66.]

**WAC 284-16-100 Investments—Encumbrance—Interpretation of RCW 48.13.130.** With reference to RCW 48.13.130 entitled "Encumbrance" defined, it has recently come to my attention that there has been some difficulty in the application of this provision of the code with reference to restrictions and covenants, particularly the words "common to the community in which the property is located". It has been found that restrictions and covenants are different in tracts, plats, maps or other subdivisions of land in the same community. Pursuant to the authority vested in me in RCW 48.02.060, the following ruling is hereby made, interpreting RCW 48.13.130 as follows:

(1) The wording "common to the community in which the property is located" may be regarded as applying only to the tract, plat, map, or other subdivision of land in which the real property is located.

(2) Where any right of reversion is outstanding and where a specific waiver thereof is not obtainable, the lender may consider such right not to be an "encumbrance" under the code:

*Provided,* A title insurance company, authorized to transact such business within the state in which the real property involved is situated, shall specifically indemnify the lender against any loss or damage arising as a result of such right. [Rule made 5/15/53, filed 3/22/60.]

**Reviser's note:** Subsection (1) above is an interpretation of RCW 48.13.130 before it was revised by the Laws of 1955 chapter 303, section 2. The old section contained the phrase "common to the community in which the property is located."

**WAC 284-16-110 F.H.A. mortgage loans and investments.** Whereas, under the provisions of the Insurance Code of the State of Washington which became effective as of October 1, 1947, certain limitations are placed upon the amount of money which may be loaned by domestic insurers upon the security of a mortgage upon real estate with relation to the value of such real estate, and which limitations should not be made applicable to mortgages which the federal housing administrator has insured or has made a commitment to insure, and

Whereas, it is desirable that domestic insurers be able to continue to exercise the privilege of investing in or making loans upon such federal housing administration insured mortgages as was permissible under laws in force immediately prior to October 1, 1947; Now therefore, it is hereby ordered:

(1) That until further order of the insurance commissioner, and pursuant to the provisions of RCW 48.13-.250, consent is hereby given to domestic insurers, any other provision of the insurance code notwithstanding, to invest in or loan upon the security of real estate mortgages which the federal housing administrator has insured or has made a commitment to insure, and to make such other investments and loans, all as provided in RCW 39.60.010.

(2) That such investments or loans may be credited toward investments of minimum capital, surplus, or reserves as required by RCW 48.13.260. [Order 1001, issued 10/2/47, filed 3/22/60.]

**WAC 284-16-150 Purpose.** The purpose of this regulation, WAC 284-16-150 through 284-16-220, is to implement RCW 48.12.180(3) by establishing rules for the valuation of stock of a subsidiary of an insurer. [Order R 76-7, § 284-16-150, filed 11/30/76.]

**WAC 284-16-160 Definitions.** For purpose of this regulation: (1) The term "subsidiary" shall have the same meaning given it by RCW 48.31A.010;

(2) The term "book value" shall mean that value determined by dividing the amount of its capital and surplus as shown in its last annual statement or subsequent report of examination (excluding from surplus, reserves required by statute and any portion of surplus properly allocable to policyholders, rather than stockholders) less the value (par or redemption value, whichever is the greater) of all of its preferred stock, if any, outstanding, by the number of shares of its common stock issued and outstanding. [Order R 76-7, § 284-16-160, filed 11/30/76.]

**WAC 284-16-170 Usual valuation of stock of a subsidiary.** The common stock of any subsidiary of an insurer may always be valued on the basis of the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer. [Order R 76-7, § 284-16-170, filed 11/30/76.]

**WAC 284-16-180 Other methods of valuing stock of a subsidiary.** If sound business judgment of an insurer's management causes it to believe that a valuation of common stock of a subsidiary pursuant to WAC 284-16-170 is inappropriate, it may value such stock on one of the following bases:

(1) "Book value," provided, however, that the common of a noninsurance company may not be valued on the basis of this subsection, and further provided that an insurer may value its holdings of stock in a subsidiary insurer at acquisition cost if acquisition cost is less than market or book value.

(2) One of the following bases appropriate to each type of subsidiary owned by it, provided, however, that an insurer shall not be required to value the stock of all its subsidiaries on the same basis:

(a) Subject to the limitations imposed under WAC 284-16-190, the net worth of a noninsurance company determined in accordance with generally accepted accounting principles, as of the end of its most recent fiscal year, provided, subject to WAC 284-16-200, that the financial statements of the company for its most recent fiscal year have been audited by an independent certified public accountant in accordance with generally accepted auditing standards. The common stock of an insurance company may not be valued under this subsection.

(b) Subject to the limitations imposed under WAC 284-16-190, a value equal to the cost of the common stock of the subsidiary, provided such value is determined and adjusted to reflect subsequent operating results, in the case of insurance companies in accordance with statutory accounting requirements, and for other than insurance companies in accordance with generally accepted accounting principles.

(c) The market value of the common stock of the subsidiary, if the stock is listed on a national securities exchange.

(d) The value, if any, placed on the common stock of such subsidiary by the National Association of Insurance Commissioners.

(e) Any other value which the insurer can substantiate to the satisfaction of the Commissioner as being a reasonable value. [Order R 76-7, § 284-16-180, filed 11/30/76.]

**WAC 284-16-190 Limitation on values.** (1) With respect to values determined under WAC 284-16-180(2)(a) or (b), amounts attributable to "good will," and other intangibles shall not in the aggregate (of all direct and indirect subsidiaries) exceed (either initially on acquisition of a subsidiary, or thereafter), 10% of the capital and surplus of an insurer, as reported in its next preceding annual statement. Such amounts shall be written off over a period not in excess of ten years.

(2) For purposes of this section, "good will" shall be defined as the amount arising at a given point in time, resulting from an arm's-length transaction involving the transfer of a business, representing the difference between the value of the consideration given and the net asset value of the properties acquired on the books of the predecessor company.

(3) Where warranted in exceptional cases, the Commissioner may require a more rapid write-off of good will than is otherwise provided in this section. [Order R 76-7, § 284-16-190, filed 11/30/76.]

**WAC 284-16-200 Additional provisions.** (1) Within 90 days after the effective date of this regulation, a domestic insurer using a method of valuation permitted by WAC 284-16-180 shall file with the Commissioner relevant information identifying, supporting and justifying the value of, and the basis of valuation used in accordance with the provisions of this regulation for each of its subsidiaries.

(2) Within 30 days after the acquisition of a subsidiary, a domestic insurer shall file with the Commissioner relevant information identifying, supporting and justifying the value of, and the basis of valuation used in accordance with the provisions of this regulation for such subsidiary.

(3) A valuation basis used for a subsidiary shall thereafter be consistently used unless a change is substantiated as reasonable and on that basis is approved in writing by the Commissioner.

(4) If a subsidiary is valued on the basis of WAC 284-16-180(2)(a) and the books of the subsidiary are not audited at the time the valuation is included in the insurer's annual statement, the insurer shall thereafter report and explain the differences, if any, between the value of the subsidiary as reported in the annual statement and the value as determined by audit. Such report and explanation shall be made as soon as possible following such audit.

(5) If any subsidiary, which is not itself an insurance company, is valued other than on the basis of market value, there shall be deducted from the otherwise determined value a sum equal to the value claimed for any of its assets which would not constitute admitted assets for the insurer if held directly by the insurer, if such assets:

(a) are held by the subsidiary but used, under a lease arrangement or otherwise, significantly in the conduct of the insurer's business; or

(b) were acquired from or purchased for the benefit or use of the insurer by the subsidiary under circumstances that, in the opinion of the Commissioner, support a finding that the primary purpose of such acquisition or purchase was the evasion or avoidance of RCW 48.12-010 or 48.12.020. [Order R 76-7, § 284-16-200, filed 11/30/76.]

**WAC 284-16-210 Adjustment procedure.** The Commissioner may, after notice and opportunity to be heard, determine that the basis used for valuation of the stock of any subsidiary does not, under the specific circumstances of the case, reflect the value of the subsidiary and may order either an adjustment in valuation or the use of one of the other specified bases of valuation. [Order R 76-7, § 284-16-210, filed 11/30/76.]

**WAC 284-16-220 Cumulative limitations.** Except as modified by this regulation, applicable cumulative limitations of chapter 48.13 RCW shall continue to apply. [Order R 76-7, § 284-16-220, filed 11/30/76.]

### Chapter 284-18 WAC

#### WASHINGTON INSURANCE HOLDING COMPANY REGULATION

##### WAC

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284-18-990	Form A—Statement regarding the acquisition of control of or merger with a domestic insurer.
284-18-99001	Form B—Insurance holding company system registration statement.

**WAC 284-18-010 Title and purpose.** (1) This Regulation, chapter 284-18 WAC, shall be known and may be cited as the "Washington Insurance Holding Company Regulation."

(2) The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of sections 3 through 15, chapter 13, Laws of 1971, ex. sess., hereinafter referred to as the "Act." [Order R-71-2, § 284-18-010, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-020 Definitions.** As used in these rules unless otherwise required by the context: (1) "Act" means sections 3 through 15, chapter 13, Laws of 1971, ex. sess.

(2) "Executive officer" means any individual charged with active management and control in an executive capacity (including a president, vice president, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated.

(3) "Foreign insurer" shall include an alien insurer except where clearly noted otherwise.

(4) "Ultimate controlling person" means that person which is not controlled by any other person.

(5) Other terms found in these rules and in section 3 of the Act shall retain the meaning as found in such section 3 of the Act. [Order R-71-2, § 284-18-020, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-030 Control acquisition of domestic insurer.** Any person required to file a statement pursuant to section 4 of the Act and any person seeking to obtain "control" of a domestic insurer (as "control" is defined in section 3 of the Act) shall furnish all the information requested on Form A hereto annexed which is a part of these rules. The applicant shall promptly advise the commissioner of any changes in the information so furnished arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application. [Order R-71-2, § 284-18-030, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-040 Registration of insurers.** (1) Any insurer required to file a statement pursuant to section 8 of the Act shall furnish all the information required on Form B hereto annexed which is a part of these rules.

(2) An amendment to Form B shall be filed within fifteen days after the end of any month in which the following occurs:

(a) there is a change in the control of the registrant, in which case the entire Form B shall be made current;

(b) there is a material change in the information given in Item 5 or Item 6 of Form B in which case the respective item shall be made current.

(3) Any other amendment to Form B shall be filed within ninety days after the end of each fiscal year of the ultimate controlling person of the insurance holding company system. Such amendment shall make current all information in Form B. [Order R-71-2, § 284-18-040, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-050 Alternative and consolidated registrations.** (1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under section 8 of the Act. A registration statement may include information regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this state.

(2) In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, *Provided*:

(a) the statement or report contains substantially similar information required to be furnished on Form B; and

(b) the filing insurer is the principal insurance company in the insurance holding company system.

(3) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a simple statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(4) Any insurer may take advantage of the provisions of section 8(6) or 8(7) of the Act without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if he deems such filings necessary in the interest of clarity, ease of administration, or the public good. [Order R-71-2, § 284-18-050, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-060 Exemptions.** (1) A foreign or alien insurer otherwise subject to section 8 of the Act shall not be required to register pursuant to that section if it is admitted in the domiciliary state of the principal insurer (as that term is used herein in WAC 284-18-050) and in said state is subject to disclosure requirements and standards adopted by statute or rules and regulations which are substantially the same to those contained in section 8 of the Act: *Provided*, That the commissioner may require a copy of the registration statement or other information filed with the domiciliary state.

(2) The state of entry of an alien insurer shall be deemed to be its domiciliary state for the purposes of these rules.

(3) Any insurer not otherwise exempt or excepted from section 8 of the Act may apply for an exemption from the requirements of the Act by submitting a statement to the commissioner setting forth its basis for

claiming exemption. [Order R-71-2, § 284-18-060, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-070 Disclaimers and termination of registration.** (1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(a) the number of authorized, issued, and outstanding voting securities of the subject;

(b) with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

(c) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

(d) a statement fully explaining why such person should not be considered to control the subject.

(2) A request for termination of registration shall be deemed to have been granted unless the commissioner, within sixty days after he receives the request, notifies the registrant otherwise. [Order R-71-2, § 284-18-070, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-080 Extraordinary dividends and other distributions.** (1) Notices of intent to declare extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(a) the date established for payment of the dividend;

(b) a statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof of its cost, and its fair market value together with an explanation of the basis for valuation;

(c) the amounts and dates of all dividends (including regular dividends) paid within the period of twelve consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(d) a balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the quarter preceding the quarter in which the notice of the dividend or other distribution is submitted;

(e) a brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(2) The payment of an extraordinary dividend by an insurer whose total liabilities, as calculated for National Association of Insurance Commissioners annual statement purposes, are less than ten percent of its assets both before and after payment thereof is deemed automatically approved: *Provided*, such dividend is paid only from earned surplus. The insurer, however, shall give written notice to the commissioner of the declaration

pursuant to section 11 of the Act. [Order R-71-2, § 284-18-080, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-090 Additional information may be required.** The commissioner, in his discretion, may require additional information from any person subject to the Act and no registration, notice or filing shall be deemed complete until such additional information has been received by the commissioner. [Order R-71-2, § 284-18-090, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-100 Forms.** Forms A and B, annexed hereto, constitute part of the regulation. [Order R-71-2, § 284-18-100, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-110 Instructions for use of Forms A and B.** (1) Forms A and B are intended to be guides in the preparation of the statements required by sections 4 and 8 of the Act. They are not blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or the instructions thereto. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(2) Two complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the commissioner by personal delivery or mail, addressed to: Insurance Commissioner of the State of Washington, Insurance Building, Olympia, Washington 98504, Attention: Company Supervision Deputy. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(3) Statements should be prepared on paper 8 1/2" x 11" or 8 1/2" x 13" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

(4) Information required by any item of Form A or Form B may be incorporated by reference in answer or partial answer to any other item. Information contained

in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document, may be incorporated by reference in answer or partial answer to any item of Form A or Form B provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. References to information contained in exhibits or in documents already on file need not be attached as exhibits; however, they shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(5) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document on file with the commissioner and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects, except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed.

(6) Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted if the commissioner so determines, and subject to the following conditions:

(a) the person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(b) the person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(7) If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the commissioner a separate document

(a) identifying the information, document, or report in question,

(b) stating why the filing thereof at the time required is impractical, and

(c) requesting an extension of time for filing the information, document, or report to a specified date.



The request shall be deemed granted unless the commissioner within twenty days after receipt thereof shall enter an order denying the request.

(8) In addition to the information expressly required to be included in Form A and Form B, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

(9) Any amendment for Form A or Form B shall include on the top of the cover page the phrase: "Amendment No. ---- to" and shall indicate the date of the amendment and not the date of the original filing. [Order R-71-2, § 284-18-110, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-120 Effective date.** The effective date of this regulation shall be August 10, 1971. [Order R-71-2, § 284-18-120, filed 7/9/71, effective 8/10/71.]

**WAC 284-18-990 Form A—Statement regarding the acquisition of control of or merger with a domestic insurer.**

([Original] Page 1 of 5 - Form A)

Form A

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

-----  
Name of Domestic Insurer

BY

-----  
Name of Acquiring Person (Applicant)

Filed with the Insurance Commissioner of Washington

Dated: ----- 19...

Name, Title, address, and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

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Form A

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each ([Original] Page 2 of 5 - Form A) person specified in such chart or listing indicate the type of organization (e.g. - corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings looking toward a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

State the following with respect to (1) the applicant if he is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual:

(a) Name and business address;

(b) Present principal business activity, occupation, or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office, or employment was carried on; if any such occupation, position, office, or employment required licensing by or registration with any federal, state, or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension, or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the

date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

**ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION**

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity to remain confidential, he must specifically request that the identity be kept confidential.

([Original] Page 3 of 5 – Form A)

**ITEM 5. FUTURE PLANS FOR INSURER**

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

**ITEM 6. VOTING SECURITIES TO BE ACQUIRED**

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

**ITEM 7. OWNERSHIP OF VOTING SECURITIES**

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

**ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER**

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates, or any persons listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons

with [with] whom such contracts, arrangements or understandings have been entered into.

**ITEM 9. RECENT PURCHASES OF VOTING SECURITIES**

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this Statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

**ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE**

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

**ITEM 11. AGREEMENTS WITH BROKER-DEALERS**

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities ([Original] Page 4 of 5 – Form A) of the insurer for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

**ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS**

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual

Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto; any proposed employment, consultation, advisory or management contracts concerning the insurer; annual reports to the stockholders of the insurer and the applicant for the last two fiscal years; and any additional documents or papers required by Form A or the regulation.

ITEM 13. SIGNATURE AND CERTIFICATION

Signature and certification in the following form:

SIGNATURE

Pursuant to the requirements of chapter 13, Laws of 1971 ex. sess. and chapter 284-18 WAC

(Name of Applicant) has caused this application to be duly signed on its behalf in the City of \_\_\_\_\_, and State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

([Original] Page 5 of 5 - Form A)

(SEAL)

\_\_\_\_\_  
Name of Applicant

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

CERTIFICATION

The undersigned deposes and says that he has duly executed the attached application dated \_\_\_\_\_, 19\_\_, for \_\_\_\_\_ and \_\_\_\_\_ on behalf of \_\_\_\_\_ (Name of Applicant) that he is the \_\_\_\_\_ (Title of Officer) of such company, and that he is authorized to execute and file such instrument. Deponent further says that he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information, and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath)  
\_\_\_\_\_

[Form A is a part of Order R-71-2 (codified as WAC 284-18-990), filed 7/9/71, effective 8/10/71.]

WAC 284-18-99001 Form B—Insurance holding company system registration statement.

([Original] Page 1 of 5 - Form B)

Form B

INSURANCE HOLDING COMPANY SYSTEM REGISTRATION STATEMENT

Filed with the Insurance Department of the State of Washington

By

-----  
Name of Registrant

On Behalf of the Following Insurance Companies

Name Address

-----  
-----  
-----  
-----  
-----  
-----

Date: \_\_\_\_\_, 19\_\_

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

-----  
-----  
-----  
-----  
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Form B

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than 1/2 of 1% of the total ([Original] Page 2 of 5 - Form B) assets of the ultimate controlling person within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly by another affiliate. If control of any person

within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., - corporation, trust, partnership) and the state or other jurisdiction of domicile.

### ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name.
- (b) Home Office Address.
- (c) Principal executive office address.
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- (e) The principal business of the person.
- (f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

(g) If court proceedings looking toward a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

### ITEM 4. BIOGRAPHICAL INFORMATION

Furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

### ITEM 5. TRANSACTIONS, RELATIONSHIPS, AND AGREEMENTS

(a) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding between the Registrant and its affiliates:

- (1) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (2) purchases, sales or exchanges of assets;
- (3) transactions not in the ordinary course of business;
- (4) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's ([Original] Page 3 of 5 - Form B) assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- (5) all management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

(6) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

No information need be disclosed if such information is not material. Sales, purchases, exchanges, loans or extensions of credit or investments involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include at least the following: the nature and purpose of the transaction; the nature and amounts of any payments or transfers of assets between the parties; the identity of all parties to such transaction; and relationship of the affiliated parties to the Registrant.

### ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding five years, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have or have had a material adverse effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

### ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits shall be attached to this statement as an appendix, and such financial statements and exhibits so attached shall be listed under this item.

(b) The financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. [[Original] Page 4 of 5 - Form B] Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended. In conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or the regulations.

SIGNATURES

Signatures and certification of the form as follows:

SIGNATURE

Pursuant to the requirements of chapter 13, Laws of 1971 ex. sess., and chapter 284-18 WAC, the Registrant has caused this registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

(SEAL)

\_\_\_\_\_  
(Name of Registrant)

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

([Original] Page 5 of 5 - Form B)

CERTIFICATION

The undersigned deposes and says that he has duly executed the attached registration statement dated \_\_\_\_\_, 19\_\_, for and on behalf of \_\_\_\_\_ (Name of Company); that he is the \_\_\_\_\_ (Title of Officer) of such company, and that he has authority to execute and file such instrument.

Deponent further says that he is familiar with such instrument and that the facts therein set forth are true to the best of his knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath)

[Form B is part of Order R-71-2 (codified as WAC 284-18-99001), filed 7/9/71, effective 8/10/71.]

Chapter 284-19 WAC

WASHINGTON ESSENTIAL PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM

WAC

Table listing WAC numbers and titles: 284-19-010 Title, 284-19-020 Purposes of program, 284-19-030 Effective date, 284-19-040 Participation, 284-19-050 Definitions, 284-19-060 Fair plan—Inspections and reports, 284-19-070 Fair plan business—Distribution and placement, 284-19-080 Procedure after inspection and submission, 284-19-090 Joint reinsurance association, 284-19-100 Standard policy coverage—Coding, 284-19-110 Cancellation under this program, 284-19-120 Right of appeal, 284-19-130 Commission, 284-19-140 Administration, 284-19-150 Annual and special meetings, 284-19-160 Duties of the committee, 284-19-165 Cooperation of producers, 284-19-170 Public education and notices required, 284-19-180 Statistics, records and reports, 284-19-200 Termination of program.

WAC 284-19-010 Title. These rules and regulations shall be entitled the WASHINGTON ESSENTIAL PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM (hereinafter referred to as the Program). [Order R-69-1, § 284-19-010, filed 1/28/69.]

WAC 284-19-020 Purposes of program. The purposes of the Program are:

- (1) To assure stability in the property insurance market of this state.
(2) To encourage maximum use, in obtaining Essential Property Insurance, of the available, normal insurance market provided by authorized insurers.
(3) To make Essential Property Insurance available where it cannot be obtained through the normal insurance market, subject to the conditions hereinafter stated.
(4) To encourage the improvement of the condition of properties located in the urban areas of the State of Washington and to further orderly community development generally.
(5) To establish a FAIR PLAN (Fair Access to Insurance Requirements), an Industry Placement Facility and a Joint Reinsurance Association for the equitable distribution and placement of risks among insurers in the manner and subject to the conditions hereinafter stated. [Order R-69-1, § 284-19-020, filed 1/28/69.]

**WAC 284-19-030 Effective date.** (1) The Program shall become effective October 28, 1968.

(2) The Program is intended to conform with the applicable provisions of the Urban Property Protection and Reinsurance Act of 1968, 82 Stat. 555, Public Law 90-448, as amended, and administrative rules and regulations, and other directives adopted pursuant thereto by the Secretary, U.S. Department of Housing and Urban Development. [Order R-73-2, § 284-19-030, filed 3/30/73; Order R-69-1, § 284-19-030, filed 1/28/69.]

**WAC 284-19-040 Participation.** Participation in this Program shall be mandatory for all insurers and fraternal benefit societies authorized to engage in the property insurance business in this state, who have "premiums written," as defined in this chapter. [Order R-69-1, § 284-19-040, filed 1/28/69.]

**WAC 284-19-050 Definitions.** (1) "Insurer" means any insurance company or other organization licensed to write and engage in writing property insurance business, including the property insurance components of multi-peril policies, on a direct basis, in this state.

(2) "Essential Property Insurance" means the coverage against direct loss to real and tangible personal property at a fixed location that is provided in the Standard Fire Policy and Extended Coverage Endorsement, and shall include also the perils of vandalism and malicious mischief and such additional lines of property insurance as may be designated by the Secretary, or the Commissioner. Essential Property Insurance specifically includes insurance against direct loss to property which is being constructed or rehabilitated (builder's risk coverage). It does not include automobile insurance; nor, unless designated by the Secretary, insurance on farm or manufacturing risks.

(3) "Industry Placement Facility" (hereinafter referred to as the Facility) means the organization formed by insurers to assist applicants in Urban Areas in securing Essential Property Insurance and to administer the FAIR PLAN and the Joint Reinsurance Association.

(4) "Inspection Bureau" means the Washington Surveying and Rating Bureau.

(5) "Urban Area" includes the following municipalities and counties and such additional counties, municipalities, and definitive political subdivisions therein as may be added from time to time by the Commissioner or the Secretary:

Pasco	- All
King County	- All
Tacoma	- All

(6) "Premiums written" means gross direct premiums (excluding that portion of premiums on risks ceded to the Joint Reinsurance Association) charged during the second preceding calendar year with respect to property in this state on all policies of Property Insurance and Property Insurance components of all multi-peril policies, as defined and computed by the Facility, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

(7) A "Service Insurer" shall be any company designated by the Facility and approved by the Commissioner to issue policies under this Program.

(8) "Commissioner" means the Commissioner of Insurance of the State of Washington.

(9) "Secretary" means the Secretary, U.S. Department of Housing and Urban Development.

(10) "The Act" means the Urban Property Protection and Reinsurance Act of 1968, 82 Stat. 555, Public Law 90-448, as amended. [Order R-73-2, § 284-19-050, filed 3/30/73; Order R-70-1, § 284-19-050, filed 7/31/70; Order R-69-1, § 284-19-050, filed 1/28/69.]

**WAC 284-19-060 Fair plan—Inspections and reports.** (1) Any person having an insurable interest in real or tangible personal property at a fixed location in an Urban Area shall be entitled, upon application therefor to the Facility, to an inspection of the property by the Inspection Bureau at no cost to the applicant. The inspection may be requested by the property owner or his representative, the insurer or the insurance producer and need not be in writing. Requests for inspections shall be transcribed on a form approved by the Facility. A deposit premium shall not be required as a precondition to inspection.

(2) The owner of the building need not be present for a tenant to obtain an inspection, but the Inspection Bureau must be provided full access to the property for which insurance is sought.

(3) An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative photograph of the property may be taken during the inspection.

(4) During the inspection, the inspector shall point out features of structure and occupancy to the applicant or his representative, if present, and shall indicate those features which may result in condition charges if the risk is accepted. The inspector shall have no authority to advise whether any insurer will provide the coverage.

(5) After the inspection a copy of the completed inspection report, and any photograph, indicating the pertinent features of building, construction, maintenance, occupancy and surrounding property shall be sent within five business days to the Facility for distribution to a Service Insurer. The person requesting the inspection report may designate the Service Insurer to which the inspection report is to be referred.

(6) Included with the report shall be a rate make-up statement, including any condition charges or surcharges imposed by inspection or under the Program, or under any substandard rating plan approved by the Commissioner. A copy of the inspection report shall be made available to the applicant or his agent upon request. [Order R-69-1, § 284-19-060, filed 1/28/69.]

**WAC 284-19-070 Fair plan business—Distribution and placement.** (1) The Facility may require as a precondition for referral of an inspection report to a Service Insurer that the applicant make a showing that

he is unable, after reasonably diligent efforts, to obtain insurance in the normal market.

(2) Thereafter, the Facility, upon receipt of an application for coverage and the corresponding inspection report from the Inspection Bureau, shall assign such application to the Service Insurer designated by the applicant or by his agent; or if no Service Insurer is so designated, it shall assign the application to a Service Insurer, keeping the assignments evenly distributed, based on the volume of property insurance writings in this state of the various Service Insurers.

(3) Assessments upon each Insurer participating in this Program shall be levied by the Facility on the same percentage allocation basis as such Insurer's Premiums Written bears to the total of all Premiums Written by all Insurers participating in the Program.

(a) The maximum limit of liability which may be placed through this Program on any one property at one location is \$1,500,000. The Facility shall undertake the responsibility of seeking to place that portion of a risk which exceeds \$1,500,000.

(b) The term "at one location" as used herein refers to real and personal property consisting of and contained in a single building, or consisting of and contained in contiguous buildings under one ownership. [Order R-69-1, § 284-19-070, filed 1/28/69.]

**WAC 284-19-080 Procedure after inspection and submission.** (1) Any Service Insurer to which a risk is referred by the Facility shall, within three business days after receipt of the inspection report and application, complete an action report and return the same to the Facility advising that:

(a) The risk is acceptable; or

(b) The risk will be acceptable if the improvements noted in the action report are made by the applicant and confirmed by reinspection; or

(c) The risk is not acceptable for the reasons stated in the action report.

(2) If the risk is accepted by the designated Service Insurer, and upon receipt of premium, the policy or binder shall be delivered within two business days. No producer shall have authority to bind the Facility or any Service Insurer for any risk eligible for this Program until acceptance of the risk and payment of premium.

(3) In the event a risk is declined because it fails to meet reasonable underwriting standards, the Facility will so notify the applicant and the Commissioner. Reasonable underwriting standards shall include, but not be limited to, the following:

(a) physical condition of the property, such as its construction, heating, wiring, evidence of previous fires or general deterioration;

(b) its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials;

(c) other specific characteristics of ownership, condition, occupancy or maintenance which are violative of public policy and result in unreasonable exposures to loss. Neighborhood or area location or any environmental hazard beyond the control of the property owner

shall not be deemed to be an acceptable criterion for declining a risk.

(4) In the event the risk is conditionally declined because the property does not meet reasonable underwriting standards, but can be improved to meet such standards, the Facility shall promptly advise the applicant and the Commissioner what improvements noted in the action report should be made to the property. Upon completion of the improvements by the applicant or property owner, the Facility, when so notified, will have the property promptly reinspected and furnish the new inspection report to the previously designated Service Insurer.

(5) If the inspection of the property reveals that there are one or more substandard conditions, surcharges may be imposed in conformity with the substandard rating plan approved by the Commissioner. In this event, the Facility shall advise the applicant of what improvements, if any, he may make to bring his property to insurable condition at uncharged rates.

(6) Any Insurer, which is a member of a group of Insurers under the same management or ownership, to which a referral is made under the Program, may apply in behalf of the group for a combined distribution and placement quota under the Program. Such group shall have the option of designating the Insurer within the group to which the risk shall be referred. [Order R-69-1, § 284-19-080, filed 1/28/69.]

**WAC 284-19-090 Joint reinsurance association.** (1) A Joint Reinsurance Association (hereinafter referred to as the Association) is hereby created consisting of all Insurers.

(2) The Association shall be authorized to assume reinsurance on behalf of Insurers and cede reinsurance on behalf of Insurers on eligible risks written by Insurers through the FAIR PLAN. The reinsurance assumed by the Association shall be for 100% of each risk written under this Program under \$1,500,000.

(3) Each Insurer shall participate in the total writings, expenses, profits and losses of the Association in proportion to its Premiums Written.

(4) In the event any reinsuring member fails, by reason of insolvency, to pay its proportion of any expense or of any loss as an assuming reinsurer incurred by the Facility under the Program, such unpaid loss or expense shall be paid by the remaining Members, each contributing in the manner provided for the distribution of expenses and losses under the Program, deleting therefrom the proportion of the defaulting Member. The Facility shall be subrogated to the rights of the remaining Members in any liquidation proceeding and shall have full authority on their behalf to exercise such rights in any action or proceeding. [Order R-69-1, § 284-19-090, filed 1/28/69.]

**WAC 284-19-100 Standard policy coverage—Coding.** All policies issued shall be for Essential Property Insurance on standard policy forms, shall be separately coded, and shall be issued for a term of one year, at rates promulgated by the Inspection Bureau under filings approved by the Commissioner. Individual company

deviation filings shall not apply to risks written under this Program. [Order R-69-1, § 284-19-100, filed 1/28/69.]

**WAC 284-19-110 Cancellation under this program.**

(1) No Insurer shall cancel a policy or binder issued under this Program except for:

- (a) cause which would have been grounds for nonacceptance of the risk under the Program had such cause been known to the Insurer at the time of acceptance; or
- (b) for nonpayment of premium; or
- (c) with the approval of the Governing Committee.

(2) Notice of cancellation, together with a statement of the reason therefor, shall be sent to the insured with a copy sent to the Facility.

(3) Any cancellation notice to the insured shall be accompanied by a statement that the insured has a right of appeal as hereinafter provided. [Order R-69-1, § 284-19-110, filed 1/28/69.]

**WAC 284-19-120 Right of appeal.** (1) Any applicant or Insurer shall have a right of appeal to the Committee, including the right to appear in person before the Committee, if requested by the party seeking appeal.

(2) A decision of the Committee may be appealed to the Commissioner.

(3) Each denial of insurance under this Program shall be accompanied by a statement setting forth the provisions of this section (WAC 284-19-120).

(4) Notification of appeal may be made to the Committee through the Manager of the Facility or any member of the Committee.

(5) All appeals to the Committee or to the Commissioner shall be in writing and must indicate in what respect the applicant feels aggrieved.

(6) Decisions of the Committee on appeals to it shall be reduced to writing and shall be rendered within at least 15 business days after notification of appeal is received, unless delayed by mutual consent. The majority of Committee members (3) must concur in all decisions adverse to the party seeking appeal.

(7) Appeals to the Commissioner under this Program shall, in all other respects not set forth herein, be handled in accordance with chapter 48.04 RCW and chapter 34.04 RCW (Administrative Procedures Act). [Order R-69-1, § 284-19-120, filed 1/28/69.]

**WAC 284-19-130 Commission.** Commission under this Program shall be 10 per cent on the policy premium and shall be paid to the licensed producer designated by the applicant. [Order R-69-1, § 284-19-130, filed 1/28/69.]

**WAC 284-19-140 Administration.** (1) This Program shall be administered by a Governing Committee (hereinafter referred to as the Committee) of the Facility, subject to the supervision of the Commissioner, and operated by a Manager appointed by the Committee.

(2) The Committee shall consist of five Insurers, one of which shall be elected from each of the following:

American Insurance Association

American Mutual Insurance Alliance  
National Association of Independent Insurers  
All other stock insurers  
All other nonstock insurers

Not more than one Insurer in a group under the same management or ownership shall serve on the Committee at the same time. One of the five Insurers on the Governing Committee shall be a domestic insurer.

(3) The Governing Committee is hereby empowered to issue operating procedures and other directives to carry out the purposes of this Plan, The Act, and directives of the Secretary and the Commissioner pursuant thereto.

(4) Each person serving on the Committee or any subcommittee thereof, each Member of the Facility, and each officer and employee of the Facility shall be indemnified by the Facility against all costs and expenses actually and necessarily incurred by him or it in connection with the defense of any action, suit, or proceeding in which he or it is made a party by reason of his or its being or having been a member of the Committee, or a member or officer or employee of the Facility except in relation to matters as to which he or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his or its duties as a member of such Committee, or a member or officer or employee of the Facility. This indemnification shall not apply to any loss, cost, or expense on insurance policy claims under the Program. Indemnification hereunder shall not be exclusive of other rights to which such member or officer may be entitled as a matter of law. [Order R-69-1, § 284-19-140, filed 1/28/69.]

**WAC 284-19-150 Annual and special meetings.** (1)

There shall be an annual meeting of the Insurers on a date fixed by the Committee. The three aforementioned Associations shall designate or elect their representatives to the Committee. The two nonassociation groups of companies shall elect their respective representatives by a majority vote counted on a weighted basis in accordance with each Insurer's Premiums Written and the aggregate Premiums Written for all Insurers in the respective groups of companies. Representatives on the Committee shall serve for a period of one year or until successors are elected or designated.

(2) A special meeting may be called at such time and place designated by the Committee or upon the written request to the Committee of any ten insurers, not more than one of which may be a group under the same management or ownership.

(3) Twenty days' notice of such annual or special meeting shall be given in writing by the Committee to the Insurers. A majority of the Insurers shall constitute a quorum. Voting by proxy shall be permitted. Notice of any meeting shall be accompanied by an agenda for such meeting.

(4) Any matter, including amendment of this Program, may be proposed and voted upon by mail, provided such procedure is unanimously authorized by the members of the Committee present and voting at any



meeting of the Committee. If so approved by the Committee, notice of any proposal shall be mailed to the Insurers not less than twenty days prior to the final date fixed by the Committee for voting thereon.

(5) At any regular or special meeting at which the vote of the Insurers is or may be required on any proposal, including amendment to this Program, or any vote of the Insurers which may be taken by mail on any proposal, such votes shall be cast and counted on a weighted basis in accordance with each Insurer's Premiums Written. A proposal shall become effective when approved by at least two-thirds of the votes cast on such weighted basis, except amendments to this Program which will require administrative action by the Commissioner. [Order R-69-1, § 284-19-150, filed 1/28/69.]

**WAC 284-19-160 Duties of the committee.** (1) The Committee shall meet as often as may be required to perform the general duties of the administration of the Program or on the call of the Commissioner. Three Insurers of the Committee shall constitute a quorum.

(2) The Committee shall be empowered to appoint a Manager, who shall serve at the pleasure of the Committee, to budget expenses, levy assessments, disburse funds and perform all other duties provided herein or necessary or incidental to the proper administration of the Program. The adoption of or substantive changes in pension plans or employee benefit programs shall be subject to approval of the Insurers. Assessments upon each Insurer shall be levied on the basis of its Premiums Written.

(3) Annually the Manager shall prepare an operating budget which shall be subject to approval of the Committee. Such budget shall be furnished to the Insurers after approval. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the Committee.

(4) The Committee shall furnish to all Insurers and to the Commissioner a written report of operations annually in such form and detail as the Committee may determine. [Order R-69-1, § 284-19-160, filed 1/28/69.]

**WAC 284-19-165 Cooperation of producers.** All licensed insurance agents and brokers shall provide full cooperation in carrying out the aims and the operation of the Fair Plan. [Order R-69-1, § 284-19-165, filed 1/28/69.]

**WAC 284-19-170 Public education and notices required.** (1) All Insurers shall undertake a continuing public education program in cooperation with producers and others, to assure that the Essential Property Insurance Inspection and Placement Program receives adequate public attention.

(2) All Insurers shall give any policyholder eligible for coverage under this Program 30 days' notice of cancellation or refusal to renew (except in the case of nonpayment of premium or evidence of incendiarism), and shall explain the procedure for making application under this Program in or accompanying such notice. [Order R 77-

1, § 284-19-170, filed 3/24/77; Order R-69-1, § 284-19-170, filed 1/28/69.]

**WAC 284-19-180 Statistics, records and reports.**

(1) **Statistics.** The Facility shall maintain separate statistics on business written in accordance with this Plan, and shall make the following quarterly report to the Commissioner and to the Secretary, and such additional reports as may be required by the Commissioner.

- (a) number of requests for inspections,
- (b) number of risks inspected,
- (c) the number of risks accepted, total and average premiums charged, high and low premiums,
- (d) the number of risks declined, and
- (e) the number of reinspections made on conditionally declined risks.

(2) **Records.** In addition to statistics, the facility shall maintain complete and separate records of all business transactions, including copies of all policies and endorsements issued in accordance with this Plan.

(3) **Reports to Members.** Regular reports of the Facility's operations shall be submitted to all members by the Committee, such reports to include, but not necessarily to be limited to, premiums written and earned, losses, including loss adjustment expense, paid and incurred, all other expenses incurred and outstanding liabilities. [Order R-69-1, § 284-19-180, filed 1/28/69.]

**WAC 284-19-200 Termination of program.** This Program shall terminate upon repeal of this regulation (chapter 284-19 WAC). In the event of the expiration of the Act or the failure of the Program to continue to qualify for riot or civil disorder reinsurance under the Act, the program shall continue for an additional year from the earlier of such expiration or failure to qualify for reinsurance, and, during such year, the Facility, Association and Governing Committee shall continue to function in conformity with chapter 284-19 WAC except with respect to references to the Act or the Secretary as the same become inapplicable. No obligations incurred by the Association shall be impaired by the termination of the Program and such Association shall be continued for the purpose of performing such obligations. Policies in force shall continue to their normal expiration dates, except as provided in WAC 284-19-110. [Order R 77-1, § 284-19-200, filed 3/24/77; Order R-73-2, § 284-19-200, filed 3/30/73; Order R-69-1, § 284-19-200, filed 1/28/69.]

**Chapter 284-20 WAC  
INSURANCE POLICIES**

**WAC**

284-20-005	Washington insurance examining bureau, inc.— Rates and adhering to filings.
284-20-010	Standard fire policies.
284-20-020	Time of inception and expiration.
284-20-030	Purpose.
284-20-040	Classification of risks and coverages.
284-20-050	Excluded coverages.
284-20-070	Catastrophe coverage.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

284-20-031	Resolution and plan of National Association of Insurance Commissioners. [Adopted 7/31/53, filed 3/22/60.] Repealed by Order R 77-3, filed 5/20/77.
284-20-060	Replacement or depreciation insurance—Policy and general rules effective December 20, 1947. [Order 12/17/47, effective 12/20/47, filed 3/22/60.] Repealed by Order R 77-3, filed 5/20/77.
284-20-061	Replacement or depreciation insurance—General rules promulgated June 4, 1951. [Rules dated 6/1/51; made and filed in the commissioner's office 6/4/51, filed with code reviser 3/22/60.] Repealed by Order R 77-3, filed 5/20/77.
284-20-062	Replacement or depreciation insurance—Construction to allow coverage to be written in a separate policy. [Rule construing WAC 284-20-210; made 2/13/52, filed 3/22/60.] Repealed by Order R 77-3, filed 5/20/77.
284-20-063	Replacement or depreciation insurance—General rules promulgated May 15, 1952. [General rules of 5/15/52, filed 3/22/60.] Repealed by Order R 77-3, filed 5/20/77.
284-20-064	Replacement or depreciation insurance—May be written as a surplus line subject. [Order of 12/26/47, filed 3/22/60.] Repealed by Order R 77-3, filed 5/20/77.

**WAC 284-20-005 Washington insurance examining bureau, inc.—Rates and adhering to filings.** (1) For the purpose of ascertaining that lawful rates are being charged and that insurers are adhering to filings made by them or on their behalf, every insurer authorized to write property insurance in the state of Washington shall submit to the Washington Insurance Examining Bureau, Inc. for examination all policies, daily reports, binders, renewal certificates, endorsements, and other evidence of insurance or the cancellation thereof, which relate to property insurance, as defined in RCW 48.11.040 (known in the insurance industry as "fire and allied lines,") except personal lines. For the purpose of this regulation personal lines property insurance shall be limited to include only the following: Homeowners policies covering dwelling units and/or their contents, fire and allied lines coverage on dwelling buildings only, dwelling buildings and contents, or household contents of dwellings. The term "dwelling," as used herein, shall be dwellings to which the dwelling tariff of the Washington Surveying and Rating Bureau applies. Copies of that tariff are available on request from the Insurance Commissioner's office.

(2) Nothing in this regulation shall be construed to require the submission for examination of such enumerated documents which relate exclusively to coverages which are defined by the insurance code or by regulations of the Insurance Commissioner to be marine, inland marine, vehicle, or casualty insurance. The submission of these, if any, as well as personal lines property insurance policies, as described above, shall be on a voluntary basis.

(3) This regulation is effective on the 1st day of September, 1968. [Order R-68-4, § 284-20-005, filed 7/3/68, effective 9/1/68; Order 179, filed 3/10/64; Original Order 179, filed 1/8/63.]

**WAC 284-20-010 Standard fire policies.** (1) This regulation is promulgated pursuant to RCW

48.18.120(1) to define and effect reasonable uniformity in all basic contracts of fire insurance.

(2) All policies which include coverage against loss or damage by fire are hereby defined to be basic contracts of fire insurance unless they come within the scope of insurance code provisions, or regulations adopted by the commissioner, providing that they may be regarded as marine, inland marine, vehicle, or casualty policies.

(3) Except for the provisions of the next succeeding three paragraphs, no company shall issue any basic contract of fire insurance covering property or interest therein in this state other than on the form known as the 1943 New York Standard Fire Insurance Policy, herein referred to as the "standard fire policy": *Provided, however,* That such form shall be modified to conform to RCW 48.18.290 with respect to the number of day's notice of cancellation required. In addition, such form shall be modified as necessary to conform to WAC 284-20-020 with respect to inception and expiration times. Such modifications may be by endorsement.

(a) Insurers issuing a standard fire policy pursuant to this regulation are hereby authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy: *Provided, however,* That nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination provided such assumption clause has been filed with and approved by the commissioner in accordance with RCW 48.18.100.

(b) The pages of the standard fire policy issued pursuant to this regulation may be renumbered and the format rearranged for convenience in the preparation of individual contracts, and to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsement attached to or printed thereon, and such other data as may be conveniently included for duplication on daily reports for office records.

(c) As an alternative form, a form written in clear, understandable language, which provides terms, conditions and coverages not less favorable to the insured than the "standard fire policy," may be used. Such alternative form may be incorporated in or integrated within a form providing other or additional coverages, as, for example, a homeowners policy or a special multi-peril policy. The intent of this subsection is to permit understandable plain language policies and package policies without diminishing any rights an insured would have under the 1943 New York Standard Fire Insurance Policy.

(d) By use of such alternative form, an insurer certifies that it is not less favorable to the insured than the "standard fire policy." If, in the adjustment of claims, any provision of the "standard fire policy" applicable to such claims is found to be more favorable to the insured than the alternative form used, then provisions of the "standard fire policy" shall govern. [Order R 77-2, § 284-20-010, filed 4/28/77; Rule 128, filed 3/14/61.]

**WAC 284-20-020 Time of inception and expiration.**

Until January 1, 1978, any contract of insurance containing a basic contract of fire insurance shall provide that its time of inception and expiration are either noon or 12:01 a.m. standard time. Every such contract issued on or after January 1, 1978, shall provide only 12:01 a.m. standard time as the time of inception and expiration. Such contract, by endorsement or otherwise, shall also contain language in substance as follows: "To the extent that coverage contained in this policy replaces coverage in another policy terminating at a different hour on the effective date of this policy, this policy shall be effective at the same hour as the termination hour of the other policy." [Order R 77-2, § 284-20-020, filed 4/28/77.]

**WAC 284-20-030 Purpose.** (1) The purpose of this regulation, WAC 284-20-030 through 284-20-050, is to describe the kinds of risks and coverages which may be classified under the Insurance Code as Marine, Inland Marine or Transportation insurance, but does not include all of the kinds of risks and coverages which may be written, classified or identified under Marine, Inland Marine or Transportation insuring powers, nor shall it be construed to mean that the kinds of risks and coverages are solely Marine, Inland Marine or Transportation insurance in all instances.

(2) This regulation shall not be construed to restrict or limit in any way the exercise of any insuring powers granted under charters and license whether used separately, in combination or otherwise. [Order R 77-3, § 284-20-030, filed 5/20/77; Rule made 7/31/53, filed 3/22/60.]

**WAC 284-20-040 Classification of risks and coverages.** Marine and/or transportation policies may cover under the following conditions:

**(1) IMPORTS.**

(a) Imports may be covered wherever the property may be and without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

(b) An import, as a proper subject of marine or transportation insurance, shall be deemed to maintain its character as such, so long as the property remains segregated in such a way that it can be identified and has not become incorporated and mixed with the general mass of property in the United States, and shall be deemed to have been completed when such property has been:

(i) sold and delivered by the importer, factor or consignee; or

(ii) removed from place of storage and placed on sale as part of importer's stock in trade at a point of sale-distribution; or

(iii) delivered for manufacture, processing or change in form to premises of the importer or of another used for any such purposes.

**(2) EXPORTS.**

(a) Exports may be covered wherever the property may be without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.

(b) An export, as a proper subject of marine or transportation insurance, shall be deemed to acquire its character as such when designated or while being prepared for export and retain that character unless diverted for domestic trade, and when so diverted, the provisions of this Ruling respecting domestic shipments shall apply, provided, however, that this provision shall not apply to long established methods of insuring certain commodities, e.g., cotton.

**(3) DOMESTIC SHIPMENTS.**

(a) Domestic shipments on consignment, for sale, distribution, exhibit, trial, approval or auction, while in transit, while in the custody of others, and while being returned, provided that in no event shall the policy afford coverage on premises owned, leased or operated by the consignor.

(b) Domestic shipments not on consignment, provided the coverage of the issuing companies includes hazards of transportation, beginning and ending within the United States, provided that such shipments shall not be covered at manufacturing premises nor after arrival at premises owned, leased or operated by insured or purchaser.

(4) **BRIDGES, TUNNELS AND OTHER** Instrumentalities of Transportation and Communication (excluding buildings, their improvements and betterments, furniture and furnishings, fixed contents and supplies held in storage). The foregoing includes:

(a) Bridges, tunnels, other similar instrumentalities, including auxiliary facilities and equipment attendant thereto.

(b) Piers, wharves, docks, slips, dry docks and marine railways.

(c) Pipelines, including on-line propulsion, regulating and other equipment appurtenant to such pipelines, but excluding all property at manufacturing, producing, refining, converting, treating or conditioning plants.

(d) Power transmission and Telephone and Telegraph lines, excluding all property at generating, converting or transforming stations, substations and exchanges.

(e) Radio and Television Communication Equipment in use as such including towers and antennae with auxiliary equipment, and appurtenant electrical operating and control apparatus.

(f) Outdoor cranes, loading bridges and similar equipment used to load, unload and transport.

(5) **PERSONAL PROPERTY FLOATER RISKS** covering individuals and/or generally:

(a) Personal Effects Floater Policies.

(b) The Personal Property Floater.

(c) Government Service Floaters.

(d) Personal Fur Floaters.

(e) Personal Jewelry Floaters.

(f) Wedding Present Floaters for not exceeding 90 (ninety) days after the day of the wedding.

(g) Silverware Floaters.

(h) Fine Arts Floaters covering paintings, etchings, pictures, tapestries, art glass windows, and other bona-fide works of art of rarity, historical value or artistic merit.

(i) Stamp and Coin Floaters.

(j) Musical Instrument Floaters. Radios, televisions, record players and combinations thereof are not deemed musical instruments.

(k) Mobile Articles, Machinery and Equipment Floaters (excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use) covering identified property of a mobile or floating nature pertaining to or usual to a household. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.

(l) Installment Sales and Leased Property Policies covering property pertaining to a household and sold under conditional contract of sale, partial payment contract or installment sales contract or leased, but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest.

(m) Live animal floaters.

(6) COMMERCIAL PROPERTY FLOATER RISKS covering property pertaining to a business, profession or occupation, as follows:

(a) Radium Floaters.

(b) Physicians' and Surgeons' Instrument Floaters. Such policies may include coverage of such furniture, fixtures and tenant insured's interest in such improvements and betterments of buildings as are located in that portion of the premises occupied by the insured in the practice of his profession.

(c) Pattern and Die Floaters.

(d) Theatrical Floaters, excluding buildings and their improvements and betterments, and furniture and fixtures that do not travel about with theatrical troupes.

(e) Film Floaters, including builders' risk during the production and coverage on completed negatives and positives and sound records.

(f) Salesmen's Samples Floaters.

(g) Exhibition Policies on property while on exhibition and in transit to or from such exhibitions.

(h) Live Animal Floaters.

(i) Builders Risks and/or Installation Risks covering interest of owner, seller or contractor, against loss or damage to machinery, equipment, building materials or supplies, being used with and during the course of installation, testing, building, renovating or repairing. Such policies may cover at points or places where work is being performed, while in transit and during temporary storage or deposit, of property designated for and awaiting specific installation, building, renovating or repairing.

(i) Such coverage shall be limited to Builders Risks or Installation Risks where Perils in addition to Fire and Extended Coverage are to be insured.

(ii) If written for account of owner, the coverage shall cease upon completion and acceptance thereof; or if

written for account of a seller or contractor the coverages shall terminate when the interest of the seller or contractor ceases.

(j) Mobile Articles, Machinery and Equipment Floaters (excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use and snow plows constructed exclusively for highway use), covering identified property of a mobile or floating nature, not on sale or consignment, or in course of manufacture, which has come into custody or control of parties who intend to use such property for the purpose for which it was manufactured or created. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.

(k) Property in transit to or from and in the custody of bailees (not owned, controlled or operated by the bailor.) Such policies shall not cover bailee's property at his premises.

(l) Installment Sales and Leased Property. Policies covering property sold under conditional contract of sale, partial payment contract, installment sales contract, or leased but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest. This section is not intended to include machinery and equipment under certain "lease-back" contracts.

(m) Garment Contractors Floaters.

(n) Furriers or Fur Storer's Customer's Policies (i.e., policies under which certificates or receipts are issued by furriers or fur storer's) covering specified articles the property of customers.

(o) Accounts Receivable Policies, Valuable Papers and Records Policies.

(p) Floor Plan Policies, covering property for sale while in possession of dealers under a Floor Plan or any similar plan under which the dealer borrows money from a bank or lending institution with which to pay the manufacturer, provided:

(i) Such merchandise is specifically identifiable as encumbered to the bank or lending institution.

(ii) The dealer's right to sell or otherwise dispose of such merchandise is conditioned upon its being released from encumbrance by the bank or lending institution.

(iii) Such policies cover in transit and do not extend beyond the termination of the dealer's interest.

Such policies shall not cover automobiles or motor vehicles, nor merchandise for which the dealer's collateral is the stock or inventory as distinguished from merchandise specifically identifiable as encumbered to the lending institution.

(q) Sign and Street Clock Policies, including neon signs, automatic or mechanical signs, street clocks, while in use as such.

(r) Fine Arts Policies covering paintings, etchings, pictures, tapestries, art glass windows, and other bona-fide works of art of rarity, historical value or artistic merit, for account of museums, galleries, universities, businesses, municipalities and other similar interests.

(s) Policies covering personal property which, when sold to the ultimate purchaser, may be covered specifically, by the owner, under Inland Marine Policies including:

(i) Musical Instrument Dealers Policies, covering property consisting principally of musical instruments and their accessories. Radios, televisions, record players and combinations thereof are not deemed musical instruments.

(ii) Camera Dealers Policies, covering property consisting principally of cameras and their accessories.

(iii) Furrier's Dealers Policies, covering property consisting principally of furs and fur garments.

(iv) Equipment Dealers Policies, covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders and other similar agricultural equipment and accessories therefor; construction equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools and similar equipment and accessories therefor; but excluding motor vehicles designed for highway use.

(v) Stamp and Coin Dealers covering property of philatelic and numismatic nature.

(vi) Jewelers' Block Policies.

(vii) Fine Arts Dealers Policies.

Such policies may include coverage of money in locked safes or vaults on the insured's premises. Such policies also may include coverage of furniture, fixtures, tools, machinery, patterns, molds, dies and tenant insured's interest in improvements of buildings.

(t) Wool Growers Floaters.

(u) Domestic Bulk Liquids Policies, covering tanks and domestic bulk liquids stored therein.

(v) Difference in Conditions Coverage excluding fire and extended coverage perils.

(w) Electronic Data Processing Policies. [Order R 77-3, § 284-20-040, filed 5/20/77; Rule made 7/31/53, filed 3/22/60.]

**WAC 284-20-050 Excluded coverages.** Unless otherwise permitted, nothing in WAC 284-20-030 or 284-20-040 shall be construed to permit Marine or Transportation Policies to cover:

(1) Storage of insured's merchandise, except as hereinafter provided.

(2) Merchandise in course of manufacture, the property of and on the premises of the manufacturer.

(3) Furniture and fixtures and improvements and betterments to buildings.

(4) Monies and/or securities in safes, vaults, safety deposit vaults, bank or insured's premises, except while in course of transportation. [Order R 77-3, § 284-20-050, filed 5/20/77; Rule made 1/31/56, filed 3/22/60.]

**WAC 284-20-070 Catastrophe coverage.** See WAC 284-24-050.

## Chapter 284-21 WAC STANDARD FORMS

### WAC

284-21-010

Loss payable and mortgagee endorsements.

284-21-990

Appendix—Form—Loss payable endorsement.

**WAC 284-21-010 Loss payable and mortgagee endorsements.** After March 1, 1968, no new policy of automobile physical damage insurance or property insurance covering property located in the state of Washington shall be endorsed with a long form loss payable or mortgagee clause, other than:

1. For automobile physical damage insurance, the form attached to this regulation, which is here designated Form REG-335.

2. For property insurance, either:

(a) What is now called Standard Forms Bureau Form 372 (Nov. 1950) or the NS version of the same form, which may be adapted for use with insurance on personal property by typing over or deleting from the form the phrase "on buildings only;" or

(b) What is now called Form 438 BFU (May 1, 1942), as approved by the Board of Fire Underwriters of the Pacific and California Bankers Association Insurance Committee, or the NS version of the same form, which may be adopted for use with insurance on personal property by typing over or deleting from the form the phrase "on buildings only;" or

(c) Form REG-335 (See Appendix [codified as WAC 284-21-990] at end of this chapter.)

Specimens of the above forms may be obtained without cost by calling or writing to the office of Insurance Commissioner, Insurance Building, Olympia, Washington. [Order R-68-5, § 284-21-010, filed 7/9/68.]

**WAC 284-21-990 Appendix—Form—Loss payable endorsement.**

### LOSS PAYABLE ENDORSEMENT

This form is identical to that promulgated in Washington State Insurance Commissioner's Regulation No. 335, pursuant to section 1, chapter 12, Laws of 1967, ex. sess., State of Washington.

1. Loss or damage, if any, under this policy shall be payable first to the loss payee or mortgagee (hereinafter called secured party), and, second, to the insured, as their interests may appear; *Provided*, That, upon demand for separate settlement by the secured party, the amount of said loss shall be paid directly to the secured party to the extent of its interest.

2. This insurance as to the interest of the secured party shall not be invalidated by any act or neglect of the insured named in said policy or his agents, employees or representatives, nor by any change in the title or ownership of the insured property; *Provided, however*, That, the conversion, embezzlement or secretion by the named insured or his agents, employees or representatives is not covered under said policy unless specifically insured against and premiums paid therefor.

3. In applying the pro rata provisions of the policy, the amount payable to the secured party shall be reduced only to the extent of pro rata payments receivable by the secured party under other policies.

4. The company reserves the right to cancel the policy at any time as provided by its terms, but in such case the company shall mail to the secured party a notice stating when such cancellation shall become effective as to the interest of said secured party. The amount and form of such notice shall be not less than that required to be given the named insured, by law or by the policy provisions, whichever is more favorable to the secured party.

5. If the insured fails to render proof of loss within the time granted in the policy conditions, such secured party shall do so within sixty (60) days after having knowledge of a loss, in form and manner as provided by the policy, and, further, shall be subject to the provisions of the policy relating to appraisal and the time of payment and bringing suit.

6. Whenever the company shall pay the secured party any sum for loss or damage under policy and shall claim that, as to the insured, no liability exists, the company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all collateral held to secure the debt, or may, at its option, pay to the secured party the whole principal due or to grow due on the mortgage or other security agreement, with interest, and shall thereupon receive a full assignment and transfer of the mortgage or other security agreement and of all collateral held to secure it; but no subrogation shall impair the right of the secured party to recover the full amount due it.

7. All terms and conditions of the policy remain unchanged except as herein specifically provided.

8. All notices sent to the secured party shall be sent to its last reported address, which must be stated in the policy or in this endorsement below.

9. The following item shall be completed if this endorsement is not referred to by number in the policy to which this endorsement is attached:

The foregoing is attached to and forms a part of Policy No. \_\_\_\_\_ of \_\_\_\_\_ Insurance Company, issued to \_\_\_\_\_, Endorsement effective date \_\_\_\_\_, 19\_\_\_\_.

10. If the secured party and its address is not designated in the policy to which this endorsement is attached, the following line(s) shall be completed:

----- Secured Party	----- Secured Party
Address: -----	Address: -----
-----	-----

-----  
By -----  
Agent

[Order R-68-5 (codified as WAC 284-21-990), filed 7/9/68; Order 335, filed 1/3/68.]

**Chapter 284-23 WAC  
WASHINGTON LIFE INSURANCE ADVERTISING  
REGULATIONS**

**WAC**

284-23-010	Title and purpose.
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284-23-040	Form and content of advertisements.
284-23-050	Disclosure requirements.
284-23-060	Identity of insurer.
284-23-070	Solicitation beyond license limits and status of insurer.
284-23-080	Statements about the insurer.
284-23-090	Advertising file to be maintained.
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284-23-110	Violation defined as unfair practice.
284-23-120	Severability provision.
284-23-130	Effective date.

**WAC 284-23-010 Title and purpose.** (1) This Regulation, WAC 284-23-010 through WAC 284-23-130, shall be known and may be cited as the "Washington Life Insurance Advertising Regulation".

(2) The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts. [Order R-75-3, § 284-23-010, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-020 Definitions.** (1) For the purpose of this regulation:

(a) "Policy" shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.

(b) "Insurer" shall include any organization or person which issues life insurance or annuities in this State and is engaged in the advertisement of a policy.

(c) "Advertisement" shall be material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate, or retain a policy including:

(i) Printed and published material, audiovisual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, bill-boards and similar displays;

(ii) Descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

(iii) Material used for the recruitment, training and education of an insurer's sales personnel, agents, solicitors and brokers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate or retain a policy;

(iv) Prepared sales talks, presentations and material for use by sales personnel, agents, solicitors and brokers.

(2) "Advertisement" for the purpose of this regulation shall not include:

(a) Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(b) Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

(c) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage. [Order R-75-3, § 284-23-020, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-030 Applicability.** (1) This regulation shall apply to any life insurance or annuity advertisement intended for dissemination in this State.

(2) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer for whom such advertisements are prepared. [Order R-75-3, § 284-23-030, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-040 Form and content of advertisements.** (1) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive.

(2) Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(3) No advertisement shall use the terms "investment", "investment plan", "founder's plan", "charter plan", "expansion plan", "profit", "profits", "profit sharing", "interest plan", "savings", "savings plan", or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive,

something other than a policy or some benefit not available to other persons of the same class and equal expectation of life. [Order R-75-3, § 284-23-040, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-050 Disclosure requirements.** (1) The information required to be disclosed by these rules shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(2) No advertisement shall omit material information or use words, phrases, statements, references or illustrations if such omission or such use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(3) In the event an advertisement uses "Non-Medical", "No Medical Examination Required", or similar terms where issue is not guaranteed, such terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions.

(4) An advertisement shall not use as the name or title of a life insurance policy or an annuity any phrase which does not include the words "life insurance" or "annuity" unless accompanied by other language clearly indicating it is life insurance or an annuity.

(5) An advertisement shall prominently describe the type of policy advertised.

(6) An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no agent or commission involved there will be a cost saving to prospective purchasers unless such is the fact. No such cost savings may be stated or implied without justification satisfactory to the insurance commissioner prior to use.

(7) An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed.

(8) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

(9) With respect to dividends:

(a) An advertisement shall not utilize or describe dividends in a manner which is misleading or has the capacity or the tendency to mislead.

(b) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends are illustrated, they must be based on the insurer's current dividend scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of dividends to be paid in the future.

(c) An advertisement shall not state or imply that illustrated dividends under a participating policy and/or

pure endowments will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at such time and under what conditions this would occur.

(10) An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

(11) With respect to testimonials or endorsements by third parties:

(a) Testimonials used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced. In using a testimonial the insurer makes as its own all of the statements contained therein, and such statements are subject to all the provisions of this regulation.

(b) If the individual making a testimonial or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, such fact shall be disclosed in the advertisement.

(c) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the insurer, or receives any payment or other consideration from the insurer for making such endorsement or testimonial, such fact shall be disclosed in the advertisement.

(12) An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

(13) With respect to introductory, initial, or special offers and enrollment periods:

(a) An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(b) An advertisement shall not state or imply that only a specific number of policies will be sold or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(c) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which over-emphasizes the availability and the amount of the reduced initial premium. When an insurer charges

an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

(d) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than three months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten days and not more than forty days following the date on which such enrollment period is advertised for the first time. This rule applies to all advertising media, i.e., mail, newspapers, radio, television, magazines and periodicals used by any one insurer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his request. It is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each such sponsoring organization.

(14) An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless such is the fact.

(15) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not falsely or unfairly describe other insurers, their policies, services or methods of marketing. [Order R-75-3, § 284-23-050, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-060 Identity of insurer.** (1) The full name and home office of the insurer shall be clearly identified, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, or in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.



(2) No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency. [Order R-75-3, § 284-23-060, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-070 Solicitation beyond license limits and status of insurer.** (1) An advertisement which reasonably is expected to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

(2) An advertisement may state that an insurer is licensed in the state where the advertisement appears, provided it does not exaggerate such fact or suggest or imply that competing insurers may not be so licensed.

(3) An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claim, or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement. [Order R-75-3, § 284-23-070, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-080 Statements about the insurer.** An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation. [Order R-75-3, § 284-23-080, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-090 Advertising file to be maintained.** Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this State, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the insurance commissioner. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. [Order R-75-3, § 284-23-090, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-100 Conflict with other rules.** It is not intended that these rules conflict with or supersede any rules currently in force or subsequently adopted in this State governing specific aspects of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of this regulation. [Order R-75-3, § 284-23-100, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-110 Violation defined as unfair practice.** A violation of this regulation, WAC 284-23-010 through WAC 284-23-130, is hereby defined to be an unfair method of competition and an unfair or deceptive act or practice in the conduct of the business of insurance, pursuant to RCW 48.30.010. [Order R-75-3, § 284-23-110, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-120 Severability provision.** If any section or portion of a section of this regulation, or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of the regulation, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. [Order R-75-3, § 284-23-120, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-130 Effective date.** The effective date of this regulation, WAC 284-23-010 through 284-23-130, shall be November 1, 1975. [Order R-75-3, § 284-23-130, filed 8/22/75, effective 11/1/75.]

## Chapter 284-24 WAC RATES

<b>WAC</b>	
284-24-010	Statistical plans—Reporting loss and expense experience.
284-24-020	Organizations designated as statistical agents.
284-24-030	Nonsubscribing and nonmember carriers—Duties.
284-24-035	Exempt insurance carriers.
284-24-040	Allocating indivisible premiums—"Homeowners policies."
284-24-050	Catastrophe coverage.

**WAC 284-24-010 Statistical plans—Reporting loss and expense experience.** Pursuant to the provisions of RCW 48.19.370, the office of insurance commissioner has adopted the following statistical plans for the recording and reporting of loss and expense experience:

(1) The statistical plan of the National Board of Fire Underwriters for the "Standard classification of occupancy hazards" as approved by the National Association of Insurance Commissioners in June, 1946, with respect to the following types of insurance:

- (a) Fire
- (b) Time element and loss of income (business interruption, use and occupancy, errors and omissions, profits and commissions, rents, leasehold and extra expense)
- (c) Extended coverage
- (d) Windstorm and hail (except growing crops)

- (e) Water damage, including sprinkler leakage
- (f) Riot, civil commotion and explosion
- (g) Earthquake
- (2) The statistical plan of the Inland Marine Insurance Bureau, with respect to:
  - (a) Inland marine insurance (including personal property floater)
- (3) The statistical plan of the Transportation Insurance Rating Bureau, with respect to:
  - (a) Inland marine insurance (including personal property floater)
- (4) The statistical plan of the National Automobile Underwriters Association, with respect to:
  - (a) Automobile fire, theft, comprehensive, collision and allied coverages
- (5) The statistical plans of the National Bureau of Casualty Underwriters with respect to:
  - (a) Automobile bodily injury and property damage liability
  - (b) General liability (Bodily injury, property damage and collision)
  - (c) Burglary, theft and robbery insurance
  - (d) Glass insurance
  - (e) Boiler and machinery insurance
  - (f) Water damage and explosion insurance and aircraft and other vehicle damage insurance under combination residence policies
- (6) The statistical plans of the Mutual Casualty Insurance Rating Bureau, with respect to:
  - (a) Automobile bodily injury and property damage liability
  - (b) General liability (Bodily injury, property damage and collision)
  - (c) Burglary, theft and robbery insurance
  - (d) Glass insurance
  - (e) Water damage and explosion insurance and aircraft or other vehicle damage insurance under combination residence policies
- (7) The statistical plans of the National Association of Independent Insurers, with respect to:
  - (a) Automobile (All coverages)
  - (b) Liability (Other than automobile)
  - (c) Burglary, robbery and theft
  - (d) Plate glass
- (8) The statistical plan of the Surety Association of America, with respect to:
  - (a) Fidelity, surety and forgery
- (9) The statistical plan of the Mutual Insurance Statistical Association, with respect to:
  - (a) Fire Insurance and Allied Lines (Other than inland marine and aircraft hull)
- (10) The statistical plan of the Crop-Hail Insurance Actuarial Association, with respect to:
  - (a) Hail insurance on growing crops and windstorm (When accompanied by hail) insurance on growing crops. [General Bulletin, filed 3/22/60.]

**WAC 284-24-020 Organizations designated as statistical agents.** (1) The following organizations have been designated statistical agents by this office to assist in the gathering and compilation of experience for the

classes of business mentioned hereinbefore (WAC 284-24-110):

(a) National Board of Fire Underwriters, 85 John Street, New York 7, New York, with respect to all its members and subscribers and such other stock carriers as may elect to report their experience to the board in accordance with the standard classification of occupancy hazards.

(b) Mutual Insurance Statistical Association, 60 East Forty-Second Street, New York 17, New York, with respect to all its members and subscribers and such other non-stock carriers as may elect to report their experience to the association in accordance with the standard classification of occupancy hazards.

(c) Inland Marine Insurance Bureau, 99 John Street, New York 7, New York, with respect to all its members and subscribers and such other stock carriers as may elect to report their experience to the bureau in accordance with the approved statistical plan of the bureau.

(d) Transportation Insurance Rating Bureau, 175 West Jackson Boulevard, Chicago 4, Illinois, with respect to all its members and subscribers and such other non-stock carriers as may elect to report their experience to the bureau in accordance with the approved statistical plan of the bureau.

(e) National Automobile Underwriters Association, 99 John Street, New York 7, New York, with respect to all its members and subscribers and such other carriers as may elect to report their experience to the association in accordance with the approved statistical plan of the association.

(f) Crop-Hail Insurance Actuarial Association, 209 West Jackson Boulevard, Chicago 6, Illinois, with respect to all its members and such other carriers as may elect to report their experience to the association in accordance with the approved statistical plan of the association.

(g) National Bureau of Casualty Underwriters, 60 John Street, New York 7, New York, with respect to all its members and subscribers (stock or mutual), and such other stock carriers as may elect to report their experience to the bureau in accordance with the approved statistical plans of said bureau.

(h) Mutual Casualty Insurance Rating Bureau, 60 East 42nd Street, New York 17, New York, with respect to all its members and subscribers (stock or mutual), and such other non-stock carriers as may elect to report their experience to the bureau in accordance with the approved statistical plans of the bureau.

(i) National Association of Independent Insurers, 111 West Washington Street, Chicago 2, Illinois, with respect to all its members and such other carriers, not members of or subscribers to a rating organization, as may elect to report their experience to this association in accordance with the approved statistical plans of the association.

(j) The Surety Association of America, 60 John Street, New York 7, New York, with respect to all its members and subscribers and such other carriers as may elect to report their experience to this bureau in accordance with the approved statistical plan of the bureau.

(2) Experience filed by individual carriers is to be kept confidential by these statistical agents and only the consolidated experience will be available as public information. [General Bulletin, filed 3/22/60.]

**WAC 284-24-030 Nonsubscribing and nonmember carriers—Duties.** Carriers who are not members of or subscribers to the above organizations, or who have not subscribed to the statistical plans of such organizations designated above for the types of insurance indicated, must advise this office promptly which of the adopted plans they are using or propose to use. Any such carrier not wishing to file its experience with a statistical agent should immediately notify this office to that effect, together with the advice that its experience will be filed direct with this office. [General Bulletin, filed 3/22/60.]

**WAC 284-24-035 Exempt insurance carriers.** Nothing in this bulletin, (WAC 284-24-010, 284-24-020, and 284-24-030), shall apply to the classes and kinds of insurance or reinsurance as are exempt from the provisions of RCW 48.19.010. [General Bulletin of 5/1/49, filed 3/22/60.]

**WAC 284-24-040 Allocating indivisible premiums—"Homeowners policies."** On November 7, 1955, this department approved for use in the state of Washington so-called "Homeowners policy forms A, B and C", which are to be written on an indivisible premium basis. In view of the coverages and types of premiums involved and certain statutory requirements of this state, "Homeowners" premiums received shall be reported on the state page (page 14) of the convention annual statement in the following manner:

(1) That portion of the premium allocated to fire (line 1) for premiums written shall be reported in the fire column. Inasmuch as the premium is written on an indivisible basis, 45% of the premium received shall be that portion allocated to "fire".

(2) The balance of the premium derived from the homeowners policies shall be otherwise segregated and reported as one item. This portion shall be reported under the caption "homeowners". [Rule made 11/30/55, filed 3/22/60.]

**WAC 284-24-050 Catastrophe coverage.** Pursuant to the provisions of RCW 48.19.080 consideration has been given to the writing of insurance covering against loss or damage to property by fire and other perils subject to certain minimum retention by the insured as to each loss occurrence.

It is recognized that this type of coverage does not lend itself to the customary rating practices in that such cover varies considerably in the risk and exposure, and therefore the rates developed and amount of retention by the insured is, to a large extent, based on judgment factors.

Therefore, pursuant to the authority contained in RCW 48.19.080, it is ruled:

(1) Filings of this nature shall be submitted for the consideration of this office,

(2) Retention by the insured as to each loss occurrence shall not be less than \$100,000.00,

(3) The insured shall warrant that the retained amount will not be covered by any policy of insurance,

(4) That the proposed rates shall conform to the requirements of RCW 48.19.020, and shall not be excessive, inadequate or unfairly discriminatory,

(5) Insurers writing such coverage shall maintain separate statistics on this class of business and shall be prepared to report such figures to the office of the insurance commissioner upon request. [Rule made 7/23/51, filed 3/22/60.]

## Chapter 284-26 WAC

### INSIDER TRADING OF EQUITY SECURITIES OF A DOMESTIC STOCK INSURANCE COMPANY

#### WAC

284-26-010	Definition of certain terms.
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284-26-100	Exemption for small transactions.
284-26-110	Exemption from RCW 48.08.120 of transactions which need not be reported under RCW 48.08.110.
284-26-120	Exemption from RCW 48.08.120 of certain transactions effected in connection with a distribution.
284-26-130	Exemption from RCW 48.08.120 of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans.
284-26-140	Exemption from RCW 48.08.120 of certain transactions in which securities are received by redeeming other securities.
284-26-150	Exemption of long term profits incident to sales within six months of the exercise of an option.
284-26-160	Exemption from RCW 48.08.120 of certain acquisitions and dispositions of securities pursuant to merger or consolidations.
284-26-170	Exemption from RCW 48.08.120 of transactions involving the deposit or withdrawal of equity securities under a voting trust or deposit agreement.
284-26-180	Exemption from RCW 48.08.120 of certain transactions involving the conversion of equity securities.
284-26-190	Exemption from RCW 48.08.120 of certain transactions involving the sale of subscription rights.
284-26-200	Exemption of certain securities from RCW 48.08.130.
284-26-210	Exemption from RCW 48.08.130 of certain transactions effected in connection with a distribution.
284-26-220	Exemption from RCW 48.08.130 of sales of securities to be acquired.
284-26-230	Arbitrage transactions under RCW 48.08.150.

**WAC 284-26-010 Definition of certain terms.** (1) "Insurer" means any domestic stock insurance company with an equity security subject to the provisions of sections 6 through 13, chapter 70, Laws of 1965 ex. sess., codified as RCW 48.08.100 through 48.08.170, and not exempt thereunder.

(2) "Act" means sections 6 through 13, chapter 70, Laws of 1965 ex. sess., codified as RCW 48.08.100 through 48.08.170.

(3) "Officer" means a president, vice-president, treasurer, actuary, secretary, controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers.

(4) "Equity security" means any stock or similar security; or any voting trust certificate or certificate of deposit for such a security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(5) Securities "held of record."

(a) For the purpose of determining whether the equity securities of an insurer are held of record by one hundred or more persons, securities shall be deemed to be "held of record" by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to the following:

(i) In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance with accepted practice shall be included as a holder of record.

(ii) Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.

(iii) Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

(iv) Securities held by two or more persons as co-owners shall be included as held by one person.

(v) Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if such securities were registered, they would be held of record, under the provisions of this rule, by a lesser number of persons.

(vi) Securities registered in substantially similar names where the insurer has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

(b) Notwithstanding subsection (a) of this section:

(i) Securities held, to the knowledge of the insurer, subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided however, that the insurer may rely in good faith on such information as is received in response to its request from a nonaffiliated insurer of the certificates or evidences of interest.

(ii) If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent the provisions of the act, the beneficial owners of such securities shall be deemed to be the record owners thereof.

(iii) "Class" means all securities of an insurer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges. [Order R-69-3, § 284-26-010, filed 2/7/69.]

**WAC 284-26-020 Transactions exempted from the operation of RCW 48.08.120.** Any acquisition or disposition of any equity security by a director or officer of an insurer within six months prior to the date on which the act shall first become applicable with respect to the equity securities of such insurer shall not be subject to the operation of RCW 48.08.120. [Order R-69-3, § 284-26-020, filed 2/7/69.]

**WAC 284-26-030 Filing of statements.** Initial statements of beneficial ownership of equity securities required by RCW 48.08.110 shall be filed on Form S, to be obtained from the commissioner. Statements of changes in such beneficial ownership required by RCW 48.08.110 shall be filed on Form 4, to be obtained from the commissioner. All such statements shall be prepared and filed in accordance with the requirements of the applicable form. [Order R-69-3, § 284-26-030, filed 2/7/69.]

**WAC 284-26-040 Ownership of more than ten percent of an equity security.** In determining for the purpose of RCW 48.08.110 whether a person is the beneficial owner, directly or indirectly, of more than ten percent of any class of equity securities, such person shall be deemed to be the beneficial owner of securities of such class which such person has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. The securities subject to such options, warrants, rights or conversion privileges held by a person shall be deemed to be outstanding for the purpose of computing, in accordance with WAC 284-26-030, the percentage of outstanding securities of the class owned by such person but shall not be deemed outstanding for the purpose of computing the percentage of the class owned by any other person. This paragraph shall not be construed to relieve any person of any duty to comply with RCW 48.08.110 with respect to any equity securities consisting of options, warrants, rights or convertible securities which are otherwise subject as a class to that section of the act. [Order R-69-3, § 284-26-040, filed 2/7/69.]

**WAC 284-26-050 Disclaimer of beneficial ownership.** Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of the act, the beneficial owner of any equity securities covered by the statement. [Order R-69-3, § 284-26-050, filed 2/7/69.]

**WAC 284-26-060 Exemptions from RCW 48.08.110 and 48.08.120.** (1) During the period of 12 months following their appointment and qualification, securities held by the following persons shall be exempt from RCW 48.08.110 and 48.08.120:

(a) Executors or administrators of the estate of a decedent;

(b) Guardians or committees for an incompetent; and

(c) Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

(2) After the twelve-month period following their appointment or qualification the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under RCW 48.08.110 and shall be liable for profits realized from trading in such securities pursuant to RCW 48.08.120 only when the estate being administered is a beneficial owner of more than ten per cent of any class of equity security of an insurer subject to the act.

(3) Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from RCW 48.08.110 and 48.08.120 during the time they are held by the insurer. [Order R-69-3, § 284-26-060, filed 2/7/69.]

**WAC 284-26-070 Exemption from the act of securities purchased or sold by odd-lot dealers.** Securities purchased or sold by an odd-lot dealer (1) in odd lots so far as reasonably necessary to carry on odd-lot transactions or (2) in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of the act with respect to participation by such odd-lot dealer in such transactions. [Order R-69-3, § 284-26-070, filed 2/7/69.]

**WAC 284-26-080 Certain transactions subject to RCW 48.08.110.** The acquisition or disposition of any transferable option, put, call, spread or straddle shall be deemed such a change in the beneficial ownership of the security to which such privilege relates as to require the filing of a statement reflecting the acquisition or disposition of such privilege. Nothing in this section, however, shall exempt any person from filing the statements required upon the exercise of such option, put, call, spread or straddle. [Order R-69-3, § 284-26-080, filed 2/7/69.]

**WAC 284-26-090 Ownership of securities held in trust.** (1) Beneficial ownership of a security for the purpose of RCW 48.08.110 shall include:

(a) the ownership of securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust,

(b) the ownership of a vested beneficial interest in a trust, and

(c) the ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

(2) Except as provided in subsection (3) hereof, a beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of RCW 48.08.110 where less than twenty percent

in market value of the securities having a readily ascertainable market value held by such trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which reports would otherwise be required. Exemption is likewise accorded from RCW 48.08.110 with respect to any obligation which would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust, where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption pursuant to this subsection shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of RCW 48.08.110.

(3) In the event that ten percent of any class of any equity security of an insurer is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in RCW 48.08.110.

(4) Not more than one report need be filed to report any holdings or with respect to any transaction in securities held by a trust, regardless of the number of officers, directors or ten percent stockholders who are either trustees, settlors, or beneficiaries of a trust, provided that the report filed shall disclose the names of all trustees, settlors and beneficiaries who are officers, directors or ten per cent stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary.

(5) As used in this section the "immediate family" of a trustee means:

(a) a son or daughter of the trustee, or a descendant of either,

(b) a stepson or stepdaughter of the trustee,

(c) the father or mother of the trustee, or an ancestor of either,

(d) a stepfather or stepmother of the trustee,

(e) a spouse of the trustee.

For the purpose of determining whether any of the foregoing relations exists, a legally adopted child of a person shall be considered a child of such person by blood.

(6) In determining, for the purposes of RCW 48.08.110 whether a person is the beneficial owner, directly or indirectly, of more than ten percent of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation.

(7) No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under RCW 48.08.110 with respect to his indirect interest in portfolio securities held by:

(a) a pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan,

(b) a business trust with over 25 beneficiaries.

(8) Nothing in this section shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date. [Order R-69-3, § 284-26-090, filed 2/7/69.]

**WAC 284-26-100 Exemption for small transactions.** (1) Any acquisition of securities shall be exempt from RCW 48.08.110 where:

(a) The person effecting the acquisition does not within six months thereafter effect any disposition, otherwise than by way of gift, or securities of the same class, and

(b) The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of \$3,000 for any six months' period during which the acquisition occurs.

(2) Any acquisition or disposition of securities by way of gift where the total amount of such gifts does not exceed \$3,000 in market value for any six months' period, shall be exempt from RCW 48.08.110 and may be excluded from the computations prescribed in subdivision (1)(b).

(3) Any person exempted by subsection (1) or (2) of this section shall include in the first report filed by him after a transaction within the exemption a statement showing his acquisitions and dispositions for each six months' period or portion thereof which has elapsed since his last filing. [Order R-69-3, § 284-26-100, filed 2/7/69.]

**WAC 284-26-110 Exemption from RCW 48.08.120 of transactions which need not be reported under RCW 48.08.110.** Any transaction which has been or shall be exempted from the requirements of RCW 48.08.110 of the act shall, insofar as it is otherwise subject to the provisions of RCW 48.08.120 be likewise exempted from RCW 48.08.120. [Order R-69-3, § 284-26-110, filed 2/7/69.]

**WAC 284-26-120 Exemption from RCW 48.08.120 of certain transactions effected in connection with a distribution.** (1) Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of RCW 48.08.120, to the extent specified in this section as not comprehended within the purpose of RCW 48.08.120, upon the following conditions:

(a) The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

(b) The security involved in the transaction is (i) a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the insurer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities or (ii) a security purchased in good faith by or for the account of the

person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

(c) Other persons not within the purview of RCW 48.08.120 are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of RCW 48.08.120 by this section. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this section.

(2) The exemption of a transaction pursuant to this section with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this section. [Order R-69-3, § 284-26-120, filed 2/7/69.]

**WAC 284-26-130 Exemption from RCW 48.08.120 of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans.** Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or a stock option pursuant to an employee stock purchase plan, by a director or officer of an insurer issuing such stock or stock option shall be exempt from the operation of RCW 48.08.120 if the plan meets the following conditions:

(1) The plan has been approved, directly or indirectly, (a) by the affirmative votes of the holders of a majority of the securities of such insurer present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the state of Washington, or (b) by the written consent of the holders of a majority of the securities of such insurer entitled to vote: provided, however, that if such vote or written consent was not solicited substantially in accordance with the proxy rules and regulations prescribed by the National Association of Insurance Commissioners, if any, in effect at the time of such vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by any such rules and regulations so prescribed and in effect at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of (i) the date the act first applies to such insurer, or (ii) the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to

the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purposes of this paragraph, the term "insurer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

(2) If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(a) With respect to the participation of directors—

(i) by the board of directors of the insurer, a majority of which board and a majority of the directors action in the matter are disinterested persons;

(ii) by, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(iii) otherwise in accordance with the plan, if the plan (a) specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or (b) sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

(b) With respect to the participation of officers who are not directors—

(i) by the board of directors of the insurer or a committee of three or more directors; or

(ii) by, or only in accordance with the recommendations of, a committee of three or more persons having full authority to set in the matter, all of the members of which committee are disinterested persons.

For the purpose of this paragraph, a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employee stock purchase plan stock options of the insurer or any of its affiliates.

(c) The provisions of this section shall not apply with respect to any option granted, or other equity security acquired, prior to the date that RCW 48.08.110, 48.08.120, and 48.08.130 first become applicable with respect to any class of equity securities of any insurer.

(3) As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted, or employee stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(4) Unless the context otherwise requires, all terms used in this section shall have the same meaning as in the act and in WAC 284-26-110. In addition, the following definitions apply:

(a) The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

(b) The definition of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in sections 422 and 423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in this section. The term "restricted stock option" as defined in section 424(b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in this section, provided however, that for the purposes of this section an option which meets all of the conditions of that section, other than the date of issuance shall be deemed to be a "restricted stock option."

(c) The term "exercise of an option, warrant or right" contained in the parenthetical clause of the first paragraph of this section shall not include (i) the making of any election to receive under any plan an award of compensation in the form of stock or credits therefore, provided, that such election is made prior to the making of the award; and provided further that such election is irrevocable until at least six months after termination of employment; (ii) the subsequent crediting of such stock; (iii) the making of any election as to a time for delivery of such stock after termination of employment, provided that such election is made at least six months prior to any such delivery; (iv) the fulfillment of any condition to the absolute right to receive such stock; or (v) the acceptance of certificates for shares of such stock. [Order R-69-3, § 284-26-130, filed 2/7/69.]

**WAC 284-26-140 Exemption from RCW 48.08.120 of certain transactions in which securities are received by**

**redeeming other securities.** Any acquisition of an equity security (other than [than] a convertible security or right to purchase a security) by a director or officer of the insurer issuing such security shall be exempt from the operation of RCW 48.08.120 upon condition that:

(1) the equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or Government bonds) consist of securities of the insurer issuing the equity security so acquired, and which

(a) represented substantially and in practical effect a stated or readily ascertainable amount of such equity security,

(b) had a value which was substantially determined by the value of such equity security, and

(c) conferred upon the holder the right to receive such equity security without the payment of any consideration other than the security redeemed;

(2) no security of the same class as the security redeemed was acquired by the director or officer within six months prior to such redemption or is acquired within six months after such redemption;

(3) the insurer issuing the equity security acquired has recognized the applicability of subsection (1) of this section by appropriate corporate action. [Order R-69-3, § 284-26-140, filed 2/7/69.]

**WAC 284-26-150 Exemption of long term profits incident to sales within six months of the exercise of an option.** (1) To the extent specified in subsection (2) of this section, the commissioner hereby exempts as not comprehended within the purposes of RCW 48.08.120 any transaction or transactions involving the purchase and sale, or sale and purchase, of any equity security where such purchase is pursuant to the exercise of an option or similar right either (a) acquired more than six months before its exercise, or (b) acquired pursuant to the terms of an employment contract entered into more than six months before its exercise.

(2) In respect of transactions specified in subsection (1) the profits inuring to the insurer shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within six months before or after the date of sale. Nothing in this section shall be deemed to enlarge the amount of profit which would inure to such insurer in the absence of this section.

(3) The commissioner also hereby exempts, as not comprehended within the purposes of RCW 48.08.120 the disposition of a security, purchased in a transaction specified in subsection (1) of this section, pursuant to a plan or agreement for merger or consolidation, or reclassification of the insurer's securities, or for the exchange of its securities for the securities of another person which has acquired its assets, or which is in control, as defined in section 368(c) of the Internal Revenue Code of 1954, of a person which has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate

of incorporation, to receive the appraised or fair value of their holdings.

(4) The exemptions proved by this section shall not apply to any transaction made unlawful by RCW 48.08.130 or by any rules and regulations thereunder.

(5) The burden of establishing market price of a security for the purpose of this section shall rest upon the person claiming the exemption. [Order R-69-3, § 284-26-150, filed 2/7/69.]

**WAC 284-26-160 Exemption from RCW 48.08.120 of certain acquisitions and dispositions of securities pursuant to merger or consolidations.** (1) The following transactions shall be exempt from the provisions of RCW 48.08.120 as not comprehended within the purpose of said section:

(a) The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, owned 85 percent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

(b) The disposition of a security, pursuant to a merger or consolidation of an insurer which, prior to said merger or consolidation, owned 85 percent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

(c) The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, held over 85 percent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation as determined by reference to their most recent available financial statements for a twelve-month period prior to the merger or consolidation.

(d) The disposition of a security, pursuant to a merger or consolidation, of an insurer which, prior to said merger or consolidation, held over 85 percent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to merger or consolidation, as determined by reference to their most recent available financial statements for a twelve-month period prior to the merger or consolidation.

(2) A merger within the meaning of this section shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.

(3) Notwithstanding the foregoing, if an officer, director or stockholder shall make any purchase (other than a purchase exempted by this section) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this section) of a security in any other company involved in the merger or consolidation within any period of less than six months during which the merger or consolidation took place, the exemption provided by this section shall



be unavailable to such officer, director, or stockholder to the extent of such purchase and sale. [Order R-69-3, § 284-26-160, filed 2/7/69.]

**WAC 284-26-170 Exemption from RCW 48.08.120 of transactions involving the deposit or withdrawal of equity securities under a voting trust or deposit agreement.** Any acquisition or disposition of an equity security involved in the deposit of such security under, or the withdrawal of such security from, a voting trust or deposit agreement, and the acquisition or disposition in connection therewith of the certificate representing such security, shall be exempt from the operation of RCW 48.08.120 if substantially all of the assets held under the voting trust or deposit agreement immediately after the deposit or immediately prior to the withdrawal, as the case may be, consisted of equity securities of the same class as the security deposited or withdrawn: provided, however, that this section shall not apply to the extent that there shall have been either:

(1) a purchase of an equity security of the class deposited and a sale of any certificate representing an equity security of such class, or

(2) a sale of an equity security of the class deposited and purchase of any certificate representing an equity security of such class (otherwise than in a transaction involved in such deposit or withdrawal or in a transaction exempted by any other provision of chapter 284-26 WAC within a period of less than six months which includes the date of the deposit or withdrawal.

(3) the surrender and issuance are made pursuant to provisions of a certificate of incorporation which require that the shares issued upon such surrender shall be registered upon issuance in the name of a person or persons other than the holder of the shares surrendered and may be required to be issued as of right only in connection with the public offering, sale and distribution of such shares and the immediate sale by such holder of such shares for that purpose, or in connection with a gift of such shares.

(4) neither the shares so surrendered nor any shares of the same class, nor other shares of the same class as those issued upon such surrender, have been or are purchased (otherwise than in a transaction exempted by this section), by the person surrendering such shares, within six months before or after such surrender or issuance. [Order R-69-3, § 284-26-170, filed 2/7/69.]

**WAC 284-26-180 Exemption from RCW 48.08.120 of certain transactions involving the conversion of equity securities.** (1) Any acquisition or disposition of an equity security involved in the conversion of an equity security which, by its terms or pursuant to the terms of the insurer's charter or other governing instruments, is convertible immediately or after a stated period of time into another equity security of the same insurer, shall be exempt from the operation of RCW 48.08.120: provided, however, that this section shall not apply to the extent that there shall have been either (a) a purchase of any equity security of the class convertible (including any acquisition of or change in a conversion privilege) and a

sale of any equity security of the class issuable upon conversion, or (b) a sale of any equity security of the class convertible and any purchase of any equity security issuable upon conversion (otherwise than in a transaction involved in such conversion or in a transaction exempted by any other provision of chapter 284-26 WAC) within a period of less than six months which includes the date of conversion.

(2) For the purpose of this section, an equity security shall not be deemed to be acquired or disposed of upon conversion of an equity security if the terms of the equity security converted require the payment or entail the receipt, in connection with such conversion, of cash or other property (other than equity securities involved in the conversion) equal in value at the time of conversion to more than 15 percent of the value of the equity security issued upon conversion.

(3) For the purpose of this section, an equity security shall be deemed convertible if it is convertible at the option of the holder or of some other person or by operation of the terms of the security or the governing instruments. [Order R-69-3, § 284-26-180, filed 2/7/69.]

**WAC 284-26-190 Exemption from RCW 48.08.120 of certain transactions involving the sale of subscription rights.** (1) Any sale of a subscription right to acquire any subject security of the same insurer shall be exempt from the provisions of RCW 48.08.120, to the extent prescribed in this section, as not comprehended with the purpose of RCW 48.08.120, if:

(a) Such subscription right is acquired, directly or indirectly, from the insurer without the payment of consideration;

(b) Such subscription right by its terms expires within 45 days after the issuance thereof;

(c) Such subscription right by its terms is issued on a pro rata basis to all holders of the beneficiary security of the insurer; and

(d) A registration statement under the Securities Act of 1933 is in effect as to each subject security, or the applicable terms of any exemption from such registration have been met in respect to each subject security.

(2) When used within this section the following terms shall have the meaning indicated:

(a) The term "subscription right" means any warrant or certificate evidencing a right to subscribe to or otherwise acquire an equity security;

(b) The term "beneficiary security" means a security registered pursuant to section 12 of the Securities Exchange Act, to the holders of which a subscription right is granted;

(c) The term "subject security" means a security which is the subject of a subscription right.

(3) Notwithstanding anything contained herein to the contrary, if a person purchases subscription rights for cash or other consideration, then a sale by such person of subscription rights otherwise exempted by this section will not be so exempted to the extent of such purchases within the six-month period preceding or following such sale. [Order R-69-3, § 284-26-190, filed 2/7/69.]

**WAC 284-26-200 Exemption of certain securities from RCW 48.08.130.** Any security shall be exempt from the operation [operation] of RCW 48.08.130 to the extent necessary to render lawful under RCW 48.08.130 the execution by a broker of an order for an account in which he has no direct or indirect interest. [Order R-69-3, § 284-26-200, filed 2/7/69.]

**WAC 284-26-210 Exemption from RCW 48.08.130 of certain transactions effected in connection with a distribution.** Any security shall be exempt from the operation of RCW 48.08.130 to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

(1) The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

(2) Other persons not within the purview of RCW 48.08.130 are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of RCW 48.08.130 by this section. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this section. [Order R-69-3, § 284-26-210, filed 2/7/69.]

**WAC 284-26-220 Exemption from RCW 48.08.130 of sales of securities to be acquired.** (1) Whenever any person is entitled, as an incident to his ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed", the security to be acquired shall be exempt from the operation of RCW 48.08.130 provided that:

(a) the sale is made subject to the same conditions as those attaching to the right of acquisition, and

(b) such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures, and

(c) such person reports the sale on the appropriate form for reporting transactions by persons subject to RCW 48.08.110.

(2) This section shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when-issued" or "when-distributed" security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be

received by him pursuant to his right of acquisition. [Order R-69-3, § 284-26-220, filed 2/7/69.]

**WAC 284-26-230 Arbitrage transactions under RCW 48.08.150.** It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of such insurer, unless he shall include such transaction in the statements required by RCW 48.08.110 and shall account to such insurer for the profits arising from such transaction, as provided in RCW 48.08.120. The provisions of RCW 48.08.130 shall not apply to such arbitrage transactions. The provisions of the act shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or officer of the insurer. [Order R-69-3, § 284-26-230, filed 2/7/69.]

### Chapter 284-28 WAC

#### PROXIES, CONSENTS, AND AUTHORIZATIONS OF DOMESTIC STOCK INSURERS

##### WAC

284-28-001	Promulgation.
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284-28-100	Special provisions applicable to election contests.
284-28-110	Effective date.

**WAC 284-28-001 Promulgation.** Whereas, subsection (7), section 5, chapter 70, Laws of 1965, ex. sess. provides:

"The commissioner shall have authority to make and promulgate rules and regulations for the effectuation of this section, and in so doing shall give due consideration to rules and regulations promulgated for similar purposes by the insurance supervisory officials of other states." and,

Whereas, pursuant to RCW 34.04.020(3) a rule-making hearing was held on the fifteenth day of September, 1965, at the hour of 1:30 P.M. in the office of the Insurance Commissioner, Insurance Building, Olympia, Washington, to receive views as to whether the above-entitled regulation should be adopted,

Now, therefore, I hereby make the following findings:

(1) On June 8, 1964, the Congress of the United States enacted the Securities Act Amendments of 1964 (Public Law 88-467) which exempts securities issued by an insurance company from the application of the federal requirement of regulation by, and periodic filings with, the Securities Exchange Commission provided that the following conditions are met:

"(I) . . .

(II) Such insurance company is subject to regulation by its domiciliary State of proxies, consents, or authorizations in respect of securities issued by such company

and such regulation conforms to that prescribed by the National Association of Insurance Commissioners.

"(III) . . .". (2) The above-entitled regulation substantially conforms to the proposals regarding proxies, consents and authorizations of domestic stock insurers as prescribed and promulgated by the National Association of Insurance Commissioners on the third day of December, 1964.

(3) The above-entitled regulation reasonably effectuates section 5, chapter 70, Laws of 1965, ex. sess., by making the regulation of domestic stock insurers with respect to proxies, consents and authorizations complete when applied in conjunction with section 5, chapter 70, Laws of 1965 ex. sess..

Now, therefore, being fully informed, I hereby adopt the following order and regulation upon the foregoing findings and pursuant to subsection (7), section 5, chapter 70, Laws of 1965, ex. sess.: [Order R-69-2, § 284-28-001, filed 2/5/69; Regulation 246, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-010 Application of regulation.** This regulation is applicable to each domestic stock insurer which has any class of equity security held of record by one hundred or more persons; provided, however, that this regulation shall not apply to any insurer if ninety-five per cent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than five hundred persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable regulations promulgated thereunder, shall be exempt from the provisions of this regulation with respect to any class of securities subject to SEC jurisdiction. [Order R-69-2, § 284-28-010, filed 2/5/69; Regulation 246, § 1, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-020 Proxies, consents, and authorizations.** No domestic stock insurer, or any director, officer or employee of such insurer subject to WAC 284-28-010, or any other person, shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent of authorization in respect of any class of equity security of such insurer held of record by one hundred or more persons in contravention of this regulation and Schedules A and B hereto annexed and hereby made a part of this regulation. [Order R-69-2, § 284-28-020, filed 2/5/69; Regulation 246, § 2, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-030 Disclosure of equivalent information.** Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to WAC 284-28-010 are solicited by or on behalf of the management of such insurer from the holders of record of such security prior to any annual or other meeting of such security holders, such insurer shall, in accordance with this regulation and such further regulations as the commissioner may adopt, file

with the commissioner and transmit to all security holders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. Such insurer shall transmit a written information statement containing the information specified in WAC 284-28-050(4) to every security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer provided, that in the case of a class of securities in unregistered or bearer form such statement need be transmitted only to those security holders whose names and addresses are known to the insurer. [Order R-69-2, § 284-28-030, filed 2/5/69; Regulation 246, § 3, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-040 Definitions.** (1) The definitions and instructions set out in Schedule SIS of the insurer's annual statement required to be filed pursuant to RCW 48.05.250, shall be applicable for purposes of this regulation.

(2) The terms "solicit" and "solicitation" for purposes of this regulation shall include:

(a) any request for a proxy, whether or not accompanied by or included in a form of proxy; or

(b) any request to execute or not to execute, or to revoke, a proxy; or

(c) the furnishing of a proxy or other communication to stockholders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(3) The terms "solicit" and "solicitation" shall not include:

(a) any solicitation by a person in respect of stock of which he is the beneficial owner;

(b) action by a broker or other person in respect to stock carried in his name or in the name of his nominee in forwarding to the beneficial owner of such stock soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

(c) the furnishing of a form of proxy to a stockholder upon the unsolicited request of such stockholder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy. [Order R-69-2, § 284-28-040, filed 2/5/69; Regulation 246, § 4, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-050 Information to be furnished to stockholders.** (1) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule A.

(2) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of stockholders at which directors are to be elected, each

proxy statement furnished pursuant to subsection one hereof shall be accompanied or preceded by an annual report (in preliminary or final form) to such stockholders containing such financial statements for the last fiscal year as are referred to in Schedule SIS of the insurers annual statement under the heading "Financial Reporting to the Stockholders." Subject to the foregoing requirements with respect to financial statements, the annual report to stockholders may be in any form deemed suitable by the management.

(3) Two copies of each report sent to the stockholders pursuant to this section shall be mailed to the commissioner, not later than the date on which such report is first sent or given to stockholders or the date on which preliminary copies of solicitation material are filed with the commissioner, pursuant to WAC 284-28-070(1), whichever date is later.

(4) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every security holder of record at least twenty days prior to the meeting date, an information statement as required by WAC 284-28-030, containing the information called for by all of the Items of Schedule A, other than Items 1, 3, and 4 thereof, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If such information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied by an annual report to such security holders in the form provided in subsection 2 thereof. [Order R-69-2, § 284-28-050, filed 2/5/69; Regulation 246, § 5, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-060 Requirements as to proxy, and information statement.** (1) The form of proxy (a) shall indicate in boldface type whether or not the proxy is solicited on behalf of the management, (b) shall provide a specifically designated blank space for dating the proxy and (c) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or stockholders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to subsection three hereof.

(2)(a) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in boldface type how it is intended to vote the shares or authorization represented by the proxy in each such case.

(b) A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the security holder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for elections

to office shall be deemed to grant such authority, provided the form of proxy so states in boldface type.

(3) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(4) No proxy shall confer authority (a) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (b) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to stockholders.

(5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to subsection two hereof a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(6) The information included in the proxy statement or information statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements or information statements shall be clearly and legibly presented. [Order R-69-2, § 284-28-060, filed 2/5/69; Regulation 246, § 6, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-070 Material required to be filed. (1)**

Two preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to stockholders concurrently therewith shall be filed with the commissioner at least ten days prior to the date definitive copies of such material are first sent or given to stockholders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

(2) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to stockholders subsequent to the proxy statements shall be filed with the commissioner at least two days (exclusive of Saturdays, Sundays of holidays) prior to the date copies of this material are first sent or given to stockholders or a shorter period prior to such date as the commissioner may authorize upon a showing of good cause therefor.

(3) Two definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to stockholders, shall be filed with, or mailed for filing to, the Commissioner not later than the date such material is first sent or given to the stockholders.

(4) Where any proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two of the copies shall be marked to clearly show such changes.

(5) Copies of replies to inquiries from stockholders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this section.

(6) Notwithstanding the provisions of subsections one and two hereof and of subsection five of WAC 284-28-100, copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the Commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commissioner as required by subsection three hereof not later than the date such material is used or published. The provisions of subsections one and two hereof and subsection five of WAC 284-28-100 shall apply, however, to any reprints or reproductions of all or any part of such material. [Order R-69-2, § 284-28-070, filed 2/5/69; Regulation 246, § 7, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-080 False or misleading statements.** No proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to this regulation, shall contain any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading. [Order R-69-2, § 284-28-080, filed 2/5/69; Regulation 246, § 8, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-090 Prohibition of certain solicitations.** No person making a solicitation which is subject to this regulation shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the stockholder. [Order R-69-2, § 284-28-090, filed 2/5/69; Regulation 246, § 9, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-100 Special provisions applicable to election contests.** (1) **Applicability.** This section shall apply to any solicitation subject to this regulation by any person or group for the purpose of opposing a solicitation subject to this regulation by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

(2) **Participant or Participant in a Solicitation.** (a) For purposes of this section the terms "participant" and "participant in a solicitation" include: (i) the insurer; (ii) any director of the insurer, and any nominee for whose election as a director proxies are solicited; (iii) any other person, acting alone or with one or more other persons, committees or groups, in organizing, directing or financing the solicitation.

(b) For the purposes of this section the terms "participant" and "participant in a solicitation" do not include: (i) a bank, broker or dealer who, in the ordinary course

of business, lends money or executes orders for the purchase or sale of stock and who is not otherwise a participant; (ii) any person or organization retained or employed by a participant to solicit stockholders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties; (iii) any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment; (iv) any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or (v) any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.

(3) **Filing of Information Required by Schedule B.** (a) No solicitation subject to this section shall be made by any person other than the management of an insurer unless at least five business days prior thereto, or such shorter period as the Commissioner may authorize upon a showing of good cause therefor, there has been filed, with the Commissioner, by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified by Schedule B and a copy of any material proposed to be distributed to stockholders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to stockholders should be deferred until the Commissioner's comments have been received and complied with.

(b) Within five business days after a solicitation subject to this section is made by the management of an insurer, or such longer period as the Commissioner may authorize upon a showing of good cause therefor, there shall be filed with the Commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by Schedule B.

(c) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this section in opposition thereto, a statement in duplicate containing the information specified in Schedule B shall be filed with the Commissioner, by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

(d) If, subsequent to the filing of the statements required by paragraphs (a), (b) and (c) of this subsection, additional persons become participants in a solicitation subject to this rule, there shall be filed with the Commissioner, by or on behalf of each such person, a statement in duplicate containing the information specified by Schedule B, within three business days after such person becomes a participant, or such longer period as the Commissioner may authorize upon a showing of good cause therefor.

(e) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant,

an appropriate amendment to such statement shall be filed promptly with the Commissioner.

(f) Each statement and amendment thereto filed pursuant to this paragraph shall be part of the public files of the Commissioner.

(4) **Solicitations Prior to Furnishing Required Written Proxy Statement.** Notwithstanding the provisions of subsection one of WAC 284-28-050, a solicitation subject to this section may be made prior to furnishing stockholders a written proxy statement containing the information specified in Schedule A with respect to such solicitation, provided that—

(a) The statements required by subsection three hereof are filed by or on behalf of each participant in such solicitation.

(b) No form of proxy is furnished to stockholders prior to the time the written proxy statement required by subsection one of WAC 284-28-050 is furnished to such persons: Provided, however, that this paragraph (b) shall not apply where a proxy statement then meeting the requirements of Schedule A has been furnished to stockholders.

(c) At least the information specified in paragraphs (b) and (c) of the statements required by subsection three hereof to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to stockholders in connection with the solicitation.

(d) A written proxy statement containing the information specified in Schedule A with respect to a solicitation is sent or given stockholders at the earliest practicable date.

(5) **Solicitations Prior to Furnishing Required Written Proxy Statement—Filing Requirements.** Two copies of any soliciting material proposed to be sent or given to stockholders prior to the furnishing of the written proxy statement required by subsection one of WAC 284-28-050 shall be filed with the Commissioner in preliminary form at least five business days prior to the date definitive copies of such material are first sent or given to such persons, or shorter period as the Commissioner may authorize upon a showing of good cause therefor.

(6) **Application of This Section to Report.** Notwithstanding the provisions of subsections two and three of WAC 284-28-050, two copies of any portion of the report referred to in subsection two of WAC 284-28-050 which comments upon or refers to any solicitation subject to this section, or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the Commissioner as proxy material subject to this regulation. Such portion of the report shall be filed with the Commissioner in preliminary form at least five business days prior to the date copies of the report are first sent or given to stockholders.

#### SCHEDULE A

#### INFORMATION REQUIRED IN PROXY STATEMENT

**Item 1. Revocability of Proxy.** State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is

limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

**Item 2. Dissenters' Rights of Appraisal.** Outline briefly the rights of appraisal or similar rights of dissenting stockholders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such stockholders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

**Item 3. Persons Making Solicitations Not Subject to (WAC 284-28-100).** (1) If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(2) If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(3) If the solicitation is to be made by specially engaged employees or paid solicitors, state (i) the material features of any contract or arrangement for such solicitation and identify the parties, and (ii) the cost or anticipated cost thereof.

**Item 4. Interest of Certain Persons in Matters to Be Acted Upon.** Describe briefly any substantial interest, direct or indirect, by stockholdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

**Item 5. Stocks and Principal Stockholders.** (1) State, as to each class of voting stock of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

(2) Give the date as of which the record list of stockholders entitled to vote at the meeting will be determined. If the right to vote is not limited to stockholders of record on that date, indicate the conditions under which other stockholders may be entitled to vote.

(3) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, make a statement that they have such rights and state briefly the conditions precedent to the exercise thereof.

**Item 6. Nominee and Directors.** If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

(a) Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the

insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.

(b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five years, unless he is now a director and was elected to his present term of office by a vote of stockholders at a meeting for which proxies were solicited under this regulation.

(c) If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

(d) State, as of the most recent practicable date, the approximate amount of each class of stock of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such stocks make a statement to that effect.

**Item 7. Remuneration and Other Transactions With Management and Others.** Furnish the information reported or required in Item One of Schedule SIS under the heading "Information Regarding Management and Directors" if action is to be taken with respect to (a) the election of directors, (b) any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate, (c) any pension or retirement plan in which any such person will participate, or (d) the granting or extension to any such person of any options, warrants or rights to purchase any stocks, other than warrants or rights issued to stockholders, as such, on a pro-rata basis. If the solicitation is made on behalf of persons other than the management information shall be furnished only as to Item One-A of the aforesaid heading of Schedule SIS.

**Item 8. Bonus, Profit Sharing and Other Remuneration Plans.** If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

(b) The amounts which would have been distributable under the plan during the last calendar year to (1) each person named in item seven of this schedule, (2) directors and officers as a group, and (3) to all other employees as a group, if the plan had been in effect.

(c) If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b) of this item, the nature of such amendments should be specified.

**Item 9. Pension and Retirement Plan.** If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

(b) State (1) the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period; (2) the estimated annual payment to be made with respect to current services; and (3) the amount of such annual payments to be made for the benefit of (i) each person named in item seven of this schedule, (ii) directors and officers as a group, and (iii) employees as a group.

(c) If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in sub-paragraph (b)(3) of this item, the nature of such amendments should be specified.

**Item 10. Options, Warrants, or Rights.** If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase stock of the insurer or any subsidiary or affiliate, other than warrants issued to all stockholders on a pro-rata basis, furnish the following information:

(a) The title and amount of stock called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the stock called for or to be called for by the warrants, as of the latest practicable date.

(b) If known, state separately the amount of stock called for or to be called for by warrants received or to be received by the following person, naming each such person:

(1) each person named in item seven of this schedule, and

(2) each other person who will be entitled to acquire five per cent or more of the stock called for or to be called for by such warrants.

(c) If known, state also the total amount of stock called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

**Item 11. Authorization or Issuance of Stock.** 1. If action is to be taken with respect to the authorization or issuance of any stock of the insurer furnish the title, amount and description of the stock to be authorized or issued.

2. If the shares of stock are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

3. If the shares of stock to be authorized or issued are other than additional shares of common stock of a class outstanding, the Commissioner may require financial statements comparable to those contained in the annual report.

**Item 12. Mergers, Consolidations, Acquisitions and Similar Matters.** 1. If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

(a) The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting stockholders in order to perfect such rights.

(b) The material features of the plan or agreement.

(c) The business done by the company to be acquired or whose assets are being acquired.

(d) If available, the high and low sales prices for each quarterly period within two years.

(e) The percentage of outstanding shares which must approve the transaction before it is consummated.

2. For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

(a) A comparative balance sheet as of the close of the last two fiscal years.

(b) A comparative statement of operating income and expenses for each of the last two fiscal years and, as a continuation of each statement, a statement of earning per share after related taxes and cash dividends paid per share.

(c) A pro forma combined balance sheet and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

**Item 13. Restatement of Accounts.** If action is to be taken with respect to the restatement of any asset, capital, or surplus of the insurer, furnish the following information:

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

**Item 14. Matters Not Required to Be Submitted.** If action is to be taken with respect to any matter which is not required to be submitted to a vote of stockholders, state the nature of such matter, the reason for submitting it to a vote of stockholders and what action is intended to be taken by the management in the event of a negative vote on the matter by the stockholders.

**Item 15. Amendment of Charter, By-Laws, or Other Documents.** If action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

## SCHEDULE B

### INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION IN AN ELECTION CONTEST

**Item 1. Insurer.** State the name and address of the insurer.

**Item 2. Identity and Background.** (a) State the following:

(1) Your name and business address.

(2) Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(b) State the following:

(1) Your residence address.

(2) Information as to all material occupations, positions, offices or employments during the last ten years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

(c) State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past ten years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

(d) State whether or not, during the past ten years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this sub-item need not be included in the proxy statement or other proxy soliciting material.

**Item 3. Interest in Securities of the Insurer.** (a) State the amount of each class of stock of the insurer which you own beneficially, directly or indirectly.

(b) State the amount of each class of stock of the insurer which you own of record but not beneficially.

(c) State with respect to all securities of the insurer purchased or sold within the past two years, the dates on which they were purchased or sold and the amount purchased or sold on each such date.

(d) If any part of the purchase price or market value of any of the stock specified in paragraph (c) is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such stock, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

(e) State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any stock of the insurer, including but



not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) State the amount of stock of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

(g) State the amount of each class of stock of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly or indirectly.

Item 4. **Further Matters.** (a) Describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

(b) Describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

(c) State whether or not you or any of your associates have any arrangement or understanding with any person—

(1) With respect to any future employment by the insurer or its subsidiaries or affiliates; or

(2) With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party.

If so, describe such arrangements or understanding and state the names of the parties thereto.

Item 5. **Signature.** The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

-----  
(Date)

-----  
(Signature of  
participant or  
authorized  
representative)

[Order R-69-2, § 284-28-100, filed 2/5/69; Regulation 246, § 10, filed 9/24/65, effective 11/1/65.]

**WAC 284-28-110 Effective date.** This regulation is effective on the first day of November, 1965. [Order R-69-2, § 284-28-110, filed 2/5/69; Regulation 246, filed 9/24/65, effective 11/1/65.]

### Chapter 284-30 WAC TRADE PRACTICES

#### WAC

284-30-005	Which regulation applicable.
284-30-010	Replacement of life insurance policies.
284-30-100	Title and explanation.
284-30-110	Purpose.
284-30-120	Replacement of life insurance defined.
284-30-130	Exemptions.

284-30-140	Duties of licensees.
284-30-150	Duties of insurers.
284-30-160	Enforcement.
284-30-170	Forms.
284-30-180	Supersedes prior regulation.
284-30-190	Severability.
284-30-200	Effective date.
284-30-990	Exhibit 1—Disclosure statement.
284-30-991	Exhibit 2—Notice to applicants regarding replacement of life insurance.

**WAC 284-30-005 Which regulation applicable.** Two regulations relating to life insurance replacements have been promulgated by the insurance commissioner:

(1) The first, WAC 284-30-010 (Commissioner's Regulation No. R-68-1), became effective October 1, 1968. It shall not be used in regard to replacements occurring after September 1, 1971.

(2) The second regulation, WAC 284-30-100 through 284-30-200, has an effective date of September 1, 1971. It supersedes the earlier regulation and governs all life insurance replacements which occur on and after September 1, 1971. Its provisions may be used by insurers and licensees on a voluntary basis prior to its effective date in lieu of the provisions of WAC 284-30-010. [Order R-71-1, § 284-30-005, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-010 Replacement of life insurance policies.** (1) **Purpose.** The interest of life insurance policyholders contemplating replacement of such policies with other life insurance must be safeguarded by making available to them information with which to make decisions in their own interest, by reducing the opportunity for misrepresentation in replacement situations, and by precluding unfair methods of competition and unfair practices in the business of insurance. This regulation is designed to promote those aims and to implement RCW 48.30.180, by establishing minimum standards for replacement of life insurance.

(2) **Scope.** This regulation shall apply to the solicitation of life insurance in this state. It shall be applicable to all fraternal benefit societies organized and doing business pursuant to chapter 48.36 RCW, as well as authorized life insurers, and whenever the word "insurer" is used, it is intended to include fraternal benefit societies. The procedures required by this regulation shall not apply to group, industrial or credit life insurance, nor to conversion of term insurance to permanent insurance within the same company in the exercise of a contractual right granted to the insured in a term policy.

(3) **Definition of Replacement.** For the purpose of this regulation "replacement" includes any transaction wherein new life insurance is to be purchased and it is known to the agent that, as a part of the transaction, existing life insurance has been or is to be lapsed, surrendered, converted into paid-up insurance, become extended insurance, be subject to substantial borrowing of loan values whether in a single loan or under a schedule of borrowing over a period of time, or changed to a lower cash value plan of insurance.

(4) **Notice to Insurer(s).** Where replacement of policies is indicated on an application, the licensee shall notify

each insurer whose policies the applicant intends to replace, within five working days from the date the application is taken. Notice to the insurer's regional office or to its field representative will be regarded as notice to the insurer for purposes of this regulation.

(5) **Comparison Information.** (a) *Duty to Present.* Every licensee of this office who solicits an application for life insurance where replacement of an existing policy is indicated must present to the sales prospect the "Comparison Information" set forth in the attachments to this regulation, including the Notice to Policyholders and Program Analysis, and if replacement of more than one policy is indicated, the Summary of Program Analysis. The Program Analysis shall be completed according to the Instructions in Attachment A-1 to this regulation. An example is worked out in Attachment A-2. The licensee shall date and execute the documents presented to the prospect and shall request the prospect to acknowledge receipt thereof.

(b) *Distribution and Retention.* One copy of all pages of the "Comparison Information" required to be presented to a sales prospect shall be left with the prospect, one copy of each shall be retained by the licensee, and where an application for a new policy is taken, one copy shall be forwarded by the licensee to, and retained by, the insurer which is to issue the replacement policy. The licensee and the insurer which issues the replacement policy shall retain their copies of the "Comparison Information" for a period of two years from the date it is presented to each sales prospect.

(c) *Format of "Comparison Information" Forms.* Insurers and/or licensees shall provide the "Comparison Information" forms required by this regulation at their own expense. In developing such forms the order and format of the "Comparison Information" set forth in Attachments A and B must be followed. The print for such forms must be in type no smaller than that published in the attachments to this regulation.

(d) *Presentation of Cost Figures by Persons Attempting to Conserve Business.* Licensees or insurers attempting to conserve business by the presentation of a program analysis or cost comparison must use the format prescribed in this regulation. Any presentation which challenges the accuracy of figures contained in a Program Analysis must also be in writing and shall be subject to the same standards and sanctions provided by this regulation.

(e) *Presentation of Factors Not Contained in "Comparison Information" Material.* Nothing in this regulation shall prevent any licensee or insurer from presenting to a sales prospect information not contained in the "Comparison Information" set forth in the attachments to this regulation which is believed to be pertinent to an insured's decision as to whether to replace or to retain existing life insurance: *Provided*, the presentation of such information is not contrary to law. (See, in particular, RCW 48.30.180, 48.30.090 and 48.30.100).

(6) **Instructions of Life Insurers to Agents.** (a) All life insurers transacting business in this state shall issue written instructions to their agents prior to the effective date of this regulation, and to all new agents thereafter, regarding the preparation and use of cost illustrations

and comparisons in connection with sales, promotional or advertising programs.

(b) These written instructions shall include the substance of, or refer to, the applicable portions of this regulation and to pertinent Washington statutes regulating these activities, including RCW 48.30.180, "Twisting;" RCW 48.30.090, "Misrepresentation of Policies;" and RCW 48.30.100, "Dividends Not to be Guaranteed."

(c) Insurers shall further advise their agents that each agent is responsible for failure to comply with the format of the "Program Analysis" prescribed in this regulation and for accurate computations, but that they shall be entitled to rely on figures used in the computation of the Program Analysis supplied by the insurer whose policies are to be replaced or figures available from standard reference sources, such as *Flitcraft Compend*, *Unique Manual Digest*, *Little Gem*, *Diamond Life Bulletins*, etc.

(7) **Statement Required.** Every life insurer transacting business in this state shall have in its files, over the signature of the applicant, in connection with, or as part of, its applications for life insurance policies which are subject to this regulation, a statement as to whether or not such policies are to be a replacement of an existing policy or policies. Each such statement shall be maintained on file for at least two years from the date of the application.

(8) **Responsibility of Insurers Prior to Issue of Replacement Policy.** No insurer shall issue an insurance policy where replacement of an existing policy has been indicated, unless the soliciting agent has signed and dated the "Comparison Information" required by this regulation and the applicant has acknowledged receipt thereof. Any insurer issuing a replacement policy shall review the "Comparison Information" for reasonable completeness and verify the accuracy of figures supplied in the Program Analysis(es) which relate to its own policy.

(9) **Cooperation of Insurers.** Every life insurer doing business in this state shall respond, in writing, within two weeks of receipt of any request from its insureds for information on current dividend scales, cash values, or other data necessary for the completion of the Program Analysis(es) required by this regulation. Should an insurer fail to comply with this provision, a licensee may supply Program Analysis figures from other available sources, using reasonable care to supply data as accurately as possible. Failure of an insurer to cooperate in connection with requests for information will subject it to the sanctions that may be reasonably imposed for violation of this regulation.

(10) **Enforcement.** Violations of the provisions of this regulation shall be grounds for the imposition of enforcement sanctions pursuant to the provisions of RCW 48.02.080 and/or grounds for disciplinary action against an agent or broker pursuant to RCW 48.17.530 and 48.17.560, or against an insurer pursuant to RCW 48.05.140 and 48.05.185.

(11) **Repealer.** This regulation supersedes and repeals Insurance Commissioner's Regulation No. 148 (WAC 284-12-100) entitled "Twisting," dated December 1, 1961.

(12) **Severability.** If any provision of this regulation or the application thereof to any persons or circumstances is held invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(13) **Effective Date.** The effective date of this regulation shall be October 1, 1968. This amendment shall be effective November 25, 1968.

LEE I. KUECKELHAN  
Insurance Commissioner

DATED October 25, 1968

List of Attachments:

- A-1 Instructions for Completing Attachment A, Part II, Program Analysis
- A-2 Illustration of Use of Program Analysis Method.
- A Part I - Important Considerations—Notice to Policyholders.  
Part II - Program Analysis.
- B Summary of Program Analysis (to be completed where replacement of more than one policy is indicated).

[Original] Page 1 of two pages  
ATTACHMENT A

COMPARISON INFORMATION

I. IMPORTANT CONSIDERATIONS — NOTICE TO POLICYHOLDERS

Name of Insured and date of birth -----

Address of Insured -----

This notice to you is for your protection and is required by Regulation No. R-68-1 of the Washington Insurance Commissioner.

The replacement of existing insurance with new insurance should be effected only after giving careful consideration to the following:

1. It is usually to your advantage to seek the advice of your present insurers regarding the advisability of the contemplated replacement. You are entitled to receive the recommendations from the Home Office, a management representative or your local agent without cost or obligation to you.
2. When a new policy is issued, its acquisition costs must be paid (primarily agent's commissions). Often such costs are higher on a new policy than the current costs of an existing policy.
3. The incontestable and suicide clauses begin anew in a new policy. This could result in a claim under a new policy being denied by the company when the claim would have

been paid under the policy which is being replaced (if it has been in force for at least two years).

4. A new policy usually will be issued at an age higher than that of the existing policy and thus may have a higher gross premium rate.
5. Your present insurance company may be able to make a desired change on terms which would be more favorable to you than if you replaced your existing policy with new insurance.
6. Also, it may not be to your advantage to put the original policy on reduced paid-up insurance or extended term insurance or to borrow on its cash values beyond your ability or expectation to repay in order to have sufficient funds to pay premiums on a new policy in the same or another company.

This attachment is part of Washington State Administrative Regulation WAC 284-30-010 (Insurance Commissioner's Administrative Order R-68-1).

[Original] Page 2 of two pages

II. PROGRAM ANALYSIS

	Existing Policies	Proposed Insurance
A. Policy number and issue date	-----	-----
B. Plans of insurance (Whole Life, etc.)	-----	-----
C. Basic Riders (Decreasing Term, etc.)	-----	-----
D. Other riders (Acc. Death Benefit, etc.)	-----	-----
E. Name of company	-----	-----

Descriptive Information	Current	5	10	Current	5	10
	Policy Yr.	Years Hence	Years Hence	Policy Yr.	Years Hence	Years Hence
1. Face Amount (Re: Lines B and C)	-----	-----	-----	-----	-----	-----
2. Cash Value end of policy year	-----	-----	-----	-----	-----	-----
3. Amount at Risk. (1)-(2)	-----	-----	-----	-----	-----	-----
4. Annual Premium (Re: Lines B and C)	-----	-----	-----	-----	-----	-----
5. Annual Dividend (not guaranteed)*	-----	-----	-----	-----	-----	-----
6. Increase in Cash Value for policy yr.	-----	-----	-----	-----	-----	-----
7. Interest on Cash Value. --% x (2)**	-----	-----	-----	-----	-----	-----
8. Annual Cost of Risk. (4)-(5)-(6)+(7)	-----	-----	-----	-----	-----	-----
9. Cost per \$1,000 of Risk. (8)÷(3)	-----	-----	-----	-----	-----	-----

Descriptive Information	Current Policy Yr.	5 Years Hence	10 Years Hence	Current Policy Yr.	5 Years Hence	10 Years Hence
10. Unexpired duration of						
a. Suicide clause	-----	-----	-----	-----	-----	-----
b. Contestable period	-----	-----	-----	-----	-----	-----
11. Exclusions - war, health, etc.	-----	-----	-----	-----	-----	-----
12. Policies expire (year or age)	-----	-----	-----	-----	-----	-----

Note: The use of the above comparison is not to be construed as the sole basis on which to terminate or continue an existing policy. It is merely an analysis of some of the necessary considerations.

\*Line 5. Dividends are based on the 19... dividend scale. The dividends in this comparison are not to be construed as guarantees or estimates of dividends to be paid in the future. Such dividends will depend on mortality experience, investment earnings and other factors, and are determined each year in the sole discretion of the insurer's board of directors.

\*\*Line 7. Interest on cash values is composed of (a) the guaranteed interest credited to cash values that is included in the "increase in cash values" (Line 6), and (b) the excess interest included in the "annual dividend" (Line 5). Consequently, Line 7 removes this interest so as to determine in Line 9 the cost of the "risk" or term element which may be properly compared with term or other permanent insurance, regardless of when issued.

Effect of Federal Income Tax: Interest on cash values (Line 7) is not currently taxable to the policyholder. Interest on paid up additions purchased by dividends is also not currently taxable to the policyholder, whereas interest on dividends left to accumulate is taxable.

13. The primary reason for the proposed replacement of the existing life insurance is as follows: -----

-----  
 -----  
 -----

(Date) (Signature of Agent)

I hereby acknowledge that the above "Comparison Information" was presented to me in connection with a proposal that my existing insurance be replaced, and I further acknowledge that it was presented to me before I signed any application for proposed new insurance.

(Date) (Signature of Sales Prospect/Applicant)

This attachment is part of Washington State Administrative Regulation WAC 284-30-010.

ATTACHMENT A-1

INSTRUCTIONS FOR COMPLETING ATTACHMENT A, PART II, PROGRAM ANALYSIS

Lines 1 through 9. Include any natural death riders (level, decreasing or increasing term riders, etc.). Do not include accidental death, disability income or premium waiver benefits, etc. If the policy does not show the rate for the accidental death or disability benefits, reduce the

annual premium by the charge made by a comparable insurer for the same benefit in the year the policy was issued. For the proposed insurance, current policy year, 5 years hence and 10 years hence refer to the first, sixth and eleventh policy years respectively.

Line 1. If the face amount varies during the policy year, show the average for that year.

Line 4. Use the annual premium. If not shown in the policy, nor otherwise readily available, increase the semi-annual, quarterly or monthly rate by the appropriate factor used by that insurer or a comparable insurer for the same type of insurance in the year the policy was issued.

Line 7. For nonparticipating policies, enter the guaranteed interest rate (such as 3%) that is specified in the policy for nonforfeiture values, etc. For participating policies, use 4% (approximate average interest rate used in companies' dividend formulae in 1967). This 4% rate earned on cash values consists of (a) the guaranteed interest (at say 2.5%) that is included in Line 6 (the increase in cash values) and (b) the excess interest (at say 1.5%) included in Line 5 (the annual dividend). Consequently, Line 7 removes this interest so as to determine in Line 9 the unit cost of the "risk" or term element which may be properly compared with term or other permanent insurance, regardless of when issued. If cash values are shown in Line 2 for the proposed insurance enter the appropriate interest rate on Line 7 under the current year ( \_\_\_\_\_ % ).

Line 9. Divide the annual cost of risk (Line 8) by the amount at risk (Line 3) expressed in thousands of dollars to determine the cost per \$1,000 of risk.

The comparison information shall not in any way (1) use the values of the existing policies to prepay premiums or to otherwise affect the cost or benefits of the proposed insurance, or (2) use information or projections of separate investments in funds or securities in such a manner so as to infer that they are part of the insurance policy benefits.

Complete Attachment A for each policy and also complete Attachment B (Summary of Program Analysis) if there are two or more existing policies.

This attachment is part of Washington State Administrative Regulation WAC 284-30-010 (Insurance Commissioner's Administrative Order R-68-1).

ATTACHMENT A-2

ILLUSTRATION OF USE OF PROGRAM ANALYSIS METHOD

Assume the following facts with regard to a participating life policy purchased some years ago for which the guaranteed interest rate for cash values is 2.5% and the excess interest rate included in the current year's dividend is 1.5% of the cash value, giving a total interest element of 4% of the cash value.

1. Face Amount . . . . .	\$50,000
2. Cash Value end of policy year . . . . .	10,000
<hr/>	
3. Amount at Risk. (Line 1 - Line 2) . . .	\$40,000
4. Annual Premium . . . . .	1,500
5. Annual Dividend (not guaranteed) . . . .	450
6. Increase in Cash Value for policy year	1,250
7. Interest on Cash Value. 4% x Line 2 . .	400
<hr/>	
8. Annual Cost of Risk. (4)-(5)-(6)+(7)	\$ 200
9. Cost per \$1,000 of Risk. (8)÷(3) . . . .	5

Thus, the interest elements included in Lines 5 and 6 are removed in Line 7 to arrive at the "risk" or term cost, which would otherwise indicate the absurd result of a negative risk cost.

Or assume reducing term insurance (instead of the above policy) was purchased and that the difference in each annual premium has been "invested" in U.S. Series E Bonds on which (1) interest is accrued each year and (2) interest is not currently taxable during accrual, being similar in both respects to the interest guaranteed on cash values of a life insurance policy. In evaluating the cost of such combined insurance and savings program, it is apparent that the accrued bond interest would not reduce or otherwise affect said term premium, as would be confirmed in Lines 8 and 9 of the above program analysis method.

This attachment is part of Washington State Administrative Regulation WAC 284-30-010 (Insurance Commissioner's Administrative Order R-68-1).

ATTACHMENT B

SUMMARY OF PROGRAM ANALYSIS

	Existing Policies	Proposed Insurance
A. Issue dates of policies	-----	-----
B. Plans of insurance (Whole life, etc.)	-----	-----
C. Basic Riders (Decreasing Term, etc.)	-----	-----
D. Other riders (Acc. Death Benefit, etc.)	-----	-----
E. Companies (abbreviate)	-----	-----

Descriptive Information	Current	5	10	Current	5	10
	Policy Yr.	Years Hence	Years Hence	Policy Yr.	Years Hence	Years Hence
1. Face Amount (Re: Lines B and C)	-----	-----	-----	-----	-----	-----
2. Cash Value end of policy year	-----	-----	-----	-----	-----	-----
3. Amount at Risk. (1)-(2)	-----	-----	-----	-----	-----	-----
4. Annual Premium (Re: Lines B and C)	-----	-----	-----	-----	-----	-----
5. Annual Dividend (not guaranteed)*	-----	-----	-----	-----	-----	-----

Descriptive Information	Current	5	10	Current	5	10
	Policy Yr.	Years Hence	Years Hence	Policy Yr.	Years Hence	Years Hence
6. Increase in Cash Value for policy yr.	-----	-----	-----	-----	-----	-----
7. Interest on Cash Value. --% x (2)**	-----	-----	-----	-----	-----	-----
8. Annual Cost of Risk. (4)-(5)-(6)+(7)	-----	-----	-----	-----	-----	-----
9. Cost per \$1,000 of Risk. (8)÷(3)	-----	-----	-----	-----	-----	-----
10. Unexpired duration of						
a. Suicide clause	-----	-----	-----	-----	-----	-----
b. Contestable period	-----	-----	-----	-----	-----	-----
11. Exclusions - war, health, etc.	-----	-----	-----	-----	-----	-----
12. Policies expire (year or age)	-----	-----	-----	-----	-----	-----

Note: The use of the above comparison is not to be construed as the sole basis on which to terminate or continue an existing policy. It is merely an analysis of some of the necessary considerations.

\*Line 5. Dividends are based on the 19\_\_ dividend scale. The dividends in this comparison are not to be construed as guarantees or estimates of dividends to be paid in the future. Such dividends will depend on mortality experience, investment earnings and other factors, and are determined each year in the sole discretion of the insurer's board of directors.

\*\*Line 7. Interest earned on cash values is composed of (a) the guaranteed interest credited to cash values that is included in too "increase in cash values" (Line 6) and (b) the excess interest included in the "annual dividend" (Line 5). Consequently, Line 7 removes this interest so as to determine in Line 9 the cost of the "risk" or term element which may be properly compared with term or other permanent insurance, regardless of when issued.

Effect of Federal Income Tax: Interest earned on cash values (Line 7) is not currently taxable to the policyholder. Interest on paid up additions purchased by dividends is also not currently taxable to the policyholder, whereas interest on dividends left to accumulate is taxable.

-----  
(Date) (Signature of Agent)

I hereby acknowledge that the above "Comparison Information" was presented to me in connection with a proposal that my existing insurance be replaced, and I further acknowledge that it was presented to be [me] before I signed any application for proposed new insurance.

-----  
(Date) (Signature of Sales Prospect/Applicant)

This attachment is part of Washington State Administrative Regulation WAC 284-30-010 (Insurance Commissioner's Administrative Order R-68-1). [Order R-68-10, § 284-30-010, filed 10/25/68; Order R-68-1 (part), § 284-30-010, filed 4/23/68, effective 10/1/68.]

WAC 284-30-100 Title and explanation. (1) This regulation, WAC 284-30-100 through 284-30-200, shall be known and may be cited as the "Revised Replacement Regulation".

(2) Two regulations relating to life insurance replacements have been promulgated by the insurance commissioner:

(a) The first, WAC 284-30-010 (Commissioner's Regulation No. R-68-1), became effective October 1, 1968. It shall not be used in regard to replacements occurring after September 1, 1971.

(b) This Revised Regulation has an effective date of September 1, 1971. It supersedes the earlier regulation and governs all life insurance replacements which occur on and after September 1, 1971. The provisions of this Revised Replacement Regulation may be used by insurers and licensees on a voluntary basis prior to its effective date in lieu of the provisions of WAC 284-30-010. [Order R-71-1, § 284-30-100, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-110 Purpose.** The purpose of this regulation is:

(1) To regulate the acts and practices of insurers and licensees of this office with respect to life insurance replacing life insurance, by implementing RCW 48.30.090, "Misrepresentation of Policies"; RCW 48.30.100, "Dividends Not to be Guaranteed"; and RCW 48.30.180, "Twisting Prohibited".

(2) To protect the interests of the life insurance public by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of life insurance policies; by making available full and clear information on which an applicant for life insurance can make a decision in his own best interest; by reducing the opportunity for misrepresentation and incomplete disclosure in replacement situations; and by precluding unfair methods of competition and unfair practices. [Order R-71-1, § 284-30-110, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-120 Replacement of life insurance defined.** The replacement of life insurance which, as used in this regulation, includes annuity contracts, is defined as any transaction, not exempted in WAC 284-30-130, wherein new life insurance is to be purchased and it is known to the licensee who solicits the application therefor that, as part of the transaction, existing life insurance has been or is likely to be:

- (1) Lapsed or surrendered;
- (2) Converted into paid-up insurance, or continued as extended term insurance or under another form of non-forfeiture benefit;
- (3) Converted otherwise so as to effect a reduction either in the amount of the existing life insurance or in the period of time the existing life insurance will continue in force;
- (4) Reissued with a reduction in amount so that substantial cash values are released; ("substantial cash values" includes, but is not limited to, the release of an amount in excess of fifty percent of the tabular cash value on one or more of the existing policies); or
- (5) Assigned as collateral for a loan or subjected to substantial borrowing of the loan values whether in a single loan or under a schedule of borrowing over a period of time. ("Substantial borrowing" includes all transactions wherein an amount in excess of fifty percent of the tabular cash value is to be borrowed on one or more existing policies.) [Order R-71-1, § 284-30-120, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-130 Exemptions.** This regulation shall not apply when:

(1) The application for the new life insurance is made to the same insurer that issued the existing life insurance and a contractual policy change or conversion privilege is being exercised;

(2) The new life insurance is providing (i) a form of group insurance, or (ii) credit life insurance, or (iii) pension, profit sharing, or other employee benefits qualifying for tax-deductibility of premiums, whose cost is borne in whole or in part thereof by the employer: *Provided*, That full and complete disclosure of all material facts shall be given to the premium payer or administrator of the plan being replaced;

(3) The existing life insurance is a nonconvertible term policy with five years or less to expire and which cannot be renewed; or

(4) No sales agency force is used and all sales material is standard and printed and presented by direct mail: *Provided, however*, That the mail order company shall be required to notify the existing insurance company promptly of the fact that the proposed insured has answered "Yes" to the replacement question in the application, and shall promptly mail to the applicant a copy of Exhibit 2, modified to eliminate references to the Disclosure Statement. [Order R-71-1, § 284-30-130, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-140 Duties of licensees.** Each licensee who solicits an application for life insurance shall:

(1) Obtain with or as a part of each application for life insurance a statement signed by the applicant as to whether such insurance will replace existing life insurance;

(2) Submit to the insurer in connection with each application for life insurance a statement as to whether, to the best of his knowledge, replacement is involved in the transaction;

(3) Where a replacement is involved:

(a) obtain with or as a part of each application a list of all existing life insurance policies proposed to be replaced;

(b) present to the applicant, not later than at the time of taking the application, a completed "Disclosure Statement" signed by the agent and a "Notice to Applicants Regarding Replacement of Life Insurance" in form as described in Exhibits 1 and 2, and leave such forms with the applicant for his records;

(c) have the applicant acknowledge receipt of the completed "Disclosure Statement" and the "Notice to Applicants Regarding Replacement of Life Insurance."

(d) submit with the application to the insurer a copy of any proposal used and the completed "Disclosure Statement" and the name of each insurer which issued any insurance being replaced. [Order R-71-1, § 284-30-140, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-150 Duties of insurers.** Each insurer shall:

(1) Inform its field representatives of the requirements of this regulation;

(2) Require with or as a part of each application for life insurance a statement signed by the applicant as to whether such insurance will replace existing life insurance;

(3) Require in connection with each application for life insurance a statement signed by the licensee soliciting the application as to whether, to the best of his knowledge, replacement is involved in the transaction;

(4) If it receives notice that its existing insurance may be replaced, maintain copies of such notification on its premises for three years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later;

(5) Where a replacement is involved:

(a) require with or as a part of each application a list prepared by the licensee representing, to the best of his knowledge, all of the existing life insurance policies proposed to be replaced;

(b) obtain a copy of any proposal used, the completed "Disclosure Statement," proof of the receipt by the applicant of the "Notice to Applicants Regarding Replacement of Life Insurance" and the name of each insurer whose insurance is being replaced;

(c) immediately notify any insurer whose insurance is being replaced and upon request promptly furnish a copy of any proposal used and the completed "Disclosure Statement";

(d) examine any proposal used and the completed "Disclosure Statement" and ascertain that the latter meets the requirements of this regulation;

(e) maintain copies of any proposal used, the completed "Disclosure Statement", proof of receipt by the applicant of the "Notice to Applicants Regarding Replacement of Life Insurance" and the applicant's signed statement with respect to replacement in its home office for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later. [Order R-71-1, § 284-30-150, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-160 Enforcement.** (1) Violations of the provisions of this regulation shall be grounds for the imposition of enforcement sanctions pursuant to the provisions of RCW 48.02.080 and grounds for disciplinary action against an agent or broker pursuant to RCW 48.17.530 and 48.17.560, and against an insurer pursuant to RCW 48.05.140 and 48.05.185.

(2) Policyholders have the right to replace existing life insurance after indicating in or as a part of applications for new life insurance that such is not their intention; however, patterns of such action by policyholders of the same agent shall be deemed prima facie evidence of the agent's knowledge that replacement was intended in connection with such transactions, and such patterns of action shall be deemed prima facie evidence of the agent's intent to violate this regulation. [Order R-71-1, § 284-30-160, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-170 Forms.** The general formats of the forms set forth in Exhibits 1 and 2 are hereby approved for use as specified in this regulation. The size of

type, spacing, and specific format of the forms shall be at the option of each insurer: *Provided*, That the forms shall be reasonably clear and legible. To the extent that the forms in Exhibits 1 and 2 are not entirely appropriate for replacements involving annuity contracts, the company shall have the responsibility of adapting these forms to fit annuity cases when they arise. [See Exhibits 1 and 2 following § 284-30-200.] [Order R-71-1, § 284-30-170, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-180 Supersedes prior regulation.** As of its effective date, this regulation shall supersede WAC 284-30-010 (Insurance Commissioner's Regulation No. R-68-1). [Order R-71-1, § 284-30-180, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-190 Severability.** If any provision of this regulation or the application thereof to any person or circumstance is held invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby. [Order R-71-1, § 284-30-190, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-200 Effective date.** The effective date of this regulation shall be September 1, 1971: *Provided*, That any insurer or licensee may voluntarily comply with the terms and provisions of the Revised Replacement Regulation at any earlier date, in lieu of compliance with WAC 284-30-010. [Order R-71-1, § 284-30-200, filed 6/15/71, effective 9/1/71.]

**WAC 284-30-990 Exhibit 1—Disclosure statement.**

Exhibit 1 ([Original] Page 1 of 3 - Exhibit 1)

**DISCLOSURE STATEMENT**

Name of Applicant -----  
 Address -----  
 Name of Insured -----  
 if other than Date of  
 Applicant ----- Birth -----

**PART 1**

	Existing Policy	Proposed Policy
Name of Company	-----	-----
Policy Number	-----	X.X.X.X.X
Basic Plan of Insurance	-----	-----
Face Amount of Basic Plan	\$ -----	\$ -----
Issue Age	-----	-----
Effective Date	-----	-----
Suicide Clause Expires	-----	-----
Contestability Clause Expires	-----	-----
War Exclusion (Yes or No)	-----	-----
<b>Death Benefits, Basic Policy</b>		
Currently	\$ -----	\$ -----
5 years hence	\$ -----	\$ -----

	Existing Policy	Proposed Policy
10 years hence	\$ -----	\$ -----
20 years hence	\$ -----	\$ -----
At age 65	\$ -----	\$ -----
If not lifetime coverage, state termination date	-----	-----
Death Benefit of any existing		
Dividend Additions or Accumulations	\$ -----	X X X X X
	\$ -----	X X X X X
<b>Supplementary Benefits, if any Term Rider (current amount)</b>	\$ -----	\$ -----
(Indicate: Decreasing, Level, or Increasing)	-----	-----
Termination Date	-----	-----
Accidental Death Benefit (amt.)	\$ -----	\$ -----
Waiver of Premium (Yes or No)	-----	-----
Disability Income Benefit	\$ ----- monthly to age -----	\$ ----- monthly to age -----
Option to Purchase Additional Insurance (amount)	\$ -----	\$ -----
Other Benefits (explain)	-----	-----

-----  
 ([Original] Page 2 of 3 - Exhibit 1)

<b>Premiums</b>		
Premium, Basic Policy	\$ -----	\$ -----
Premiums, Supplementary Term Rider(s)	\$ -----	\$ -----
*Accidental Death Benefit	\$ -----	\$ -----
*Waiver of Premium	\$ -----	\$ -----
*Disability Income Benefit	\$ -----	\$ -----
Option to Purchase Additional Insurance	\$ -----	\$ -----
Other (explain)	\$ -----	\$ -----
Total Premiums	\$ -----	\$ -----
Premium Frequency	-----	-----
Number of remaining years for premium payments - Basic Plan	-----	-----

\*If premium for benefits is: (a) not separable from basic policy premium, insert "Included" to indicate "Included in basic policy premium", or (b) an aggregate premium, show the aggregate premium.

	Existing Policy	Proposed Policy
<b>Dividends **</b>		
Is Policy Participating?	-----	-----
Annual Dividend (current scale)		
1 year hence	\$ -----	\$ -----

	Existing Policy	Proposed Policy
2 years hence	\$ -----	\$ -----
5 years hence	\$ -----	\$ -----
10 years hence	\$ -----	\$ -----
Total next 10 years	\$ -----	\$ -----

\*\*Dividends are based on the 19\_\_ dividend scale. The dividends shown are not to be construed as guarantees or estimates of dividends to be paid in the future. Dividends depend on mortality experience, investment earnings, and other factors, and are determined each year in the sole discretion of the company's board of directors. The Licensee is responsible for furnishing required dividend information. It is recommended that he obtain this from the company issuing the original insurance. As an alternative, however, he may show dividends on closest comparable policy (using correct amount, age, and duration) from current statistical manuals (interpolating where necessary). It is to be recognized that dividend information under this alternative method, with respect to existing insurance, is not likely to be as accurate as dividend information obtained directly from the company issuing the original insurance.

Source of dividend information used: -----

-----  
 ([Original] Page 3 of 3 - Exhibit 1)

	Existing Policy	Proposed Policy
<b>Tabular Cash Values</b>		
At present	\$ -----	X X X X X
1 year hence	\$ -----	\$ -----
5 years hence	\$ -----	\$ -----
10 years hence	\$ -----	\$ -----
20 years hence	\$ -----	\$ -----
At age 65 (if shown in cash value table)	\$ -----	\$ -----
Cash Value of any existing Dividend Additions or Accumulations (if available from applicant)	\$ -----	X X X X X
Current Policy Indebtedness, if any	\$ -----	X X X X X
Amount of annual loan interest	\$ -----	X X X X X
Rate of loan interest	----- %	----- %

**PART 2**

State why the existing policy or one to which it can be changed will not provide the benefits desired:

State proposed disposition of existing policy:

Advantages of continuing existing policy:

Advantages of replacement:

The proposed replacement will benefit the policyowner primarily for the following reason:

-----  
 Signature of Licensee  
 Date ----- Address -----



I hereby acknowledge that I received the above Disclosure Statement and the Notice to Applicants Regarding Replacement of Life Insurance before I signed the application for the proposed new insurance.

Date -----  
Signature of Applicant

(Instruction to Licensee: If more than one existing policy is involved, use a separate Disclosure Statement for each policy, and complete a separate statement for the proposed policy, summarizing therein, to the extent possible, the information concerning the existing policies set forth on the separate forms. The information required by Part 2 need only be entered on the form containing the summary.) [Exhibit 1 is part of Washington Administrative Code Order R-71-1 (codified as WAC 284-30-990), filed 6/15/71, effective 9/1/71.]

**WAC 284-30-991 Exhibit 2—Notice to applicants regarding replacement of life insurance.**

Exhibit 2

**NOTICE TO APPLICANTS REGARDING REPLACEMENT OF LIFE INSURANCE**

**THIS NOTICE IS FOR YOUR BENEFIT AND IS REQUIRED BY REGULATION**

1. If you are urged to purchase life insurance and to surrender, lapse, or in any other way change the status of existing life insurance, the agent is required to give you this NOTICE and a written, signed DISCLOSURE STATEMENT. This Statement must set forth the pertinent facts of the proposal and the advantages and disadvantages to you of making the change.
2. It is to your advantage to receive the advice of the present life insurance company regarding the proposed replacement or change of existing policies. The life insurance company to whom you are applying for the new policy is required by regulation to advise the home office of the company or companies which sold the existing policy or policies of the proposed replacement. If it is suggested by an agent or employee of your present company that the existing insurance not be replaced, ask the person making the suggestion for a written statement setting forth all the pertinent facts bearing on the advantages of the suggestion.
3. As a general rule, it is not advantageous to drop or change existing life insurance in favor of new life insurance, whether issued by the same or a different insurance company. Some of the reasons it may be disadvantageous are:
  - (a) The amount of the annual premium under an existing policy may be lower than that called for by a new policy having the same, or similar, benefits.
  - (b) Because the initial costs of life insurance policies are charged against the cash value

increases in the earlier policy years, the replacement of an old policy by a new one results in the policyholder sustaining the burden of these costs twice.

- (c) The incontestable and suicide clauses begin anew in a new policy. This could result in a claim under a new policy being denied by the company which would have been paid under the policy which was replaced.
  - (d) Existing policies often have more favorable provisions than new policies in such areas as settlement options and disability benefits.
  - (e) The present insurance company can often make a desired change on terms which would be more favorable than if you replaced existing insurance with new insurance.
4. For the same reasons, it is generally not advantageous to change an existing policy to reduced paid-up or extended term insurance or to borrow against its loan value beyond your expected ability or intention to repay in order to obtain funds for premiums on a new policy.
  5. There may be a situation when a replacement is advantageous. However, for your protection you should receive the comments of the present insurance company before arriving at a decision in this important financial matter.

[Exhibit 2 is part of Washington Administrative Code Order R-71-1 (codified as WAC 284-30-991), filed 6/15/71, effective 9/1/71.]

**Chapter 284-32 WAC**

**PLAN OF OPERATION FOR WASHINGTON INSURANCE GUARANTY ASSOCIATION**

**WAC**

284-32-010	Purpose.
284-32-020	Board of directors.
284-32-030	Officers of board.
284-32-040	Quorum, votes required, proxies.
284-32-050	Annual meetings.
284-32-060	Board's annual meeting.
284-32-070	Meeting after notice of insolvency.
284-32-080	Other meetings.
284-32-090	Expenses of board members.
284-32-100	Official address of association.
284-32-110	Bank accounts, borrowing power.
284-32-120	Board may levy fee.
284-32-130	Contract with servicing facility.
284-32-140	Claim settlements of \$25,000 or more.
284-32-150	Prevention of insolvencies.
284-32-160	Records, reports, audit.
284-32-170	Appeal.
284-32-180	Indemnification.
284-32-190	Conformity to statute.
284-32-200	Effective date.

**WAC 284-32-010 Purpose.** This plan of operation, hereinafter referred to as the Plan, is adopted by the insurance commissioner, hereinafter called the Commissioner, to assure the fair, reasonable, and equitable

administration of the Washington Insurance Guaranty Association, pursuant to chapter 265, Laws of 1971 ex. sess., hereinafter referred to as the Act. [Emergency and Permanent Order R-71-3, § 284-32-010, filed 12/9/71.]

**WAC 284-32-020 Board of directors.** (1) The Washington Insurance Guaranty Association shall exercise its powers through a board of directors.

(a) The initial board of directors shall consist of six member insurers who have been appointed by the Commissioner. The initial appointees, as designated by the Commissioner, will serve staggered terms; two appointees shall serve until their successors are elected and qualified in 1973, two appointees shall serve until their successors are elected and qualified in 1974, and two appointees shall serve until their successors are elected and qualified in 1975.

(b) Succeeding members of the board of directors shall be elected by the member insurers. Such elections shall be conducted in conjunction with the annual meeting of the board of directors and votes shall be cast by the member insurers on a weighted basis using the net direct premium volume for the kinds of insurance specified in section 2 of the Act as the determining factor in the number of votes allowed each member insurer. Each member insurer shall be given at least one vote in electing a member to the board of directors and shall be permitted to vote by proxy. All elected members shall serve for a term of three years and may be reelected for succeeding terms.

(c) The board of directors shall appoint from among their members a nominating committee. This committee shall select nominees to succeed board members whose terms are to expire at the annual meeting. The names of the nominees shall first be certified to the Commissioner and if he does not disapprove within ten days they shall then be provided to the members at least two months prior to the annual meeting. The previously elected board members shall serve until their successors have been duly elected and qualified to serve.

(d) Vacancies on the board of directors shall be filled by appointment by the Commissioner. Such appointees shall serve until the next annual meeting of the board of directors at which time an election will be held as provided in subsection (b) of this section. The term of office for such newly-elected director shall be the remaining term of the replaced director. [Emergency and Permanent Order R-71-3, § 284-32-020, filed 12/9/71.]

**WAC 284-32-030 Officers of board.** The board of directors shall elect a chairman and such other officers as may seem desirable from among the representatives of its members, each to serve for a period of one year or until his successor is elected and qualified. [Emergency and Permanent Order R-71-3, § 284-32-030, filed 12/9/71.]

**WAC 284-32-040 Quorum, votes required, proxies.** (1) A majority of the board shall constitute a quorum

for the transaction of business and the acts of the majority of the board present at a meeting at which a quorum is present shall be the acts of the board: *Provided*, however, that an affirmative vote of five board members is required to:

- (a) approve a contract with a servicing facility,
- (b) levy an assessment or provide for a refund,
- (c) borrow money.

(2) Each board member shall be entitled to one vote and shall be permitted to vote by proxy. [Emergency and Permanent Order R-71-3, § 284-32-040, filed 12/9/71.]

**WAC 284-32-050 Annual meetings.** Beginning in 1973, member insurers and the board shall each hold an annual meeting at the office of the Commissioner on the first Wednesday in February of each year, unless the board, upon proper notice, shall designate some other date or place. [Emergency and Permanent Order R-71-3, § 284-32-050, filed 12/9/71.]

**WAC 284-32-060 Board's annual meeting.** At the board's annual meeting, the board shall:

(1) Review the Plan and consider any amendments it may deem appropriate for adoption by a majority of the board members. Such amendments shall be effective upon written approval of the Commissioner.

(2) Review each outstanding contract with servicing facilities and make any necessary corrections, improvements, or additions.

(3) Review operating expenses and covered claims' costs and determine if an assessment, or a refund of a prior assessment, would be appropriate and, if so, the amount thereof. The board shall levy any assessment or make any such refund in accordance with section 6 of the Act. The board may waive collection from, or refuse refund to, a member insurer when the amount to be assessed or refunded is less than ten dollars.

(4) Review, consider and act on any other matters it may deem appropriate. [Emergency and Permanent Order R-71-3, § 284-32-060, filed 12/9/71.]

**WAC 284-32-070 Meeting after notice of insolvency.** The board shall hold a meeting promptly after receiving notice from the Commissioner of the insolvency of any member insurer. At such meeting or at any subsequent meeting the board shall consider and decide:

(1) Whether such insolvency meets the requirements of the Act and is covered thereby.

(2) What method or methods shall be adopted to pay and discharge covered claims of the insolvent insurer. If the board decides to contract with a servicing facility, the board shall seek to secure the receiver's, liquidator's, or statutory successor's participation in such contract to assist the association in the performance of its legally-imposed duties. The association shall pursue all recoveries permitted to the insolvent insurer.

(3) What immediate action, if any, should be taken to assure the proper retention of the records of the insolvent insurer necessary to the prompt, economical handling by the association of the covered claims. In this effort, the board or a designated servicing facility shall

work with the receiver, liquidator, or statutory successor and seek his approval of having the board, or a designated servicing facility, take direct physical control of that portion of the insolvent insurer's records deemed by the board to be necessary for the discharge of its duties imposed by law.

(4) What persons should be hired by the association to implement and carry out the directives of the board made pursuant to its statutorily-imposed duties.

(5) To what extent and in what manner the board shall review and contest settlements, releases, judgments, orders, decisions, verdicts, and findings to which the insolvent insurer or its insured were parties in accordance with section 6(d) and 16 of the Act.

(6) What assessment, if any, should be levied or whether any refund should be made to member insurers. If such assessment or refund is determined to be necessary, the board shall levy such assessments in accordance with sections 6(1)(c) through 6(2)(g) of the Act. As provided in WAC 284-32-060(3), the board may waive assessments or refuse refunds of amounts less than ten dollars.

(7) What steps permitted by law are deemed necessary and shall take such action as necessary to protect the association's rights against the estate of the insolvent insurer.

(8) Any other matters it may deem appropriate for the proper administration of the association. [Emergency and Permanent Order R-71-3, § 284-32-070, filed 12/9/71.]

**WAC 284-32-080 Other meetings.** The board may schedule such other regular meetings as it may deem appropriate. Special meetings of the board may be called by the chairman, and shall be called at the request of any two board members. Not less than five days' written notice shall be given to each board member of the time, place, and purpose or purposes of any special meeting. Any board member not present may consent in writing to any specific action taken by the board. Any action approved by a majority of the board's members at such special meeting at which a quorum is present, including those consenting in writing, shall be as valid a board action as though authorized at a regular meeting of the board. At such meeting the board may consider and decide any matter it may deem appropriate. [Emergency and Permanent Order R-71-3, § 284-32-080, filed 12/9/71.]

**WAC 284-32-090 Expenses of board members.** Members of the board shall serve without compensation; but they may be reimbursed for necessary expenses incurred by them as members of the board of directors. Such expenses shall be submitted to the board for approval and subsequent payment. [Emergency and Permanent Order R-71-3, § 284-32-090, filed 12/9/71.]

**WAC 284-32-100 Official address of association.** The official address of the association shall be the Office of the Insurance Commissioner, Insurance Building, Olympia, Washington 98504. [Emergency and Permanent Order R-71-3, § 284-32-100, filed 12/9/71.]

**WAC 284-32-110 Bank accounts, borrowing power.** The board may open one or more bank accounts for use in association business. Reasonable delegation of deposit and withdrawal authority to such accounts for association business may be made consistent with prudent fiscal policy. The board may borrow money from any person or organization, including a member insurer, or from an appointed servicing facility as the board may deem appropriate. [Emergency and Permanent Order R-71-3, § 284-32-110, filed 12/9/71.]

**WAC 284-32-120 Board may levy fee.** The board may levy an equal annual fee not exceeding one hundred dollars per member insurer to cover the reasonable costs of administering the association. Such fee shall be credited against any assessment as provided for in section 6 of the Act. [Emergency and Permanent Order R-71-3, § 284-32-120, filed 12/9/71.]

**WAC 284-32-130 Contract with servicing facility.** The board may contract with one or more persons, firms, or corporations to act as servicing facilities should the board receive notice from the Commissioner of the insolvency of a member insurer. The designation of a servicing facility is subject to the approval of the Commissioner, but such designation may be declined by a member insurer. Such contract terms may include:

(1) Terms of payment to the servicing facility;

(2) Extent of authority delegated to the servicing facility.

(3) Procedures for giving the receiver, liquidator, or statutory successor timely notice, sufficient to protect the association's right of subrogation against him, of each and every covered claim not otherwise reported to him.

(4) Procedures contemplated for the handling of covered claims as defined in section 3(4) of the Act. These procedures shall include the right to request from, or offer to, any person arbitration of his covered claim.

(5) Procedures for the printing or preparation of forms necessary for the proper handling of covered claims.

(6) Requirements of bond for faithful performance.

(7) Any other provisions deemed appropriate by the board of directors. [Emergency and Permanent Order R-71-3, § 284-32-130, filed 12/9/71.]

**WAC 284-32-140 Claim settlements of \$25,000 or more.** The board shall review, and approve by majority vote, claim settlements to be made by the association or its agents of twenty-five thousand dollars or more. [Emergency and Permanent Order R-71-3, § 284-32-140, filed 12/9/71.]

**WAC 284-32-150 Prevention of insolvencies.** In order to effectuate the purposes set forth in section 11 of the Act concerning the prevention of insolvencies, the board may develop procedures for discovering and reporting any member that may be insolvent or in a financial condition hazardous to the policyholder's interests or the public interest. No such reports shall be considered public documents. The board of directors, at its annual

meeting, or at any other meeting called for this purpose, may review the insurance code and regulations with a view towards making recommendations to the Commissioner for the detection and prevention of insurer insolvency. The association may develop forms for reporting the history and cause of each insolvency processed and shall maintain a continuing file of such reports. [Emergency and Permanent Order R-71-3, § 284-32-150, filed 12/9/71.]

**WAC 284-32-160 Records, reports, audit.** (1) A written record of the proceedings of each board meeting shall be made. The original of this record shall be retained by the chairman with copies being furnished to each board member, the Commissioner, and, upon written request, any member insurer.

(2) The board shall make an annual report to the Commissioner not later than March 30 of each year. Such report shall include a review of the association's activities and an accounting of its income and disbursements for the past year in a form approved by the Commissioner.

(3) After the appointment of a receiver, liquidator, or statutory successor and the levy of an assessment by the association, the board shall, once every year, appoint certain of the member insurers to serve as an audit committee. The audit committee shall consist of three member insurers, at least two of which shall not have representatives on the board of directors. Such committee shall see to the proper auditing of all the books and records of the association and shall report its findings to the board and the Commissioner. [Emergency and Permanent Order R-71-3, § 284-32-160, filed 12/9/71.]

**WAC 284-32-170 Appeal.** Any member insurer aggrieved by an action of the association shall appeal, in writing, to the board before appealing to the Commissioner. If such member insurer is aggrieved by the final action or decision of the board or if the board does not act on such complaint within thirty days, the member insurer may appeal to the Commissioner, in writing, within thirty days after the action or decision of the board or the expiration of the thirty days. [Emergency and Permanent Order R-71-3, § 284-32-170, filed 12/9/71.]

**WAC 284-32-180 Indemnification.** (1) Any person described in section 5 of the Act shall be indemnified by the association against all expenses incurred in the defense of any action taken or not taken by him in the performance of his powers and duties under the Washington Insurance Guaranty Association Act, unless such person shall be finally adjudged to have committed a breach of duty involving gross negligence, bad faith, dishonesty, willful misfeasance, or reckless disregard of the responsibilities of his office. In the event of settlement before final adjudication, such indemnity shall be provided only if the association is advised by independent counsel that such person did not, in counsel's opinion, commit such a breach of duty.

(2) The expense of such indemnification shall be prorated and paid for by the member insurers in the proportion that the net direct written premiums of each member insurer for the calendar year proceeding commencement of such action, suit or proceeding bears to the net direct written premiums of all member insurers for the preceding calendar year.

(3) This indemnification is intended to operate as a supplement and additional safeguard to, and not in place of, the immunity granted by section 15 of the Act. [Emergency and Permanent Order R-71-3, § 284-32-180, filed 12/9/71.]

**WAC 284-32-190 Conformity to statute.** The Washington Insurance Guaranty Association Act as Written, and as may be amended, is incorporated as part of this plan. [Emergency and Permanent Order R-71-3, § 284-32-190, filed 12/9/71.]

**WAC 284-32-200 Effective date.** This regulation, WAC 284-32-010 through 284-32-200, shall be effective as an emergency regulation on December 10, 1971, and shall be effective as a permanent regulation on January 10, 1972. [Emergency and Permanent Order R-71-3, § 284-32-200, filed 12/9/71.]

#### Chapter 284-34 WAC

#### CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE

##### WAC

284-34-010	Credit life insurance.
284-34-020	Credit accident and health insurance.
284-34-030	Collection and remittance of premiums.
284-34-040	Rate filings and deviations from prima facie rates.
284-34-050	Refunds.
284-34-060	Effective date—Implementation.
284-34-070	Prohibited transactions.

**WAC 284-34-010 Credit life insurance.** (1) Except as hereafter qualified, the following rates for decreasing term life insurance may be considered as establishing "prima facie acceptable rates" for purposes of RCW 48.34.100(2). That is, rates which are filed by any company for the indicated coverage will be deemed to be acceptable without substantiating data if they do not exceed these premium rates.

(a) Single premium of \$ .60 per coverage per \$100 of initial indebtedness repayable in twelve equal monthly installments during the period of coverage.

(b) Monthly premium of \$ .96 per \$1000 of outstanding balances.

(2) Single premium rates for indebtedness repayable in installments other than twelve in number shall be one-twelfth of the above premium rate multiplied by the number of full months in the period of indebtedness. Premium rates for credit life insurance not covered under subsection (1) above shall be the actuarial equivalent of rates in subsection (1).

(3) The foregoing rates are presumed to produce reasonable benefits in relation to premiums only if:

(a) The credit life insurance contract contains no exclusion other than for suicide within two years of the effective date of the insurance, and

(b) Coverage is provided or offered to all debtors regardless of age; or to all debtors not older than the applicable age limit, which shall not be less than attained age sixty-five if such limit applies to the age when the insurance attaches, or not less than attained age sixty-six years if such limit applies to the age on the scheduled maturity date of the debt. [Order 324 (part), filed 9/26/67, effective 1/1/68.]

**WAC 284-34-020 Credit accident and health insurance.** (1) Except as hereafter qualified, the following rates for credit accident and health insurance may be considered as "prima facie acceptable rates" for purposes of RCW 48.34.100(2). That is, rates which are filed by any company for the indicated coverage will be deemed to be acceptable without substantiating data if they do not exceed these premium rates.

If premiums are paid in one sum for the entire duration of the indebtedness the following rates for \$100 of initial indebtedness repayable in indicated number of installments are applicable:

No. of Months Indebt- edness is Re- payable	Nonretro- active 14-day	Benefits 30-day	Retro- active 14-day	Benefits 30-day
6	\$1.00	\$ .40	\$1.80	\$1.30
12	1.40	.80	2.20	1.70
24	2.20	1.60	3.00	2.50
36	3.00	2.40	3.80	3.30
48	3.50	2.90	4.30	3.80
60	3.90	3.30	4.70	4.20
72	4.20	3.60	5.00	4.50
84	4.40	3.80	5.20	4.70

(2) Premiums payable other than on a single premium basis, for indebtedness of monthly durations not shown above or for benefits on a basis different than illustrated above, shall be actuarially consistent with the above rates.

(3) The foregoing rates are presumed to produce reasonable benefits in relation to premiums only if:

(a) The coverage contains no exclusion for pre-existing conditions except for those conditions which manifested themselves to the insured debtor by requiring medical diagnosis or treatment, or would have caused a reasonably prudent person to have sought the medical diagnosis or treatment, within six months preceding the taking of the application for insurance and which caused loss within the six months following effective date of coverage: *Provided, however,* That disability commencing thereafter resulting from such conditions shall be covered.

(b) Coverage is provided or offered to all debtors regardless of age or to all debtors not older than the applicable age limit, which shall not be less than attained age sixty-five if such limit applies to the age when the insurance attaches, or not less than attained age sixty-

six years if such limit applies to the age on the scheduled maturity date of the debt.

(4) Any contract to which the foregoing rates apply may contain provisions excluding or restricting coverage in the event of pregnancy, intentionally and self-inflicted injury, foreign travel or residence, flight in nonscheduled aircraft, or war or military service. (Except in unusual cases such insurance should not be sold to military persons, since their pay continues through periods of disability.) If more restricted coverage is to be provided there must be an appropriate reduction in the foregoing premium standards. [Order 324 (part), filed 9/26/67, effective 1/1/68.]

**WAC 284-34-030 Collection and remittance of premiums.** A creditor may remit and an insurer may collect premiums on either a single premium basis or on a monthly outstanding balance basis, unless the creditor adds identifiable insurance charges or premiums for credit insurance to the total amount of the indebtedness, and makes any direct or indirect finance, carrying, credit or service charges whatever to the debtor in connection with such insurance charge. Under such circumstances, the creditor has loaned the premium or insurance charge to the debtor and the premium on the insurance charge is deemed collected for the insurer as soon as it is added to the indebtedness, in which event the creditor must remit and the insurer must collect on a single premium basis only. A creditor may remit and an insurer may collect on the monthly balance basis if the insurance charge or premium is not added to the amount of the loan and does not constitute part of the outstanding indebtedness, or if no direct or indirect finance, carrying, credit or service charge is made to the debtor in connection with the insurance charge or premium. [Order 324 (part), filed 9/26/67, effective 1/1/68.]

**WAC 284-34-040 Rate filings and deviations from prima facie rates.** (1) Any filing made pursuant to this regulation shall clearly indicate whether the insurer conceives that the rates in said filing fall within the acceptable rates published here or are higher than those published rates.

(2) Requests for higher rates than those established in this regulation for a debtor or a creditor or a class or classes of debtors or creditors will be approved on a showing made by the insurer satisfactory to the commissioner, that because of the nature of the risk, the mortality or morbidity experience which may reasonably be anticipated, will be significantly higher than the average anticipated experience, upon which the applicable rate standard was based. In passing upon such filing, the insurance commissioner will give consideration to available mortality and morbidity data pertaining to the debtors of a creditor or a class or classes of debtors of a creditor, previous experience, if any, for an actuarially credible period on such creditor's debtors, including the experience of any subsidiary or affiliate of the creditor, available age data, and a reasonable rate of expense. Age data and prior experience of the creditor's program should always be submitted.

(3) Commissions or other payments or allowances to creditors, agents or general agents shall never be considered a justification, or any part of a justification, of a higher rate as being reasonable in relation to benefits. [Order 324 (part), filed 9/26/67, effective 1/1/68.]

**WAC 284-34-050 Refunds.** (1) RCW 48.34.110 requires that formulae for the refunding of unearned premiums be filed with and approved by the commissioner. To be approved, a refund formula must provide for a "sum of the digits" (also called the "Rule of 78") refund for single premium straight line decreasing benefit plans, a prorata refund for level benefit plans, or an actuarially acceptable refund of the unearned premiums for other benefit plans. A formula need not provide for a refund or credit if the amount thereof is less than one dollar.

(2) Formulae filed with the commissioner before November 1, 1975, which are not in compliance with this rule are disapproved, and shall not be used with respect to policies or certificates issued or renewed after April 1, 1976. [Order R-75-4, § 284-34-050, filed 9/25/75; Order 324 (part), filed 9/26/67, effective 1/1/68.]

**WAC 284-34-060 Effective date—Implementation.** This regulation shall become effective January 1, 1968. No form or rate approved before the date of this regulation issues shall be used in this state after January 1, 1968, except as hereinafter provided, unless it is resubmitted and reapproved by the commissioner.

All existing group credit insurance contracts on forms required to be filed with the commissioner shall be amended to conform to the requirements of this regulation, or be terminated, not later than the anniversary of the date of issue of the policy next following the effective date of this regulation. [Order 324 (part), filed 9/26/67, effective 1/1/68.]

**WAC 284-34-070 Prohibited transactions.** (1) The following practices, when engaged in by insurers in connection, either directly or indirectly, with a credit life or credit disability insurance program, whether on a group or an individual basis, are hereby defined to be unfair methods of competition, and unfair and deceptive practices in the conduct of the business of insurance, pursuant to, and subject to the enforcement provisions of RCW 48.30.010:

(a) The offer or grant by an insurer or agent to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract.

(b) Agreement by an insurer to deposit with a bank or financial institution money or securities of the insurer with the design or intent that such deposit shall offset or take the place of a deposit of money or securities which otherwise would be required of the creditor by such bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement.

(c) Deposit by an insurer, with a creditor bank or financial institution, of money or securities without interest or at less rate of interest than is currently being paid

by the creditor bank or financial institution to other depositors of like amounts. This prohibition shall not be construed to prohibit the maintenance by an insurer of such demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of business of the insurer.

(d) Any other practice which is followed by an insurer when such practice involves use of the financial resources of the insurer for the principal benefit of the credit institution.

(2) This rule shall become effective January 1, 1977, and the continuation or use of the practices defined in subsection (1) on and after said date is prohibited: *Provided, however,* That any certificate of deposit outstanding on November 16, 1976, may be continued to its maturity date. [Order R-76-5, § 284-34-070, filed 11/16/76.]

### Chapter 284-36 WAC

#### DOMESTIC FRATERNAL MUTUAL PROPERTY INSURERS' AGENTS AND DIRECTORS

##### WAC

284-36-010	Application.
284-36-020	Agent-directors permitted.
284-36-030	Election or service as director prohibited.
284-36-040	Fiduciary responsibilities not affected.

**WAC 284-36-010 Application.** This regulation, WAC 284-36-010 through WAC 284-36-040, shall apply only as to domestic fraternal mutual property insurers, as defined in RCW 48.36.410, and to any domestic stock insurer while it is a subsidiary of such a fraternal mutual property insurer. [Order R 75-5, § 284-36-010, filed 10/22/75.]

**WAC 284-36-020 Agent-directors permitted.** Pursuant to the authority vested in the commissioner under RCW 48.07.130(3) up to one-third (to the nearest whole number) of the members of the Board of Directors of such an insurer may also be insurance agents of the insurer, and be entitled to receive, and receive from the insurer payment of, commissions or other compensation for insurance business written or serviced by them on the same bases as apply to other agents of the insurer in general. Agent-directors qualified under this provision are excepted from the prohibition contained in RCW 48.07.130(1), to the extent of their activities hereby authorized. [Order R 75-5, § 284-36-020, filed 10/22/75.]

**WAC 284-36-030 Election or service as director prohibited.** No individual who is an insurance agent of such an insurer shall be elected or serve as a member of the insurer's Board of Directors if thereby the number of agent-directors of the insurer would exceed one-third (to the nearest whole number) of the total regular membership of the said Board. Temporary vacancies on the Board of Directors resulting from death, disability or resignation of a Director, shall not be deemed to reduce such total regular membership. [Order R 75-5, § 284-36-030, filed 10/22/75.]

**WAC 284-36-040 Fiduciary responsibilities not affected.** Nothing in this regulations shall be deemed to affect the responsibilities of a Director as a fiduciary of the insurer, its members or stockholders, or other legal responsibilities of a Director. [Order R 75-5, § 284-36-040, filed 10/22/75.]

### Chapter 284-40 WAC

#### REGISTRATION OF FUNERAL ESTABLISHMENTS

##### WAC

284-40-010	Purpose.
284-40-020	Effective date and scope.
284-40-030	Definitions.
284-40-040	Registration.
284-40-050	Prearrangement funeral service contract form requirements.
284-40-060	Requirements as to trust funds.
284-40-070	Annual statement requirements.
284-40-080	Renewal of certificate of registration.

**WAC 284-40-010 Purpose.** The purpose of this regulation, WAC 284-40-010 through 284-40-080, is to effectuate the provisions of chapter 163, Laws of 1977 ex. sess. [chapter 48.40 RCW], by establishing rules for the registration of funeral establishments which enter into prearrangement funeral service contracts and the requirements to be met in connection with such contracts. [Order R 77-6, § 284-40-010, filed 11/3/77, effective 12/5/77.]

**WAC 284-40-020 Effective date and scope.** This regulation shall be effective on December 5, 1977, and shall be applicable to all prearrangement funeral service contracts entered into in this state on and after that date. [Order R 77-6, § 284-40-020, filed 11/3/77, effective 12/5/77.]

**WAC 284-40-030 Definitions.** Unless the context clearly requires otherwise, the following definitions shall apply throughout this regulation:

(1) "Prearrangement funeral service contract" means any contract, other than a contract entered into by an insurance company, under which, for a specified consideration paid in advance in a lump sum or by installments, a funeral establishment promises, upon the death of a beneficiary named or implied in the contract, to furnish funeral merchandise or services.

(2) "Funeral merchandise or services" shall mean those services normally performed and merchandise normally provided by funeral establishments including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults, as the term "vault" is defined by RCW 68.04.160.

(3) "Qualified public depository" means a depository defined by RCW 39.58.010 (state banks or trust companies, national banking associations, and certain branches of foreign banks), a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal

savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment.

(4) "Funeral establishment" means a place of business as defined in RCW 18.39.180 and licensed in accordance with chapter 18.39 RCW. [Order R 77-6, § 284-40-030, filed 11/3/77, effective 12/5/77.]

**WAC 284-40-040 Registration.** (1) Before entering into a prearrangement funeral service contract in this state, a funeral establishment shall obtain a certificate of registration from the commissioner. To apply for registration, a funeral establishment must file a request with the commissioner which shall include:

(a) Its name, location and organization date;

(b) The kinds of funeral business it proposes to transact under prearrangement funeral service contracts;

(c) A statement of its financial condition, management and affairs, including, specifically:

(i) A statement as to type of business organization the funeral establishment is, e.g. sole proprietorship, partnership or corporation, and identification of its officers, directors and managers by name and title;

(ii) A balance sheet and a profit and loss statement for the most recently concluded fiscal year, certified by a Certified Public Accountant, a Licensed Public Accountant or the owner, officer or manager of the funeral establishment or a copy of the most recent income tax return filed by the funeral establishment;

(d) The prearrangement funeral contract forms it proposes to use, which need not be in final printed form; however a copy of the final printed form shall be filed with the commissioner before the form is used;

(e) Identification of the qualified public depository it will use with an explanation of the depository's manner of operating and managing the prearrangement funeral service contract trust fund, together with copies of any contract or trust agreement to be entered into in connection with such trust fund, and, if a single trust fund is to be established and maintained with respect to several prearrangement funeral service contracts, a complete explanation of the manner in which records will be maintained to allocate the interest, dividends, increases or accretions and the share of such fund to each contract.

(2) Upon review of the application request, the commissioner may require additional information or explanation prior to registering or refusing to register the funeral establishment.

(3) The request for application shall be accompanied by a check payable to the insurance commissioner in the amount of \$35 as the fee for issuance of the certificate of registration. [Order R 77-6, § 284-40-040, filed 11/3/77, effective 12/5/77.]

**WAC 284-40-050 Prearrangement funeral service contract form requirements.** (1) The prearrangement funeral service contract shall be written in clear, understandable language and shall be printed or typed in easily readable type size and style.

(2) The contract shall:

(a) Identify the purchaser and beneficiary of the contract;

(b) Specify the services and merchandise to be provided, specifying clearly whether the purchase price paid fully pays for such services or is to be applied toward the cost of such services and merchandise when they are provided or any combination thereof;

(c) Set forth the purchase price of the contract and the manner and terms under which it is to be paid;

(d) Contain language which informs the purchaser about the prearrangement funeral service trust fund and the amount to be deposited in the trust fund, and either designate the particular qualified public depository which will be used or provide a means whereby a purchaser or beneficiary may ascertain the depository from time to time;

(e) Contain language which advises the purchaser of the contract that the funds deposited under the contract, plus accruals thereon, shall be withdrawable from the depository under the following circumstances and conditions:

(i) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(ii) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms;

(f) Contain a provision that any purchaser or beneficiary who has procured a prearrangement funeral service contract shall have the right to receive, on demand to the funeral establishment, a refund of the entire amount paid on the contract, together with all interest, dividends, increases, or accretions to the fund;

(g) Contain a provision to the effect that the contract will automatically terminate if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, or for any other reason is unable to fulfill the obligations under the contract; and that, in such event, and upon demand by the purchaser or beneficiary of the contract, the depository of the contract funds will refund to the purchaser or beneficiary all funds deposited under the contract, unless otherwise ordered by a court of competent jurisdiction.

(3) Such contract shall be dated and be executed by the purchaser and by the funeral establishment through its owner, officer or managing agent.

(4) If a retail installment transaction is involved, the contract shall comply with the requirements of chapter 63.14 RCW. [Order R 77-6, § 284-40-050, filed 11/3/77, effective 12/5/77.]

#### **WAC 284-40-060 Requirements as to trust funds.**

(1) A funeral establishment must record with the insurance commissioner the name of each qualified public depository which it uses in connection with its prearrangement funeral service contracts. In the event it

transfers its trust funds from one qualified public depository to another, it shall notify the insurance commissioner of such change at least 15 days in advance of the change.

(2) Until services and merchandise are furnished pursuant to the contract, not more 15% of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment. The funeral establishment must deposit no less than the last 85% of the proceeds received on each prearrangement funeral service contract, excluding sales tax, no later than the twentieth day of the month following receipt of each payment thereon, in a qualified public depository which has been "recorded" with the insurance commissioner pursuant to subsection (1) of this section.

(3) The qualified public depository must agree in writing with the funeral establishment to permit withdrawal of the funds the depository holds under a prearrangement funeral service contract, plus accruals thereon, in accord with the requirements of chapter 48.40 RCW.

(4) A qualified public depository holding funds under a prearrangement funeral service contract must agree with the funeral establishment that the depository will continue to hold the prearrangement funeral service trust fund of the particular funeral establishment even though the funeral establishment may not renew its certificate of registration or has such certificate suspended, revoked or nonrenewed. This shall not prevent a transfer of funds to another qualified public depository.

(5) A purchaser or beneficiary shall be entitled to be informed of the amount of the deposit attributable to his or her prearrangement funeral service contract, and either the funeral establishment or the depository shall provide the purchaser or beneficiary with such information at least once each year. [Order R 77-6, § 284-40-060, filed 11/3/77, effective 12/5/77.]

#### **WAC 284-40-070 Annual statement requirements.**

(1) Each registered funeral establishment shall file with the commissioner annually, before the first day of March, a true and accurate statement of its financial condition, transactions and affairs for the preceding calendar year.

(2) The statement shall include a balance sheet and a profit and loss statement for the preceding calendar year, certified by a Certified Public Accountant, a Licensed Public Accountant or the owner, officer or manager of the funeral establishment.

(3) The funeral establishment shall list any changes in its officers, directors or management which have occurred in the preceding calendar year.

(4) With respect to each prearrangement funeral service contract trust fund, the following information shall be provided:

(a) The name of depository and the account number;

(b) The number of outstanding contracts at the beginning of the year;

(c) The total amount paid in by the holders of such contracts pertinent to the trust fund;

(d) The total amount deposited in the trust account;



(e) The number of new contracts issued during the year;

(f) The amount paid in on such new contracts and the amount deposited in the trust fund for such contracts;

(g) The number of individuals withdrawing from the contracts, the principal amount paid to them and the amount of interest, dividends, or accretions, separately stated, paid to them;

(h) The number of cases where prearrangement funeral merchandise and services covered by the contract have been furnished and delivered and the amount transferred out of the trust fund to the funeral establishment for such services;

(i) The number of outstanding contracts as of the end of the calendar year and the amount being held in trust for such contracts.

(5) The annual statement shall be accompanied by a fee of \$10 payable to the insurance commissioner.

(6) In lieu of compliance with subsections (2) and (4) of this section, a registered funeral establishment that deposits one hundred percent of all moneys received from the sale of prearrangement funeral service contracts in individual trust accounts for each contract, in qualified public depositories, may submit a notarized statement containing the following:

(a) Its certification by its owner, officer or manager that it has deposited one hundred percent of all moneys received from the sale of prearrangement funeral service contracts in individual trust accounts for each contract, in qualified depositories; that all interest, dividends, increases and accretions of whatever nature earned by each trust fund have become a part of the trust fund and kept unimpaired; that adequate records have been maintained with respect to each contract; and that no withdrawal of funds has been made except for services covered by a contract furnished and delivered in accordance therewith or except pursuant to a verified statement filed with the depository that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms;

(b) The name of each depository and account numbers; and

(c) The number of outstanding prearrangement funeral service contracts and the total amount being held in trust for such contracts, as of the end of the calendar year. [Order R 77-6, § 284-40-070, filed 11/3/77, effective 12/5/77.]

**WAC 284-40-080 Renewal of certificate of registration.** The certificate of registration must be renewed by the first day of July of each year. After review of the annual statement required by WAC 284-40-070, the commissioner will renew the certificate of registration upon receipt of the statutory renewal fee of \$15, if the funeral establishment is otherwise qualified for such renewal. [Order R 77-6, § 284-40-080, filed 11/3/77, effective 12/5/77.]

**Chapter 284-44 WAC**  
**HEALTH CARE SERVICES CONTRACTORS—**  
**AGENTS—CONTRACT FORMATS—**  
**STANDARDS**

**WAC**

284-44-010	Title and application.
284-44-020	Agents, licensing or appointment required.
284-44-030	Contract format required.
284-44-040	Contract standards required.
284-44-050	Group certificates to be furnished.
284-44-060	Minimum filing requirements.
284-44-070	Effective date.

**WAC 284-44-010 Title and application.** (1) This regulation, WAC 284-44-010 through 284-44-070, is promulgated pursuant to RCW 48.44.050 and 48.44-.020, and may be cited as the "Washington State Health Care Service Contractor Regulation".

(2) This regulation, chapter 284-44 WAC, shall apply to every health care service contractor (hereinafter referred to as "contractor") registered pursuant to RCW 48.44.015. [Order R-74-1, § 284-44-010, filed 6/4/74, effective 8/1/74.]

**WAC 284-44-020 Agents, licensing or appointment required.** (1) Agent, as used in this rule, means any person appointed or authorized by a health care service contractor to solicit applications for health care service contracts on its behalf.

(2) An agent must be licensed either as a health care service contract agent pursuant to RCW 48.44.045, or as an insurance agent qualified to sell disability insurance pursuant to chapter 48.17 RCW.

(3) In order that the public and the office of the insurance commissioner will know that an agent qualified to sell disability insurance is authorized to represent a health care service contractor, such agent must be appointed by such contractor. Each appointment of a disability agent by a contractor shall be filed with the commissioner on forms provided by the insurance commissioner. Each such appointment shall continue in force until:

(a) the commissioner notifies the contractor that the person so appointed is no longer licensed as an agent by this state; or

(b) the appointment is revoked by the contractor by written notice of such revocation to the agent. In such case, the contractor shall forthwith file a duplicate copy of such notice of revocation with the commissioner. No fee shall be charged for filing such copy.

(4) No person shall act as or hold himself out to be an agent for a health care service contractor unless he is licensed as such, or, if he is licensed as an insurance agent qualified to sell disability insurance, unless he has been appointed an agent by such contractor.

(5) A contractor shall not pay any commission or other compensation to a disability insurance agent until he has been appointed as the agent for such contractor nor to any other agent until he is duly licensed.

(6) An individual who is paid a regular salary by a contractor and who works in the office of the contractor is not deemed to be an agent as hereinbefore defined

even though such person devotes a portion of his work to the incidental taking of applications for health care service contracts, provided no part of his compensation is related to the volume of such applications.

(7) A health care service contract agent's license will be issued to a qualified person, pursuant to RCW 48.44.045, upon application made on forms furnished by the commissioner. The fee for issuance and annual renewal of the license is five dollars. The license expires on the first day of October of each year and may be renewed pursuant to RCW 48.17.500.

(8) In order to determine a new applicant's qualifications and competency to be licensed as a health care service contract agent, the commissioner will require each applicant to take and successfully pass an examination. This requirement does not apply to an applicant who within the two-year period next preceding date of application has been licensed as a disability insurance agent. The examination may also be waived by the commissioner if he is satisfied that the applicant is otherwise qualified and has the necessary competency by reason of prior training or experience.

(9) The commissioner may also require a licensee to take and successfully pass an examination testing his competency as a condition to the continuance or renewal of the license if the licensee has violated any provision of chapter 48.44 RCW or of any regulation promulgated thereunder, or has so conducted his affairs under his license as to cause the commissioner reasonably to desire further evidence of his qualifications. [Order R-74-1, § 284-44-020, filed 6/4/74, effective 8/1/74.]

**WAC 284-44-030 Contract format required.** Every health care service contract issued or renewed after December 31, 1974 shall conform to the following format standards:

(1) The style, arrangement and over-all appearance of the contract shall give no undue prominence to any portion of the text, and every printed portion of the text of the contract and of any endorsements or attached papers shall be plainly printed in type of a style in general use, the size of which shall be uniform and not less than eight-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point. The "text" shall include all printed matter except the name and address of the contractor, name or title of the policy, a brief description if any, and captions and subcaptions.

(2) The exceptions, reductions, and limitations (as those terms are defined in WAC 284-50-030) shall be set forth in the contract either included with the benefit provisions to which they apply, or under an appropriate caption such as "Exclusions," "Exceptions," or "Exceptions and Limitations," except that if an exception, reduction, or limitation specifically applies only to a particular benefit under the contract, a statement of such exception, reduction, or limitation shall be included with the benefit provision to which it applies.

(3) Each form, including riders and endorsements, shall be identified by a form number in the lower left hand corner of the first page thereof.

(4) It shall contain no provision purporting to make any portion of the contractor's charter, rules, constitution, articles of incorporation, or bylaws a part of the contract if the effect of such provision would be to incorporate into the contract exceptions, reductions, limitations or additional charges not otherwise set forth in the contract, unless such portion is set forth in full in the contract, or is attached thereto. [Order R-74-1, § 284-44-030, filed 6/4/74, effective 8/1/74.]

**WAC 284-44-040 Contract standards required.** Every health care service contract issued or renewed after December 31, 1974, shall conform to the following standards:

(1) A contract shall not unreasonably limit benefits to a specified period of time. For example, a provision that services for a particular condition will be covered only for one year without regard to the amount of the benefits paid or provided, is not acceptable. Contracts may, however, limit major medical benefits, supplemental accident benefits, and diagnostic X-ray and laboratory benefits to a reasonable period of time. Benefits may also be limited to a reasonable maximum dollar amount, and, in the case of doctor calls, to a reasonable number of calls over a stated period of time.

(2) A contract must provide that reasonable benefits will be restored upon each renewal of the contract or upon a calendar year basis or that such benefits be reasonably continuous. It is not required that a major medical contract with a lifetime maximum benefit be renewed or restored.

(3) A contract shall not contain any provision which gives or purports to give the contractor, its agent, officer, employee, or designee the authority to make a decision relative to the contract, or coverage or claims thereunder, which is final and binding on the subscriber or beneficiary. That is, in the case of controversy arising out of the contract, a subscriber shall not be denied the right to have the controversy determined by legal or arbitration proceedings.

(4) A contract shall not contain any provision which requires a subscriber to purchase a "monthly treatment order." This prohibits provisions that require a subscriber to pay a special charge, distinct from the pre-payment fees required of all subscribers and coinsurance deductible amounts, in order to obtain advance authorization for treatment or services.

(5) If a contract restricts treatment to services by the contractor's participants or agents, a reasonable provision shall be included to allow emergency treatment consistent with the scope of the benefits regularly provided by the contract.

(6) If a contract provides maternity benefits, there shall be no waiting period for maternity benefits in advance of a conception occurring while the contract is in force.

(7) No contract shall contain any provision that unreasonably restricts or delays the payment of benefits payable under the contract. Delays are not justified because the expenses incurred, or the services received, resulted from an act or omission of a third party.

(8) Every contract shall provide for a grace period of not less than ten days following the due date for the payment of the subscriber's dues, fees, or premium, during which grace period the contract shall continue in force. If payment is not made within the grace period, the contract may be terminated as of the due date of payment rather than at the end of the grace period.

(9) No contract shall contain any provision having the effect of coordinating benefits with other contracts or insurance policies, except that group contracts may provide for coordination of benefits with other group contracts or group insurance policies, and except that any contract may provide for coordination with respect to governmental programs. [Order R-74-1, § 284-44-040, filed 6/4/74, effective 8/1/74.]

**WAC 284-44-050 Group certificates to be furnished.** Every contractor shall issue to the employer, a contract holder, or other person or association in whose name a contract is issued, for delivery to each person covered by a group contract, a certificate setting forth in summary form a statement of the essential features of the contract coverage, and to or for whom the benefits thereunder are payable. If family members are covered, only one certificate need be issued for each family. In the event that contracts are changed or amended, new certificates or a clearly understandable amendment to existing certificates shall be promptly furnished. The style, arrangement, and over-all appearance of the certificate shall not be less favorable than the requirements imposed by WAC 284-44-030. Such "certificate" may be in the form of a comprehensive booklet or brochure. The form of such certificate shall be filed with the insurance commissioner. [Order R-74-1, § 284-44-050, filed 6/4/74, effective 8/1/74.]

**WAC 284-44-060 Minimum filing requirements.** Every contract form and every rate schedule and every modification thereof shall be filed with the insurance commissioner. To the extent reasonably possible, every such filing made after the effective date of this regulation shall include a cover letter in duplicate which provides the information required in subsections (1) through (4) hereof, and shall state the proposed effective date of such filing. The duplicate copy of the letter will be stamped by the commissioner to indicate receipt of the filing and will be returned to the sender.

(1) If a contract filing is entirely new and is not intended to replace or amend an existing contract, the cover letter shall so state. The entire rate charge shall be itemized under the basic components making up the rate charge, such as professional fees, hospital costs, major medical costs, administrative expenses and reserves, if any. The filing shall be accompanied by a statement showing the anticipated ratio of expenditures to income for each of such basic components.

(2) If a filing is a revision of an existing contract the cover letter shall so state, including the form number or other identification of the existing contract to be revised.

Each revision shall be stated separately and the rate charge applicable to such revision shall be stated. The total rate for the revised contract shall be itemized under the basic components making up the rate charge, such as professional fees, hospital costs, major medical costs, administrative expenses and reserves, if any. The filing shall be accompanied by a statement showing with respect to the contract the projected ratio of expenditures to income for each of such basic components and, for the preceding period of time upon which the revised contract rate is based, the dollar amounts of contract income, benefit payments, and administrative expenses paid, and the amount, if any, of income from the contract added to the contractor's reserves or otherwise allocated by the contractor.

(3) If a filing is a rate change only of an existing contract, the cover letter shall so state, including the form number or other identification of the existing contract to which such proposed rate change is applicable. The total rate charge shall be itemized under the basic components making up the rate charge, such as professional fees, hospital costs, major medical costs, administrative expenses and reserves, if any. The filing shall be accompanied by a statement showing the projected ratio of expenditures to income for each of such basic components and, for the preceding period of time upon which the revised rate is based, the dollar amounts of contract income, benefit payments, and administrative expenses paid, and the amount, if any, of income from the contract added to the contractor's reserves or otherwise allocated by the contractor.

(4) In lieu of the minimum requirements prescribed by subsections (1) through (3) above, a health care service contractor which itself performs all or substantially all of the health care services contracted for shall submit such data as will reasonably enable the insurance commissioner to determine whether the benefits provided by contracts or amendments thereto are unreasonable in relation to the amounts charged for such contract or modifications thereto. Information furnished in support of filings shall include:

(a) total receipts versus total costs incurred in serving subscribers of a community-rated plan; or total receipts from specific groups versus total costs incurred in serving such groups; (in either case, "total costs" shall be itemized under their major components, such as hospital expenses, medical staff expenses, general professional expenses, administrative expenses, and reserves, if any); and

(b) a statement of the method used by the contractor for calculating charges to consumers, including the basic schedules, classifications, rules, regulations and rating plans applicable to dues and fees and other periodic charges for such health care service contracts. [Order R-74-1, § 284-44-060, filed 6/4/74, effective 8/1/74.]

**WAC 284-44-070 Effective date.** The effective date of this regulation shall be August 1, 1974. [Order R-74-1, § 284-44-070, filed 6/4/74, effective 8/1/74.]

Chapter 284-48 WAC
BULLETINS

WAC

- 284-48-010 License status of creditors under credit group policies—Commissions.
284-48-020 Authority of agents v. brokers: (1) Brokers of record, (2) marketing substandard auto, (3) rejected life and disability.

WAC 284-48-010 License status of creditors under credit group policies—Commissions.

To: All insurers writing credit life and credit accident and health insurance and all holders of group contracts of such insurance.
From: Lee I. Kueckelhan, Insurance Commissioner
Subject: (1) License status of creditors under credit group policies. (2) Commissions.

I

License Status

An uneven practice has developed in this state with respect to the necessary license status of creditors who hold group master policies of credit life and credit accident and health insurance, insuring the lives and health of those persons buying personal property through credit transactions. Some insurers are insisting that such creditors be licensed for life and disability, and find themselves at a competitive disadvantage with other insurers who apparently are informing the creditors that such licensing is unnecessary.

RCW 48.17.060 provides as follows:

- (1) No person shall in this state act as or hold himself out to be an agent, broker, solicitor, or adjuster unless then licensed therefor by this state.
(2) No agent, solicitor, or broker shall solicit or take applications for, procure, or place for others any kind of insurance for which he is not then licensed.
(3) This section shall not apply with respect to any person securing and forwarding information required for the purposes of group insurance covering the unpaid balance, or remaining payments proposed to be made, in connection with the purchase of merchandise or securities, and where no commission or other compensation is payable on account of such insurance to such person. (Emphasis supplied.)
(4) Any person violating this section shall be liable to a fine of not to exceed five hundred dollars and imprisonment for not to exceed six months for each instance of such violation.

It is clearly inherent in subsection (3) that licensing is necessary for such creditors if any "commission or other compensation" is payable to them on account of such insurance.

We are informed that certain insurers are attempting to avoid the licensing provision by referring to the compensation paid to the creditor as something other than

commission. The term typically applied is "experience refund." The statute makes it clear that the use of the term "commission" is in no way of controlling importance in its application. It expressly says "commission or other compensation." A true experience refund obviously cannot be promised, computed in amount or percentage, or paid, before the term of coverage to which it relates has expired and the experience has occurred and is known. Any compensation to the creditor on an agreed-upon amount or percentage is in no way an experience refund, and its being so labeled is a nullity without legal effect in the construction of the above statute.

This bulletin is notice to its recipients of the position of this office. Unlicensed creditors receiving compensation as described are put on notice that they must be licensed. Because this office does not in any way impute bad faith to creditors who find themselves in violation, we feel it appropriate to extend to them a reasonable period in which to qualify and become licensed. Therefore, it is our intention to wait until December 31, 1965, before invoking any sanctions with respect to such nonlicensing.

II

Commissions

A fundamental purpose of the model law of credit life and credit accident and health insurance (chapter 48.34 RCW) was the establishment of a reasonable relationship between the benefits under such insurance and the premium paid by the insured. This office, following the decision of the National Association of Insurance Commissioners, had adopted the fifty percent loss ratio as a benchmark in determining if such reasonable relationship exists.

It has now come to our attention that some insurers may be paying commissions, however denominated, on credit life and credit accident and health insurance that approach or even exceed fifty percent of premiums. Such commissions obviously cannot be contemplated in an over-all loss ratio of at least fifty percent, since administrative costs, taxes, and other expenses are obviously also involved. If at least fifty percent loss ratio were in fact contemplated, then the paying of commission approaching fifty percent would threaten solvency.

Therefore, you are advised that any rate of compensation to a licensed creditor which exceeds forty percent of premium on any basis or combination of bases will be considered by this office as prima facie evidence that the rate being charged is excessive.

This office will allow until June 30, 1965, for all master policies of group credit life and credit accident and health insurance then in force to comply with this section.

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This office has no ready means of knowing the identities and locations of the various creditors holding master policies of group credit life and credit accident and health insurance in this state. Therefore, we are hereby

asking all authorized insurers that write this form of insurance to bring the contents of this bulletin to the immediate attention of such creditors as may hold their contracts.

DATED at Olympia, Washington, this 23rd day of April, 1965.

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LEE I. KUECKELHAN  
Insurance Commissioner

[Filed May 7, 1965.]

**WAC 284-48-020 Authority of agents v. brokers: (1) brokers of record, (2) marketing substandard auto, (3) rejected life and disability.**

To: All licensed insurance producers.  
From: Lee I. Kueckelhan, Insurance Commissioner  
Re: Authority of agents v. brokers: (1) Brokers of Record, (2) Marketing substandard auto, (3) Rejected life and disability.

Misunderstandings seem to have developed as respects the statutory authority of certain producer licensees of this office. It is hoped that this bulletin can clear up some of the misunderstandings which, when acted upon, amount to violations of statutes. RCW 48.17.020 provides as follows:

"Broker" means any person who, on behalf of the insured, for compensation as an independent contractor, for commission, or fee, and not being an agent of the insurer, solicits, negotiates, or procures insurance or reinsurance or the renewal or continuance thereof, or in any manner aids therein, for insureds or prospective insureds other than himself.

RCW 48.17.060 provides, among other things, that no one can act as or hold himself out to be a broker unless licensed as such. Violation carries a maximum fine of five hundred dollars and maximum imprisonment for six months. In addition, a person violating these statutes would put his existing licenses, if any, in immediate jeopardy under the provisions of RCW 48.17.530.

It is possible to violate the above statutes in many ways. By way of illustration, and not limitation, we set out three particular factual patterns that have come to our attention where there has been apparent noncompliance:

### 1. BROKERS OF RECORD

We have learned of persons licensed only as agents receiving appointments as "brokers of record" for buyers of insurance, and even making up specifications and calling for bids on behalf of their "principals" — the prospective insureds. This has come about, apparently, by a misapplication or misinterpretation of our statute relating to sharing commissions (RCW 48.17.490). That statute merely forbids the sharing of commissions with persons not licensed for the same class of business; it does not and cannot have the effect of automatically making an agent into a broker, and thus render all statutes based on the distinction nugatory.

Only licensed brokers can undertake to represent insureds in seeking insurers for particular lines of insurance in this state. Any document executed by an insured that purports to appoint someone other than a licensed broker as a broker of record on behalf of such insured must be considered void and of no effect. (It is to be noted that referring to such a person as an "agent of record" or "producer of record" or other title cures nothing. The only operative fact is the role played by that person in the insurance transaction. If he purports to act as a representative of the insured in negotiation of insurance with any insurer which has not appointed him he is acting as a broker, and must be licensed as such.)

### 2. SUBSTANDARD AUTOMOBILE MARKETING

Certain carriers do business in this state by appointing only one agent or general agent (referred to hereafter as the "official agent"), which official agent thereafter accepts applications and premiums sent to him by any number of other agents (referred to hereafter as "unofficial agents") around the state who might need a substandard market. Such unofficial agents have no appointment from the insurer involved, yet they usually (1) have in their offices the rate books, literature, and forms of such insurer, (2) are authorized to quote rates to prospective insureds, and (3) are authorized to collect and forward the premiums of the prospective insureds. The public has every reason to believe that a person with such indicia of authority to act on an insurer's behalf has actual authority to do so. The occasion for harm in such an arrangement is obvious and real. We have had instances in which the unofficial agent has defalcated with premium money, and both the official agent and the company have attempted to turn their backs to the matter as if it didn't concern them. This is not in the public interest.

Again, here, the only plausible statutory support for the marketing arrangement appears to be in RCW 48.17.490, relating to the sharing of commissions. That section in no way authorizes the described method of doing business.

The only class of licensee with authority to take applications for such insurance and to collect premiums therefor, without being appointed by the insurer, is the broker. The broker's bond is, indeed, designed to give the protection otherwise lacking. The most any nonappointed agent can do in such a transaction is to refer such prospective insured either to an appointed agent or to a broker, and then share the commission with that appointed agent or broker if the appointed agent or broker wishes to enter into such a commission-sharing arrangement. The nonappointed agent cannot take an operative part in the insurance transaction, cannot solicit the insurance, cannot quote rates, cannot take applications, cannot collect premiums, cannot in any way give the public reason to believe he has authority to represent the company for which he is not appointed.

Because this particular disfavored arrangement is apparently widespread, and has not heretofore been challenged, we feel it is appropriate to allow a reasonable period of time during which corrective action can be taken by licensees and companies that find themselves in

violation. Such corrective action may, in some cases, take the form of agents becoming licensed as brokers. In other cases the insurers may decide to make such de facto agents their appointed agents. Perhaps other companies may simply operate on a referral basis as described above. In any event, it would appear that June 30, 1966, would allow ample time to accomplish whatever changes are required. Cases of violation coming to our attention subsequent to that date will result in appropriate disciplinary action against both the producer and company in violation.

### 3. REJECTED LIFE AND DISABILITY BUSINESS

A life and disability agent must be separately licensed as to each insurer which he holds himself out to be authorized to represent. Only where each company for which such agent is licensed has (1) rejected a particular risk, and (2) has consented to its placement elsewhere, can such agent place such business with another authorized insurer as to which he is not licensed. This is the clear meaning of RCW 48.17.230, which provides as follows:

A licensed agent appointed by an insurer as to life or disability insurances, may, if with the knowledge and consent of such insurer, place any portion of a life or disability risk which has been rejected by such insurer, with other authorized insurers without being licensed as to such other insurers.

Violation of this statute is grounds for disciplinary action against the agent involved. If the life or disability agent desires to place nonrejected business with companies with which he is not licensed, he too must be licensed as a broker.

(A life or disability risk may be considered "rejected", however, if the insurer refuses to write it at standard rates. The legal effect of the insurer's willingness to write the coverage at an increased rate is a counteroffer, not acceptance of the applicant's previous offer.)

NOTE: 1. Nothing in the foregoing bulletin is intended to be construed as prohibiting practices permitted or required by operation of (a) the Washington Automobile Assigned Risk Plan, or (b) RCW 48.15.080, which relates to the placement of surplus lines.  
2. Applications for broker's licenses may be obtained at our Olympia, Seattle, and Spokane offices.

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LEE I. KUECKELHAN  
Insurance Commissioner

DATED at Olympia, Washington, May 6, 1966.

[Filed May 18, 1966.]

[Title 284 WAC—p 70]

## Chapter 284-50 WAC WASHINGTON DISABILITY INSURANCE REGULATIONS

### WAC

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284-50-355	Disability income protection coverage.
284-50-360	Accident only coverage.
284-50-365	Specified disease and specified accident coverage.
284-50-370	Limited benefit health insurance coverage.
284-50-375	Required disclosure provisions, general rules.
284-50-380	Outline of coverage requirements for individual coverages.
284-50-385	Basic hospital expense coverage, outline of coverage.
284-50-390	Basic medical-surgical expense coverage, outline of coverage.
284-50-395	Basic hospital and medical surgical expense coverage, outline of coverage.
284-50-400	Hospital confinement indemnity coverage, outline of coverage.
284-50-405	Major medical expense coverage, outline of coverage.
284-50-410	Disability income protection coverage, outline of coverage.
284-50-415	Accident only coverage, outline of coverage.
284-50-420	Specified disease or specified accident coverage, outline of coverage.
284-50-425	Limited benefit health coverage, outline of coverage.
284-50-430	Requirements for replacement.
284-50-435	Separability.

**WAC 284-50-010 Title and purpose.** (1) This Regulation, WAC 284-50-010 through WAC 284-50-230, shall be known and may be cited as the "Washington Disability Insurance Advertising Regulation."

(2) The purpose of this regulation is to assure truthful and adequate disclosure of all material and relevant information in the advertising of disability insurance (as defined in RCW 48.11.030), health care service contractors' agreements (as defined in RCW 48.44.020),

and health maintenance agreements (as defined in RCW 48.46.020). This purpose is intended to be accomplished by the establishment of, and adherence to, certain minimum standards and guidelines of conduct in the advertising of disability insurance and health care agreements in a manner which prevents unfair competition among insurers and is conducive to the accurate presentation and description to the insurance buying public of a policy or agreement of such insurance offered through various advertising media. RCW 48.30.040, RCW 48.44.110 and RCW 48.46.130 prohibit false, deceptive or misleading advertising in the conduct of the business of insurance and in the conduct of the business of a health care service contractor and a health maintenance organization. Because those statutes establish only general standards, this regulation establishes specific standards for advertisements relating to individual, group, blanket, and franchise disability, insurance and individual and group health care service contractors' agreements and health maintenance agreements. [Order R-76-2, § 284-50-010, filed 3/4/76; Order R-73-1, § 284-50-010, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-020 Applicability.** (1) These rules shall apply to every "advertisement", as that term is hereinafter defined, in WAC 284-50-030, subsections (1), (7), (8) and (9), unless otherwise specified in these rules, intended for presentation distribution, or dissemination in this state when such presentation, distribution, or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, broker, or solicitor as those terms are defined in the insurance code of this state and these rules.

(2) Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer for whom such advertisements are prepared. [Order R-76-2, § 284-50-020, filed 3/4/76; Order R-73-1, § 284-50-020, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-030 Definitions.** (1) An advertisement for the purpose of these rules shall include:

(a) printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards, and similar displays; and

(b) descriptive literature and sales aids of all kinds issued by an insurer, agent, or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(c) prepared sales talks, presentations, and material for use by agents, brokers, and solicitors.

(2) "Policy" for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides disability benefits, or medical, surgical, or hospital expense benefits, whether on an indemnity, reimbursement, service, or prepaid basis, except when issued in

connection with another kind of insurance other than life and except disability, waiver of premium, and double indemnity benefits included in life insurance and annuity contracts.

(3) "Insurer" for the purposes of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health care service contractor, health maintenance organization, and any other legal entity which is defined as an "insurer" in the insurance code of this state and is engaged in the advertisement of a policy as "policy" is defined in this regulation.

(4) "Exception" for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

(5) "Reduction" for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

(6) "Limitation" for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

(7) "Institutional Advertisement" for the purpose of these rules shall mean an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of accident and sickness insurance, or the promotion of the insurer.

(8) "Invitation to Inquire" for the purpose of these rules shall mean an advertisement having as its objective the creation of a desire to inquire further about the product and which is limited to a brief description of the loss for which the benefit is payable, and which may contain:

(a) The dollar amount of benefit payable, and/or

(b) The period of time during which the benefit is payable; provided the advertisement does not refer to cost. An advertisement which specifies either the dollar amount of benefit payable or the period of time during which the benefit is payable shall contain a provision in effect as follows:

"For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the policy may be continued in force, see your agent or write to the company."

(9) "Invitation to Contract" for the purpose of these rules shall mean an advertisement which is neither an invitation to inquire nor an institutional advertisement. [Order R-76-2, § 284-50-030, filed 3/4/76; Order R-73-1, § 284-50-030, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-040 Method of disclosure of required information.** All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statement to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled

with the context of the advertisement so as to be confusing or misleading. [Order R-73-1, § 284-50-040, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-050 Form and content of advertisements.** (1) The format and content of an advertisement to which these rules apply shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the insurance commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.

(2) Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, shall not be used. [Order R-73-1, § 284-50-050, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-060 Deceptive words, phrases, or illustrations prohibited.** (1) No advertisement shall omit information or use words, phrases, statements, references, or illustrations if the omission of such information or use of such words, phrases, statements, references, or illustrations has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(2) No advertisement shall contain or use words or phrases such as, "all"; "full"; "complete"; "comprehensive"; "unlimited"; "up to"; "as high as"; "this policy will help pay your hospital and surgical bills"; "this policy will help fill some of the gaps that Medicare and your present insurance leave out"; "this policy will help to replace your income" (when used to express loss of time benefits); or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy.

(3) An advertisement shall not contain descriptions of a policy limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit, such as, describing a waiting period as a "benefit builder", or stating "even preexisting conditions are covered after two years." Words and phrases used in an advertisement to describe such policy limitations, exceptions, and reductions shall fairly and accurately describe the negative features of such limitations, exceptions, and reductions of the policy offered.

(4) No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility shall use words or phrases such as "extra cash"; "extra income"; "extra pay"; or substantially similar words or phrases because such words and phrases have the capacity, tendency, or effect of misleading the public

into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized.

(5) No advertisement of a hospital or other similar facility confinement benefit shall advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro rata basis relating to the number of days of confinement. When the policy contains a limit on the number of days of coverage provided, such limit must appear in the advertisement.

(6) No advertisement of a policy covering only one disease or a list of specified diseases shall imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

(7) An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to, or substantially similar to the following: "THIS IS A LIMITED POLICY"; "THIS IS A CANCER ONLY POLICY"; "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY".

(8) An advertisement of a direct response insurance product shall not imply that because "no insurance agent will call and no commissions will be paid to agents" that it is "a low cost plan", or use other similar words or phrases because the cost of advertising and servicing such policies is a substantial cost in the marketing of a direct response insurance product.

(9) The phrase "tax free" shall not be used in or as a heading, caption, or title in any advertisement and shall not be unduly or deceptively emphasized, but it may be used in connection with a reasonably complete explanation of the Internal Revenue Service rules applicable to the particular benefits afforded by the policy or policies advertised. [Order R-73-1, § 284-50-060, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-070 Exceptions, reductions, and limitations to be disclosed.** (1) When an advertisement which is an invitation to contract refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

(2) When a policy contains a waiting, elimination, probationary, or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of the preceding subsection (1) shall disclose the existence of such periods.

(3) An advertisement shall not use the words "only"; "just"; "merely"; "minimum"; or similar words or phrases to deceptively describe or unfairly minimize the



applicability of any exceptions and reductions contained in the policy advertised.

(4) When a policy contains a provision permitted by RCW 48.20.192, 48.20.202, or 48.20.212 (Optional standard provisions No. 15, 16, and 17), an advertisement which is subject to the requirements of WAC 284-50-070(1) shall disclose clearly the effect of such provisions. [Order R-76-2, § 284-50-070, filed 3/4/76; Order R-73-1, § 284-50-070, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-080 Preexisting conditions.** (1) An advertisement which is subject to the requirements of WAC 284-50-070 shall, in negative terms, disclose the extent to which any loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.

(2) When a policy does not cover losses resulting from preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This rule prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue". If an insurer requires a medical examination for a specified policy, the advertisement if it is an invitation to contract shall disclose that a medical examination is required.

(3) When an advertisement contains an application form to be completed by the applicant and returned by mail for a direct response insurance product, such application form shall contain a question requiring a response by the applicant or a statement in prominent type, all in capital letters, which reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, such an application form shall contain a question substantially as follows:

"Do you understand that this policy will not pay benefits during the first ----- year(s) after the issue date for a disease or physical condition which you now have or have had in the past?"  YES

Or a statement in prominent type, all capitalized, substantially as follows:

"I UNDERSTAND THAT THE POLICY APPLIED FOR WILL NOT PAY BENEFITS FOR ANY LOSS INCURRED DURING THE FIRST ----- YEAR(S) AFTER THE ISSUE DATE ON ACCOUNT OF DISEASE OR PHYSICAL CONDITION WHICH I NOW HAVE OR HAVE HAD IN THE PAST."

[Order R-76-2, § 284-50-080, filed 3/4/76; Order R-73-1, § 284-50-080, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-090 Disclosure of provisions relating to renewability, cancellability, and termination.** When an

advertisement which is an invitation to contract refers to either a dollar amount or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, it shall disclose the provisions relating to renewability, cancellability, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions. [Order R-76-2, § 284-50-090, filed 3/4/76; Order R-73-1, § 284-50-090, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-100 Testimonials or endorsements by third parties.** (1) Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement is subject to all the provisions of these rules.

(2) If the person making a testimonial, an endorsement, or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement, or appraisal, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement". This rule does not require disclosure of union "scale" wages required by union rules if the payment is actually for such "scale" for television or radio performance. The payment of substantial amounts, directly or indirectly for "travel and entertainment" for filming or recording of television or radio advertisements removes the filming or recording from the category of an unsolicited testimonial and requires disclosure of such compensation. This subsection (2) does not apply to an institutional advertisement which has as its sole purpose the promotion of the insurer.

(3) An advertisement shall not state or imply that any insurer or a policy has been approved or endorsed by an individual, group of individuals, society, association, or other organizations, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement.

(4) When a testimonial refers to benefits received under a policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. [Order R-76-2, § 284-50-100, filed 3/4/76; Order R-73-1, § 284-50-100, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-110 Use of statistics.** (1) An advertisement relating to the dollar amounts of claims paid,

the number of persons insured, or similar statistical information relating to any insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact, and when applicable to other policies or plans shall specifically so state.

(2) An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous", or use words of similar import, or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for an uncommon claim for the policy advertised is misleading and shall not be used.

(3) The source of any statistics used in an advertisement shall be identified in such advertisement. [Order R-73-1, § 284-50-110, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-120 Identification of plan or number of policies.** (1) When a choice of the amount of benefits is referred to, an advertisement which is an invitation to contract shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.

(2) When an advertisement which is an invitation to contract refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies. [Order R-76-2, § 284-50-120, filed 3/4/76; Order R-73-1, § 284-50-120, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-130 Disparaging comparisons and statements.** An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services, or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance. [Order R-73-1, § 284-50-130, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-140 Jurisdictional licensing and status of insurer.** (1) An advertisement which reasonably is expected to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(2) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds or plans of insurance are approved, endorsed, or accredited by any division or agency of this state or the United States Government. [Order R-73-1, § 284-50-140, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-150 Identity of insurer.** (1) The full legal name (and, where required by RCW 48.30.050, the home office) of the actual insurer shall be shown in each

advertisement. The form number or numbers of any specific policy or policies advertised shall be stated in each advertisement which is an invitation to contract. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device in a manner which would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

(2) No advertisement shall use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to combination of words, symbols, or physical materials, used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state, or federal government. [Order R-76-2, § 284-50-150, filed 3/4/76; Order R-73-1, § 284-50-150, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-160 Group or quasi-group implications.** An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless such is the fact. [Order R-73-1, § 284-50-160, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-170 Introductory, initial, or special offers.** (1) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not contain phrases describing an enrollment period as "special", "limited", or similar words or phrases when the insurer uses such enrollment periods as the usual method of advertising disability insurance or health care service contractors' agreements.

(2) An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than three months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application which shall be not less than ten days and not more than forty days from the date that such enrollment period is advertised for the first time. This rule applies to all advertising media, i.e., mail, newspapers, radio, television, magazines, and periodicals, by any one insurer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control. This rule is inapplicable to solicitations of employees or members of a particular group or association which solicitations are being made

under specific provisions of the insurance code for group, blanket, or franchise insurance.

(3) This rule prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact.

(4) The phrase "a particular insurance product" in subsection (2) of this rule means an insurance policy which provides substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for the concurrent or overlapping enrollment periods.

(5) Special awards, such as a "safe driver's award" shall not be used in connection with advertisements of disability insurance. [Order R-73-1, § 284-50-170, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-180 Reduced initial premium rates.**

An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which over-emphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. [Order R-73-1, § 284-50-180, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-190 Statements about an insurer.** An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age, or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation. [Order R-73-1, § 284-50-190, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-200 Advertising file to be maintained.**

Each insurer shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement of its individual policies and typical printed, published, or prepared advertisements of its blanket, franchise, and group policies hereafter disseminated in this or any other state whether or not licensed in such state, with a notation attached to each

such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by the insurance commissioner. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. [Order R-73-1, § 284-50-200, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-210 Violation defined as unfair practice.** A violation of these rules, WAC 284-50-010 through WAC 284-50-230, is hereby defined to be an unfair method of competition and an unfair or deceptive act or practice in the conduct of the business of insurance, pursuant to RCW 48.30.010. [Order R-73-1, § 284-50-210, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-220 Severability provision.** If any section or portion of a section of these rules, or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of the rules, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. [Order R-73-1, § 284-50-220, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-230 Effective date.** The effective date of this regulation, WAC 284-50-010 through 284-50-230, shall be April 1, 1973. [Order R-73-1, § 284-50-230, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-300 Purpose.** The purpose of this regulation, WAC 285-50-300 through 284-50-435, is to implement RCW 48.20.450 through 48.20.470 so as to provide reasonable standardization and simplification of terms and coverages of individual disability insurance policies in order to facilitate public understanding and comparison and to eliminate provisions contained in individual disability insurance policies which may be misleading or confusing in connection either with the purchase of such coverages or with the settlement of claims and to provide for full disclosure in the sale of such coverages. [Order R-76-4, § 284-50-300, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-305 Applicability and scope.** This regulation shall apply to all individual disability insurance policies delivered or issued for delivery in this State on and after the effective date hereof, except it shall not apply to individual policies issued pursuant to a conversion privilege under a policy of group or individual insurance when such group or individual policy includes provisions which are inconsistent with the requirements of this regulation, nor to policies being issued to employees or members as additions to franchise plans in existence on the effective date of this regulation. The requirements contained in this regulation shall be in addition to any other applicable regulations previously adopted. [Order R-76-4, § 284-50-305, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-310 Effective date.** This regulation shall be effective on March 1, 1977, and shall be applicable to all individual disability insurance policies (except those specifically excluded from the scope of this regulation) delivered or issued for delivery in this State on and after such date: *Provided, however,* That policies which have been approved prior to January 1, 1977, and which are not in compliance with this regulation may be issued until May 1, 1977, unless approval is specifically withdrawn pursuant to RCW 48.18.110. [Order R-76-4, § 284-50-310, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-315 Policy definitions.** Except as provided hereinafter, no individual disability insurance policy delivered or issued for delivery to any person in this State shall contain definitions respecting the matters set forth in this section unless such definitions comply with the requirements of this section.

(1) "One period of confinement" means consecutive days of in-hospital service received as an in-patient, or successive confinements due to the same or related causes when discharge from and readmission to the hospital occurs within a period of time not more than 90 days or three times the maximum number of days of in-hospital coverage provided by the policy to a maximum of 180 days.

(2) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

(a) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

- (i) Be an institution operated pursuant to law; and
- (ii) Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly-licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an in-patient basis for which a charge is made; and
- (iii) Provide 24 hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

(b) The definition of the term "hospital" may state that such term shall not be inclusive of:

- (i) Convalescent homes, convalescent, rest or nursing facilities; or
- (ii) Facilities primarily affording custodial, educational or rehabilitary care; or
- (iii) Facilities for the aged, drug addicts or alcoholics; or
- (iv) Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on emergency basis where a legal liability exists for charges made to the individual for such services.

(3) "Convalescent Nursing Homes," "Extended Care Facility," or "Skilled Nursing Facility" shall be defined in relation to its status, facilities and available services.

(a) A definition of such home or facility shall not be more restrictive than one requiring that it:

- (i) Be operated pursuant to law;
- (ii) Be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;
- (iii) Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;
- (iv) Provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and
- (v) Maintains a daily medical record of each patient.

(b) The definition of such home or facility may provide that such term shall not be inclusive of:

- (i) Any home, facility or part thereof used primarily for rest;
- (ii) A home or facility for the aged or for the care of drug addicts or alcoholics; or
- (iii) A home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

(4) "Accident," "Accidental Injury," "Accidental Means," shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

(a) The definition shall not be more restrictive than the following: Injury or injuries, for which benefits are provided, means accidental bodily injuries, sustained by the insured person which are the direct result of an accident, independent of disease or bodily infirmity or any other cause, and which occur while the insurance is in force.

(b) Such definition may provide that injuries shall not include injuries for which benefits are provided under any worker's compensation, employer's liability or similar law, motor vehicle no fault plan, unless prohibited by law, or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment or occupation for wage or profit.

(5) "Sickness" shall not be defined to be more restrictive than the following: Sickness means sickness or disease of any insured person which first manifests itself after the effective date of insurance and while the insurance is in force. A definition of sickness may provide for a probationary period which will not exceed 30 days (or 90 days in a cancer only policy) from the effective date of the coverage of the insured person. The definition may be further modified to exclude sickness or disease for which benefits are provided under any worker's compensation, occupational disease, employer's liability or similar law.

(6) "Preexisting Condition" shall not be defined to be more restrictive than the following: Preexisting condition means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment within a five year period preceding the effective date of the coverage of the insured person or a condition for which medical advice or treatment was

recommended by a physician or received from a physician within a five year period preceding the effective date of the coverage of the insured person.

(7) "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician." The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(8) "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the State.

(9) "Total Disability" is subject to the following:

(a) A general definition of total disability cannot be more restrictive than one requiring the individual to be totally disabled from engaging in any employment or occupation for which he is or becomes qualified by reason of education, training or experience and not in fact engaged in any employment or occupation for wage or profit.

(b) Total disability may be defined in relation to the inability of the person to perform duties but may not be based solely upon an individual's inability to:

(i) Perform "any occupation whatsoever," "any occupational duty" or "any and every duty of his occupation," or

(ii) Engage in any training or rehabilitation program.

(c) An insurer may specify the requirement of the complete inability of the person to perform all of the substantial and material duties of his regular occupation or words of similar import. An insurer may require care by a physician (other than the insured or a member of the insured's immediate family.)

(10) "Partial Disability" shall be defined in relation to the individual's inability to perform one or more but not all of the "major," "important," or "essential" duties of employment or occupation or may be related to a "percentage" of time worked or to a "specified number of hours" or to "compensation." Where a policy provides total disability benefits and partial disability benefits, only one elimination period may be required.

(11) "Residual Disability" shall be defined in relation to the individual's reduction in earnings and may be related either to the inability to perform some part of the "major," "important," or "essential duties" of employment or occupation, or to the inability to perform all usual business duties for as long as is usually required. A policy which provides for residual disability benefits may require a qualification period, during which the insured must be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination

period for total disability. In lieu of the term "residual disability," the insurer may use "proportionate disability" or other term of similar import which in the opinion of the Commissioner adequately and fairly describes the benefit.

(12) "Medicare" shall be defined in any hospital, surgical or medical expense policy which relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or Title I, Part I of Public Laws 89-97, as Enacted by the 89th Congress of the United States of America and popularly known as the ["Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof" or words of similar import.

(13) "Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind. [Order R-76-4, § 284-50-315, filed 10/29/76, effective 3/1/77.]

#### **WAC 284-50-320 Prohibited policy provisions. (1)**

Except as provided in WAC 284-50-315(5), no policy shall contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy subject to the further exception that a policy may specify a probationary or waiting period not to exceed six months for specified diseases or conditions and losses resulting therefrom for hernia, disorder of reproduction organs, varicose veins, adenoids, appendix and tonsils. However, the permissible six months exception shall not be applicable where such specified diseases or conditions are treated on an emergency basis. Accident policies shall not contain probationary or waiting periods.

(2) No policy or rider for additional coverage may be issued as a dividend unless an equivalent cash payment is offered to the policyholder as an alternative to such dividend policy or rider. No such dividend policy or rider shall be issued for an initial term of less than 6 months. The initial renewal subsequent to the issuance of any policy or rider as a dividend shall clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that such renewal is optional with the policyholder, and the premium for such optional insurance shall be clearly and separately stated in the premium notice.

(3) No policy shall exclude coverage for a loss due to a preexisting condition for a period greater than 12 months following policy issue where the application for such insurance does not seek disclosure of prior illness, disease or physical conditions or prior medical care and treatment and such preexisting condition is not specifically excluded by the terms of the policy.

(4) No policy shall provide a Return of Premium benefit except as permitted by this rule. For purposes of this rule, a Return of Premium benefit refers only to that benefit which is equal to a stated portion of the premiums paid for the benefit and the basic coverage decreased by claims paid to the insured under the basic

coverage. A disability income policy may contain a Return of Premium benefit if it meets the following conditions:

(a) Such Return of Premium benefit shall not be reduced by an amount greater than the aggregate of any claims paid under the policy; and

(b) Such benefit shall be provided by rider or the insurer shall provide a similar policy without such benefit to which the insured may convert; and

(c) The premiums for the disability income and Return of Premium benefits shall be shown separately on the schedule page of the policy; and

(d) The policy shall guarantee that it is renewable; and

(e) Submission of the benefit form for approval shall be accompanied by a demonstration that the premium and reserve structure is such that adverse deviations from the assumptions thereunder are minimized; and

(f) The insurer provides the Commissioner with its assurance that it will promptly notify the insured at such time as the return of premium benefit is not payable to the insured because of the aggregate of claims paid under the policy, together with instructions as to the insured's right and manner of converting to the similar policy or to cancel the rider.

(5) Policies providing hospital confinement indemnity coverage shall not contain provisions excluding coverage because of confinement in a hospital operated by the Federal Government for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

(6) No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except with respect to the following:

(a) Preexisting conditions or diseases, except for congenital anomalies of a covered dependent child;

(b) Mental or emotional disorders, alcoholism and drug addiction;

(c) Pregnancy, except for complications of pregnancy, other than for policies defined in WAC 284-50-355;

(d) Illness, treatment or medical condition arising out of:

(i) War or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary thereto;

(ii) Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;

(iii) Aviation;

(iv) With respect to short-term nonrenewable policies, interscholastic sports;

(e) Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part, and reconstructive surgery because of congenital disease or anomaly of a covered dependent child which has resulted in a functional defect;

(f) Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, or chronic foot strain;

(g) Treatment (except emergency treatment for which legal liability exists to the insured for the costs thereof)

provided in a government hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal worker's compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

(h) Dental care or treatment;

(i) Eye glasses, hearing aids and examination for the prescription or fitting thereof;

(j) Rest cures, custodial care, transportation and routine physical examinations;

(k) Territorial limitations;

(l) Specified Disease and Specified Accident policies issued in accord with WAC 284-50-365.

(7) Other provisions of this regulation shall not impair or limit the use of waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases, physical condition or extra-hazardous activity. Where waivers are required as a condition of issuance, renewal or reinstatement, signed acceptance by the insured is required, and use of endorsements is governed by RCW 48.20.015.

(8) Policy provisions precluded in this section shall not be construed as a limitation on the authority of the commissioner to disapprove other policy provisions in accordance with RCW 48.18.110. [Order R-76-4, § 284-50-320, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-325 Minimum standards for benefits.** Minimum standards for benefits are prescribed for the categories of coverage noted in WAC 284-50-330 through 284-50-370. No individual disability insurance policy shall be delivered or issued for delivery in this State which does not meet the required minimum standards for its specified category. Nothing in this Section shall preclude the issuance of any policy combining two or more categories of coverage. [Order R-76-4, § 284-50-325, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-330 General rules as to minimum standards.** (1) A "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" policy shall not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. The policy shall provide that in the event of the insured's death the spouse of the insured, if covered under the policy, shall become the insured.

(2) The terms "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" shall not be used without further explanatory language in accordance with the disclosure requirements of WAC 284-50-375(1). The terms "noncancellable" or "noncancellable and guaranteed renewable" may be used only in a policy which the insured has the right to continue in force by the timely payment of premiums set forth in the policy until the age of 65 or to eligibility for Medicare, during which period the insurer has no right

to make unilaterally any change in any provision of the policy while the policy is in force: *Provided, however*, any accident and health or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60 if, at age 60, the insured has the right to continue the policy in force at least to age 65 while actively or regularly employed. Except as provided above, the term "guaranteed renewable" may be used only in a policy which the insured has the right to continue in force by the timely payment of premiums until the age of 65 or to eligibility for Medicare, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except that the insurer may make changes in premium rates by classes: *Provided, however*, any accident and health or accident only policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from accident or sickness may provide that the insured has the right to continue the policy only to age 60, if at age 60, the insured has the right to continue the policy in force at least to age 65 while actively and regularly employed.

(3) In a family policy covering both husband and wife the age of the younger spouse may be used as the basis for meeting the age and durational requirements of the definitions of "noncancellable" or "guaranteed renewable." However, this requirement shall not prevent termination of coverage of the older spouse upon attainment of the stated age limit (e.g., age 65) so long as the policy may be continued in force as to the younger spouse to the age or for the durational period as specified in said definition.

(4) When accidental death and dismemberment coverage is part of the insurance coverage offered under the contract, the insured shall have the option to include all insureds under such coverage and not just the principal insured.

(5) If a policy contains a status type military service exclusion or a provision which suspends coverage during military service, the policy shall provide, upon receipt of written request, for refund of premiums as applicable to such person on a pro rata basis.

(6) In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits shall provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force.

(7) Policies providing convalescent or extended care benefits following hospitalization shall not condition such benefits upon admission to the convalescent or extended care facility with a period of less than fourteen days after discharge from the hospital.

(8) In accord with RCW 48.20.420, coverage shall continue for any dependent child who is incapable of self-sustaining employment due to mental retardation or physical handicap, on the date that such child's coverage would otherwise terminate under the policy due to the attainment of a specified age limit for children, and who is chiefly dependent on the insured for support and

maintenance. The policy may require that within 31 days of such date the company receive due proof of such incapacity and dependency in order for the insured to elect to continue the policy in force with respect to such child, or that a separate converted policy be issued at the option of the insured or policyholder.

(9) Any policy providing coverage for the recipient in a transplant operation shall also provide reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy, after benefits for the recipient's own expenses have been paid.

(10) A policy may contain a provision relating to recurrent disabilities; provided, however, that no such provision shall specify that a recurrent disability be separated by a period greater than six months.

(11) Accidental death and dismemberment benefits shall be payable if the loss occurs within no less than ninety days from the date of the accident, irrespective of total disability. Disability income benefits, if provided, shall not require the loss to commence less than thirty days after the date of accident, nor shall any policy which the insurer cancels or refuses to renew require that it be in force at the time disability commences if the accident occurred while the policy was in force.

(12) Specific dismemberment benefits shall not be in lieu of other benefits unless the specific benefit equals or exceeds the other benefits.

(13) Any accident only policy providing benefits which vary according to the type of accidental cause shall prominently set forth in the outline of coverage the circumstances under which benefits are payable which are lesser than the maximum amount payable under the policy.

(14) All Medicare supplement policies providing in-hospital benefits only shall include in their provided benefits the initial Part A Medicare deductible as established from time to time by the Social Security Administration. Premiums may be reduced or raised to correspond with changes in the covered deductible.

(15) Termination of the policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. [Order R-76-4, § 284-50-330, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-335 Basic hospital expense coverage.** "Basic Hospital Expense Coverage" is a policy of disability insurance which provides coverage for a period of not less than 31 days during any continuous hospital confinement for each person insured under the policy for expense incurred for necessary treatment and services rendered as a result of accident or sickness for at least the following:

(1) Daily hospital room and board in an amount not less than the lesser of 80% of the charges for semi-private room accommodations or \$50 per day;

(2) Miscellaneous hospital services for expenses incurred for the charges made by the hospital for services

and supplies which are customarily rendered by the hospital and provided for use only during the period of confinement in an amount not less than either 80% of the charges incurred up to at least \$1,000 or ten times the daily hospital room and board benefits; and

(3) Hospital outpatient services consisting of:

(a) Hospital services on the day surgery is performed, and accidental injury, in an amount not less than \$50; and

(b) Hospital services rendered within 72 hours after accidental injury, in an amount not less than \$50; and

(c) X-ray and laboratory tests to the extent that benefits for such services would have been provided to an extent not less than \$100 if rendered to an in-patient of the hospital.

(4) Benefits provided under subsections (1) and (2) of this section may be provided subject to a combined deductible amount not in excess of \$100. [Order R-76-4, § 284-50-335, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-340 Basic medical-surgical expense coverage.** "Basic Medical-Surgical Expense Coverage" is a policy of disability insurance which provides coverage for each person insured under the policy for the expenses incurred for the necessary services rendered by a physician for treatment of an injury or sickness for at least the following:

(1) Surgical services:

(a) In amounts not less than those provided on a fee schedule based on the relative values contained in the State of New York certified surgical fee schedule, or the 1974 California Relative Value Schedule or other acceptable relative value scale of surgical procedures, up to a maximum of at least \$500 for any one procedure; or

(b) Not less than 80% of the reasonable charges.

(2) Anesthesia Services, consisting of administration of necessary general anesthesia and related procedures in connection with covered surgical service rendered by a person licensed to perform such service other than the physician (or his assistant) performing the surgical services:

(a) In an amount not less than 80% of the reasonable charges; or

(b) 15% of the surgical service benefit.

(3) In-hospital medical services, consisting of physician services rendered to a person who is a bed patient in a hospital for treatment of sickness or injury other than that for which surgical care is required, in an amount not less than 80% of the reasonable charges; or \$5 per day for not less than 21 days during one period of confinement. [Order R-76-4, § 284-50-340, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-345 Hospital confinement indemnity coverage.** "Hospital Confinement Indemnity Coverage" is a policy of disability insurance which principally provides daily benefits for hospital confinement on an indemnity basis in an amount not less than \$10 per day and not less than 31 days during any one period of confinement for each person insured under the policy. Additional benefits may be provided in such policy. [Order

R-76-4, § 284-50-345, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-350 Major medical expense coverage.**

(1) "Major Medical Expense Coverage" is a disability insurance policy which provides hospital, medical and surgical expense coverage, to an aggregate maximum of not less than \$10,000; co-payment by the covered person not to exceed 25% of covered charges; a deductible stated on a per person, per family, per illness, per benefit period, or per year basis, or a combination of such bases not to exceed 5% of the aggregate maximum limit under the policy, unless the policy is written to complement underlying hospital and medical insurance in which case such deductible may be increased by the amount of the benefit provided by such underlying insurance, provided the policy containing such deductible meets the criteria of subsection (3) of this rule.

(2) The coverage for each covered person shall be for at least:

(a) Daily hospital room and board expenses, prior to application of the co-payment percentage, for not less than \$50 daily (or in lieu thereof the average daily cost of semi-private room rate in the area where the insured resides) for a period of not less than 31 days during continuous hospital confinement;

(b) Miscellaneous Hospital Services, prior to application of the co-payment percentage, for an aggregate maximum of not less than the greater of \$1,500 or 15 times the daily room and board rate if specified in dollar amounts;

(c) Surgical Services, prior to application of the co-payment percentage, to a maximum of not less than \$600 for the most severe operation with the amounts provided for other operations reasonably related to such maximum amount;

(d) Anesthesia Services, prior to application of the co-payment percentage, for a maximum of not less than 15% of the covered surgical fees or, alternatively, if the surgical schedule is based on relative values, not less than the amount provided therein for anesthesia services at the same unit value as used for the surgical schedule;

(e) In-Hospital Medical Services, prior to application of the co-payment percentage, as defined in WAC 284-50-340(3).

(f) Out of Hospital Care, prior to application of the co-payment percentage, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, and diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician; and

(g) Not fewer than three of the following additional benefits, prior to application of the co-payment percentage, for an aggregate maximum of such covered charges of not less than \$1,000:

(i) In-hospital private duty graduate registered nurse services;

(ii) Convalescent nursing home care;

(iii) Diagnosis and treatment by a radiologist or physio-therapist;



(iv) Rental of special medical equipment, as defined by the insurer in the policy;

(v) Artificial limbs or eyes, casts, splints, trusses or braces;

(vi) Treatment for functional nervous disorders, and mental and emotional disorders;

(vii) Out-of-hospital prescription drugs and medications.

(3) The "variable deductible" permitted by subsection (1) of this rule will not be approved unless the following conditions are met:

(a) The policy containing such deductible shall be either guaranteed renewable as defined in WAC 284-50-330 or be a policy which would otherwise be so guaranteed renewable except that the insurer has reserved the right to terminate all such policies in this state.

(b) The policy containing such deductible shall provide that the policyholder shall have the right to increase the stated or specified deductible on any policy anniversary date or upon the establishment of a benefit period, as defined in the policy.

(c) An insurer intending to market such policies in this state shall provide the commissioner, as part of its filing of policy forms, the following information and assurances:

(i) The outline of coverage used in connection with the policy shall contain a clear and prominent explanation of the effect of the variable deductible with respect to other coverages;

(ii) In the event a claim situation arises where the operation of the deductible provision would result in payment to the insured of an amount less than the total covered expenses for which the insured has not been reimbursed under other policies, the variable deductible feature of the deductible provision will be disregarded to the extent necessary to provide payment for such nonreimbursed expenses, subject to the variable deductible policy's co-insurance percentage;

(iii) An annual notice will be given to the policyholder recommending a review of the policy and the deductible feature in light of any change in the policyholder's other coverage which might affect the policy. A copy of such notice shall be filed with the commissioner prior to use. [Order R-76-4, § 284-50-350, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-355 Disability income protection coverage.** (1) "Disability Income Protection Coverage" is a policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination thereof which:

(a) Provides that periodic payments which are payable at ages after 62 and reduced solely on the basis of age are at least 50% of amounts payable immediately prior to age 62.

(b) Contains an elimination period no greater than:

(i) Ninety days in the case of coverage providing a benefit of one year or less;

(ii) One hundred eighty days in the case of coverage providing a benefit of more than one year but not greater than two years; or

(iii) Three hundred sixty-five days in all other cases during the continuance of disability resulting from sickness or injury.

(c) Has a maximum period of time for which it is payable during disability of at least six months except in the case of a policy covering disability arising out of pregnancy, childbirth, or miscarriage in which case the period for such disability may be one month.

(2) No disability income protection policy shall contain any provision permitting a reduction in benefits because of an increase in Social Security benefits.

(3) This section does not apply to those policies providing business buyout coverage. [Order R-76-4, § 284-50-355, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-360 Accident only coverage.** "Accident Only Coverage" is a policy of accident insurance which provides coverage, singly or combination, for death, dismemberment, disability or hospital and medical care caused by accident. Accidental death and double dismemberment amounts under such a policy shall be at least \$1,000 and a single dismemberment amount shall be at least \$500. [Order R-76-4, § 284-50-360, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-365 Specified disease and specified accident coverage.** (1) "Specified Disease Coverage" is a policy which meets one of the following definitions:

(a) A policy which provides coverage for each person insured under the policy for a specifically named disease (or diseases) with a deductible amount not in excess of \$250 and an overall aggregate benefit limit of no less than \$5,000 and a benefit period of not less than two years for at least the following incurred expenses:

(i) Hospital room and board and any other hospital furnished medical services or supplies;

(ii) Treatment by a legally qualified physician or surgeon;

(iii) Private duty services of a registered nurse (R.N.);

(iv) X-ray, radium and other therapy procedures used in diagnosis and treatment;

(v) Professional ambulance for local service to or from a local hospital;

(vi) Blood transfusions, including expense incurred for blood donors;

(vii) Drugs and medicines prescribed by a physician;

(viii) The rental of an iron lung or similar mechanical apparatus;

(ix) Braces, crutches and wheel chairs as are deemed necessary by the attending physician for the treatment of the disease;

(x) Emergency transportation if in the opinion of the attending physician it is necessary to transport the insured to another locality for treatment of the disease; and

(xi) May include coverage of any other expenses necessarily incurred in the treatment of the disease.

(b) A policy which provides coverage for each person insured under the policy for a specifically named disease (or diseases) with no deductible amount, and an overall aggregate benefit limit of not less than \$25,000 payable

at the rate of not less than \$50 a day while confined in a hospital and a benefit period of not less than 500 days.

(2) "Specified Accident Coverage" is an accident insurance policy which provides coverage for a specifically identified kind of accident (or accidents) for each person insured under the policy for accidental death or accidental death and dismemberment combined, with a benefit amount not less than \$1,000 for accidental death; \$1,000 for double dismemberment and \$500 for single dismemberment. [Order R-76-4, § 284-50-365, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-370 Limited benefit health insurance coverage.** "Limited Benefit Health Insurance Coverage" is any policy which provides benefits that are less than the minimum standards for benefits required under WAC 284-50-335 through 284-50-365, and which the Commissioner approves as being in the public interest. Such policies may be delivered or issued for delivery in this state only if the outline of coverage required by WAC 284-50-425 is completed and delivered as required by WAC 284-50-380. [Order R-76-4, § 284-50-370, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-375 Required disclosure provisions, general rules.** (1) Each individual disability insurance policy shall include a renewal, continuation, or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision shall be appropriately captioned, shall appear or bear a prominent reference thereto on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to by the insured, except if the increased benefits or coverage is required by law.

(3) Where a separate additional premium is charged for benefits provided in connection with a rider or endorsement, such premium charge shall be set forth in the policy.

(4) A policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

(5) If a policy contains any limitations with respect to preexisting conditions such limitations must appear as a separate paragraph of the policy and be labeled as "Pre-existing Condition Limitations."

(6) All accident only policies shall contain a prominent statement on the first page of the policy or attached thereto in either contrasting color or in boldface type at least equal to the size of type used for policy captions, a prominent statement as follows: "This is an accident only policy and it does not pay benefits for loss from sickness."

(7) All policies, except single premium nonrenewable policies, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within ten days of its delivery and to have the premium refunded if after examination of the policy the policyholder is not satisfied for any reason.

(8) If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy as originally issued, such fact must be prominently set forth in the outline of coverage.

(9) If a policy contains a conversion privilege, it shall comply, in substance, with the following: The caption of the provision shall be "Conversion Privilege," or words of similar import. The provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion (including those with respect to the reimposition of a Time Limit on Certain Defenses provision), and the person by whom the conversion privilege may be exercised. The provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose. [Order R-76-4, § 284-50-375, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-380 Outline of coverage requirements for individual coverages.** (1) No individual disability insurance policy subject to this regulation shall be delivered or issued for delivery in this state unless an appropriate outline of coverage, as prescribed in WAC 284-50-385 through 284-50-425 is completed as to such policy and:

(a) Is either delivered with the policy; or

(b) Delivered to the applicant at the time application is made and acknowledgment of receipt or certification of delivery of such outline of coverage is provided to the insurer.

(2) If an outline of coverage was delivered at the time of application and the policy is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy must accompany the policy when it is delivered and contain the following statement, in no less than twelve point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is *not* identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued." In addition, the insurer shall comply with the provisions set forth in RCW 48.20.015.

(3) The appropriate outline of coverage for policies providing hospital coverage which only meets the standards of WAC 284-50-335 shall be that statement contained in WAC 284-50-385. The appropriate outline of

coverage for policies providing coverage which meets the standards of both WAC 284-50-335 and 284-50-340 shall be the statement contained in WAC 284-50-395. The appropriate outline of coverage for policies providing coverage which meets the standards of both WAC 284-50-335 and 284-50-350 or WAC 284-50-340 and 284-50-350 or WAC 284-50-335, 284-50-340, and 284-50-350 shall be the statement contained in WAC 284-50-405.

(4) In any case where the prescribed outline of coverage is inappropriate for the coverage provided by the policy, an alternate outline of coverage shall be submitted to the commissioner for prior approval. [Order R-76-4, § 284-50-380, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-385 Basic hospital expense coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-335.

(COMPANY NAME)  
BASIC HOSPITAL EXPENSE COVERAGE –  
OUTLINE OF COVERAGE

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Basic Hospital Expense Coverage** – Policies of this category are designed to provide to persons insured coverage for hospital expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, and hospital outpatient services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for physicians or surgeons fees or *unlimited* hospital expenses.

(3) (A brief *specific* description of the benefits, including dollar amounts and number of days duration where applicable, contained in *this policy*, in the following order:

- (a) Daily hospital room and board;
- (b) Miscellaneous hospital services;
- (c) Hospital outpatient services; and
- (d) Other benefits, if any.)

(NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change

premiums.) [Order R-76-4, § 284-50-385, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-390 Basic medical-surgical expense coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-340.

(COMPANY NAME)  
BASIC MEDICAL-SURGICAL EXPENSE  
COVERAGE  
OUTLINE OF COVERAGE

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Basic Medical-Surgical Expense Coverage** – Policies of this category are designed to provide to persons insured coverage for medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for hospital expenses or unlimited medical-surgical expenses.

(3) (A brief *specific* description of the benefits, including dollar amounts and number of days duration where applicable, contained in *this policy*, in the following order:

- (a) Surgical services;
- (b) Anesthesia services;
- (c) In-hospital medical services; and
- (d) Other benefits, if any.

(NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-390, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-395 Basic hospital and medical surgical expense coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-335 and 284-50-340.

(COMPANY NAME)  
BASIC HOSPITAL AND MEDICAL SURGICAL  
EXPENSE COVERAGE  
OUTLINE OF COVERAGE

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Basic Hospital and Medical Surgical Expense Coverage** – Policies of this category are designed to provide, to persons insured, coverage for hospital and medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, hospital outpatient services, surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for *unlimited* hospital or medical-surgical expenses.

(3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in *this policy*, in the following order:

- (a) Daily hospital room and board;
- (b) Miscellaneous hospital services;
- (c) Hospital outpatient services;
- (d) Surgical services;
- (e) Anesthesia services;
- (f) In-hospital medical services; and
- (g) Other benefits, if any.

(NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-395, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-400 Hospital confinement indemnity coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-345.

(COMPANY NAME)  
HOSPITAL CONFINEMENT INDEMNITY  
COVERAGE  
OUTLINE OF COVERAGE

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is,

therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Hospital Confinement Indemnity Coverage** – Policies of this category are designed to provide, to persons insured, coverage in the form of a fixed daily benefit during period of hospitalization resulting from a covered accident or sickness, subject to any limitations set forth in the policy. Such policies do not provide any benefits other than the fixed daily indemnity for hospital confinement and any additional benefit described below.

(3) (A brief *specific* description of the benefits contained in *this policy*, in the following order:

- (a) Daily benefit payable during hospital confinement; and
- (b) Duration of benefit described in (a).
- (c) Any benefits provided in addition to the daily hospital benefit.

(NOTE: The above description of benefits shall be stated clearly and concisely.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-400, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-405 Major medical expense coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-350.

(COMPANY NAME)  
MAJOR MEDICAL EXPENSE COVERAGE  
OUTLINE OF COVERAGE

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Major Medical Expense Coverage** – Policies of this category are designed to provide, to persons insured, coverage for major hospital, medical, and surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, surgical services, anesthesia services, in-hospital medical services, and out of hospital care subject to any deductibles, co-payment provisions, or other limitations which may be set forth in the policy. *Basic* hospital or *basic* medical insurance coverage is not provided.

(3) (A brief *specific* description of the benefits, including dollar amounts, contained in *this policy*, in the following order:

- (a) Daily hospital room and board;

- (b) Miscellaneous hospital services;
- (c) Surgical services;
- (d) Anesthesia services;
- (e) In-hospital medical services;
- (f) Out of hospital care;
- (g) Maximum dollar amount for covered charges; and
- (h) Other benefits, if any.

(NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-405, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-410 Disability income protection coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-355.

(COMPANY NAME)  
**DISABILITY INCOME PROTECTION  
 COVERAGE  
 OUTLINE OF COVERAGE**

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Disability Income Protection Coverage** – Policies of this category are designed to provide, to persons insured, coverage for disabilities resulting from a covered accident or sickness, subject to any limitations set forth in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major-medical expenses.

(3) (A brief *specific* description of the benefits contained in *this policy* :

**NOTE:** The above description of benefits shall be stated clearly and concisely.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-410, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-415 Accident only coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-360.

(COMPANY NAME)  
**ACCIDENT ONLY COVERAGE  
 OUTLINE OF COVERAGE**

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Accident Only Coverage** – Policies of this category are designed to provide, to persons insured, coverage for certain losses resulting from a covered accident *ONLY*, subject to any limitations contained in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major-medical expenses.

(3) (A brief *specific* description of the benefits contained in *this policy* :

**NOTE:** The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described. Proper disclosure of benefits which vary according to accidental cause shall be made in accordance with WAC 284-50-325(13) of this Regulation.)

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-415, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-420 Specified disease or specified accident coverage, outline of coverage.** An outline of coverage in substantially the following form, shall be issued in connection with policies meeting the standards of WAC 284-50-365.

(COMPANY NAME)  
 (SPECIFIED DISEASE) (SPECIFIED ACCIDENT)  
**COVERAGE  
 OUTLINE OF COVERAGE**

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **(Specified Disease) (Specified Accident) Coverage** – Policies of this category are designed to provide, to persons insured, restricted coverage paying benefits ONLY when certain losses occur as a result of (specified diseases) or (specified accidents.) Coverage is not provided for basic hospital, basic medical-surgical, or major-medical expenses.

(3) (A brief *specific* description of the benefits, including dollar amounts, contained in *this policy*: [.]

**NOTE:** The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits which vary according to accidental cause shall be made in accordance with WAC 284-50-325(13).

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-420, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-425 Limited benefit health coverage, outline of coverage.** An outline of coverage, in substantially the following form, shall be issued in connection with policies which do not meet the minimum standards of WAC 284-50-335 through 284-50-365.

(COMPANY NAME)  
LIMITED BENEFIT HEALTH COVERAGE  
OUTLINE OF COVERAGE

(1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) **Limited Benefit Health Coverage** – Policies of this category are designed to provide, to persons insured, limited or supplemental coverage.

(3) (A brief specific description of the benefits, including dollar amounts, contained in this policy.)

**NOTE:** The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits which vary according to accidental cause shall be made in accordance with subsection (13) of WAC 284-50-330.

(4) (A description of any policy provisions which exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (3) above.)

(5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.) [Order R-76-4, § 284-50-425, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-430 Requirements for replacement.**

(1) Application forms shall include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other disability insurance presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

(2) Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent shall furnish the applicant, prior to issuance or delivery of the policy, the notice described in subsection (3) of this section. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant upon issuance of the policy, the notice described in subsection (4) of this section. In no event, however, will such a notice be required in the solicitation of the following types of policies: accident only and single premium nonrenewable policies.

(3) The notice required by subsection (2) of this section for an insurer, other than a direct response insurer, shall provide, in substantially the following form:

NOTICE TO APPLICANT REGARDING  
REPLACEMENT  
OF ACCIDENT AND SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by           (Company Name)           Insurance Company. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have, (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.
3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your

policy has never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby. [Order R-76-4, § 284-50-435, filed 10/29/76, effective 3/1/77.]

The above "Notice to Applicant" was delivered to me on:

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(Date)

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(Applicants' Signature)

(4) The notice required by subsection (2) of this section, for a direct response insurer, shall be as follows:

**NOTICE TO APPLICANT REGARDING  
REPLACEMENT  
OF ACCIDENT AND SICKNESS INSURANCE**

According to (your application) (information you have furnished) you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by (Company Name). Your new policy provides 10 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have, (preexisting conditions) may not be immediately or fully covered under the new policy, whereas a similar claim might have been payable under your present policy.
2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.
3. (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within 10 days if any information is not correct and complete, or if any past medical history has been left out of the application.

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(Company Name)

(5) The required notice may be modified if preexisting conditions are covered under the new policy. [Order R-76-4, § 284-50-430, filed 10/29/76, effective 3/1/77.]

**WAC 284-50-435 Separability.** If any provision of this regulation or the application thereof to any person