

**WSR 21-19-138
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2021-11—Filed September 21, 2021, 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-065.

Title of Rule and Other Identifying Information: Actuarial Designations.

Hearing Location(s): On Tuesday, November 9, 2021, at 9:30 a.m., Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website here <https://www.insurance.wa.gov/actuarial-designations-r-2021-11>. Due to the COVID-19 public health emergency, this meeting will be held via Zoom platform.

Date of Intended Adoption: November 10, 2021.

Submit Written Comments to: Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109, by November 8, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email MelanieW@oic.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OIC needs to create a rule in conformance with the National Association of Insurance Commissioners (NAIC) recent (C) committee announcement of the "NAIC-Accepted Actuarial Designation" establish in 2019. The Society of Actuaries (SOA) has asked OIC to revise this regulation to permit actuaries with other NAIC-Accepted Actuarial Designations to be considered a qualified actuary.

The proposed rule will provide guidance regarding NAIC-Accepted Actuarial Designations. The NAIC has updated the requirements as of 2019 and the proposed rule conforms to these updated requirements. The existing designations require an actuary to be a member of the Casualty Actuarial Society (CAS). The new designations are as follows:

- Fellow of the CAS having passed the United States version of Exam 6.
- Associate of the CAS having passed Exam 7 and the United States version of Exam 6.
- Fellow of the SOA including completion of the general insurance track and these exams: The United States version of the Financial and Regulatory Environment Exam and the Advanced Topics in General Insurance Exam.

Reasons Supporting Proposal: The proposed rule will provide guidance regarding NAIC-Accepted Actuarial Designations. The NAIC has updated the requirements as of 2019 and the proposed rule conforms to these updated requirements.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.073, 48.05.383.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Simon Casson, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7038; Implementation: Molly Nollette, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000;

and Enforcement: Charles Malone, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. OIC has determined that under RCW 34.05.328 (5)(b)(iii), this rule will adopt or incorporate, one or more of the following without change; federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, items as referenced by Washington state law, national consensus codes that generally establish industry standards. The material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule and is exempt from RCW 34.05.328 (1)(c).

This rule conforms with the generally established industry standard set by the NAIC as seen in the Annual Statement Instructions. Under RCW 34.05.328 (5)[(b)](iii), this rule is exempt from a cost-benefit analysis as it adopts national consensus codes that generally establish industry standards, those being the standards set by the NAIC.

OIC determines that this rule is exempt from cost-benefit analysis requirements.

Explanation of exemptions: Chapter 19.85 RCW states that "... an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹ ..." The small business economic impact statement (SBEIS) must include "... a brief description of the reporting, record-keeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements ... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²."

¹ RCW 19.85.030 <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>.

² RCW 19.85.040 <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>.

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(c), it incorporates existing rules/statutes [statutes] by reference.

This rule conforms with the generally established industry standard set by the NAIC as seen in the Annual Statement Instructions. Under RCW 34.05.310 (4)(c), this rule is exempt from an SBEIS as it adopts national consensus codes that generally establish industry standards, those being the standards set by the NAIC.

OIC determines that this rule is exempt from SBEIS requirements.

September 21, 2021
Mike Kreidler
Insurance Commissioner

OTS-3294.1

AMENDATORY SECTION (Amending WSR 14-15-149, filed 7/23/14, effective 8/23/14)

WAC 284-07-060 Statement of actuarial opinion. (1) For purposes of this section "insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2) (a) Each insurer must include with its annual statement, a statement from a qualified actuary, as defined in WAC 284-05-060, or as defined in subsection (4) of this section for domestic property and casualty insurers, or as defined in subsection (5) of this section for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW entitled "Statement of Actuarial Opinion," setting forth the actuary's opinion relating to the insurer's reserves and other actuarial items, prepared in accordance with the appropriate *Annual Statement Instructions and Accounting Practices and Procedures Manuals* adopted by the National Association of Insurance Commissioners. If an exemption is allowed by the *Annual Statement Instructions* and is approved by the domiciliary commissioner, an insurer shall be exempt from this requirement (unless the commissioner of Washington makes a specific finding, by order, bulletin, letter, or otherwise, that for a specific insurer, or one or more insurers, company compliance is necessary to carry out the commissioner's statutory responsibilities). A certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized.

(b) After December 31, 2014, statements of actuarial opinion for all domestic and foreign insurers must be filed electronically with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. This includes the statement of actuarial opinion for the year ended December 31, 2014. Insurers must electronically transmit the statement of actuarial opinion, as described in (a) of this subsection, in PDF or other format as noted on the commissioner's website. The commissioner has the discretion to allow an insurer to file a statement of actuarial opinion electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the statement of actuarial opinion is due.

(c) To comply with requirements that statements of actuarial opinion must be signed by the actuary, an insurer may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signature in PDF format as noted on the commissioner's website. This electronically filed document must contain a legally binding signature of the actuary and any person providing supporting documentation.

(3) This section does not relieve an insurer from its obligation to comply with other requirements of Titles 48 RCW and 284 WAC.

(4) With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

(a) A ~~((member in good standing of the Casualty Actuarial Society))~~ person who meets the basic education, experience, and continuing education requirements of the qualification standards promulgated by the American Academy of Actuaries, has obtained and maintains an accepted actuarial designation prescribed by the *Annual Statement Instructions*, and is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct and U.S. Qualification Standards promulgated by the American Academy of Actuaries, and participates in the Actuarial Board for Counseling and Discipline when its association members are practicing in the U.S.; or

(b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner, as prescribed by the *Annual Statement Instructions*.

(5) With respect to statements of actuarial opinion for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements the qualified actuary must be:

(a) A member in good standing of the American Academy of Actuaries;

(b) A person recognized by the American Academy of Actuaries as qualified for such actuarial evaluation; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner. In such a case, the health care service contractor or health maintenance organization must request approval at least ninety days prior to the filing of its annual statement.

[Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-060, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 02-21-120 (Matter No. R 2002-07), § 284-07-060, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-060, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 93-07-020 (Order R 93-1), § 284-07-060, filed 3/8/93, effective 4/8/93.]