

WSR 23-15-109
EXPEDITED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2023-03—Filed July 19, 2023, 8:18 a.m.]

Title of Rule and Other Identifying Information: Removing language referencing commercial property insurers and the commissioner's authority to increase the value of mitigation goods and services.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Recent passage of SSB 5720 (2023) amends RCW 48.18.558 and 48.19.530 to no longer exclude commercial property insurers from providing goods and services intended to reduce the probability of loss as part of an insurance policy. Additionally, SSB 5720 amends RCW 48.18.559 to remove the commissioner's rule-making authority to increase the value of risk mitigation goods and services.

The purpose of this rule is to align existing rule language including WAC 284-33-005, 284-33-010, and 284-33-030 with newly amended RCW 48.18.558, 48.18.559, and 48.19.530.

Updating existing rule language will clarify that commercial property insurers can provide up to \$7,500.00, or 10 percent of the annual policy premium, whichever is greater, per 12-month period in certain goods and services to reduce the probability of loss.

There are no anticipated effects due to the changes to existing rules.

Reasons Supporting Proposal: Currently, WAC 284-33-005, 284-33-010, and 284-33-030 are not aligned with newly amended RCW 48.18.558, 48.18.559, and 48.19.530. Washington state insurance statutes allow for commercial property insurers to provide risk mitigation goods and services as part of property insurance policies while Washington state regulations do not. This rule proposal will clarify [clarify] that commercial property insurers can provide risk mitigation goods and services as part of a property insurance policy.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.559.

Statute Being Implemented: RCW 48.18.558, 48.18.559, and 48.19.530.

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: Andrew Davis, Insurance Building, Capitol Campus, 360-725-7170; Implementation: Ned Gaines, 5000 Building, Tumwater, 360-725-7117; and Enforcement: Charles Malone, 5000 Building, Tumwater, 360-725-7050.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited adoption of WAC 284-33-005, 284-33-010, and 284-33-030 is appropriate because the content of the rule is explicitly and specifically dictated by statute.

RCW 48.18.558 and 48.19.530 both provide that all property insurers are permitted to provide risk mitigation goods and services as part of property insurance policies because there is no longer an explicit exclusion for commercial property insurers. Additionally, RCW 48.18.559 describes in detail when the commissioner has rule-making authority necessary to implement RCW 48.18.588 [48.18.558] and

48.19.530. The commissioner no longer has authority to increase the value of goods and services because prior language referencing this authority has been removed from RCW 48.18.559.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Andrew Davis, Office of the Insurance Commissioner, 302 Sid Snyder Avenue S.W., Olympia, WA 98504, phone 360-725-7036, fax 360-586-3109, email rulescoordinator@oic.wa.gov, www.insurance.wa.gov, AND RECEIVED BY October 2, 2023.

July 19, 2023
Mike Kreidler
Insurance Commissioner

OTS-4749.1

AMENDATORY SECTION (Amending WSR 18-24-084, filed 12/3/18, effective 1/3/19)

WAC 284-33-005 Definition((s)). The definition((s)) in this section apply throughout this chapter unless the context clearly requires otherwise:

~~((1))~~ A "risk reduction program" means a program by a property insurance company to reduce either the probability of loss or extent of loss, or both, from a covered event as described in RCW 48.18.558(1) by supplying its named insured with either goods or services, or both, as described in WAC 284-33-030(1).

~~((2) "Commercial property insurance" means insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity for the line of property insurance as defined in RCW 48.11.040.)~~

[Statutory Authority: RCW 48.02.60 [48.02.060] and 48.18.559. WSR 18-24-084 (R 2018-11), § 284-33-005, filed 12/3/18, effective 1/3/19.]

AMENDATORY SECTION (Amending WSR 18-24-084, filed 12/3/18, effective 1/3/19)

WAC 284-33-010 Purpose and scope. The purpose of this chapter is to implement RCW 48.18.558, 48.18.559, and 48.19.530 for property insurance by establishing rules:

- (1) For property insurers' risk reduction programs for covered events(~~(, except commercial property insurance)~~);
- (2) For property insurers' pilot risk reduction programs for covered events(~~(, except commercial property insurance)~~); and

(3) To identify which property insurers' disaster or emergency response activities for covered events are exempt from RCW 48.18.558, 48.19.530, 48.30.140, and 48.30.150.

[Statutory Authority: RCW 48.02.60 [48.02.060] and 48.18.559. WSR 18-24-084 (R 2018-11), § 284-33-010, filed 12/3/18, effective 1/3/19.]

AMENDATORY SECTION (Amending WSR 20-23-004, filed 11/5/20, effective 1/1/21)

WAC 284-33-030 Goods and services. (1) All goods or services, or both, that are approved by the commissioner to be included within a property insurer's risk reduction program, or pilot risk reduction program, or both, must be implemented by the insurer to reduce either the probability of damage or extent of damage, or both, by a peril covered under the property policy, and may include:

- (a) Smoke alarms;
- (b) Fire extinguishers;
- (c) Natural gas detectors;
- (d) Brush and other wildfire fuel source removal services;
- (e) Water monitors;
- (f) Water shut off systems;
- (g) Earthquake strapping;
- (h) Locking mechanisms to secure property;
- (i) Lightning protection devices;
- (j) Security lighting;
- (k) Security camera systems;
- (l) Home safety monitoring systems; and
- (m) Other goods or services, or both, the commissioner may approve through a form filing.

(2) A voucher provided from the insurer to the insured for either goods or services, or both, is only permissible for those items as described in subsection (1) of this section and must fully redeem either the goods or services, or both, being used in the risk reduction program.

~~((3) Under RCW 48.18.559, the commissioner may increase the value of goods and services permitted under RCW 48.18.558. The limit to the value of goods and services to be provided is increased to seven thousand five hundred dollars in value in aggregate in any twelve-month period if the insurer:~~

~~(a) Submits a rate filing with the information required by RCW 48.19.530; and~~

~~(b) Includes an explanation and exhibit in the filing showing that the present value of the expected reduction in claims costs arising from the goods and services, over the service life of the goods and services, is greater than, or equal to, the total cost to the insurer of the goods and services.))~~

[Statutory Authority: RCW 48.02.060(3) and 48.18.559. WSR 20-23-004 (R 2020-01), § 284-33-030, filed 11/5/20, effective 1/1/21. Statutory Authority: RCW 48.02.60 [48.02.060] and 48.18.559. WSR 18-24-084 (R 2018-11), § 284-33-030, filed 12/3/18, effective 1/3/19.]