



Slater All Lines Insurance School

3717-196th Street SW #214, Lynnwood, WA 98036

Phone: 425.771.4870 Fax: 425.771.5933

www.SlaterInsuranceSchool.com

E t h i c s

State of Washington

Continuing Education

Course #619793

Continuing Education Credits - 3 Hours

2023

Produced by Slater All Lines Insurance School

Introduction:

The word “ethics” is a derivative of two Greek words meaning “moral” and “character.” Ethics represents a branch of study concerned with rules of conduct, morality, and duties which govern human behavior.

The insurance agent has many responsibilities, among them a responsibility to the insurance company, responsibility to the insurance professionals, responsibility to the client and responsibility to the public. In other words, the agent is obligated to act for the benefit of society at large.

Since insurance sales people are professional advisors, they need to be aware of their increased legal responsibility and increased legal risk. Ethics involves good business practices. The person who provides insurance coverage to a person becomes the person responsible for ascertaining the needs of clients and matching those needs with the technical aspects of a complex product. The aim is to be sure that the client’s goals are met. Society as a whole also benefits by protecting individuals and families with life, health, auto, homeowners and business insurance.

This course is intended to use for the mandatory 3 hour ethics requirement by covering the RCWs and WACs that relate to insurance matters. Regulation of the insurance industry is shared by the individual states and the federal government. The following pages include some of the ideas of ethical business practices which are regulated by Washington State Government.

Table of Contents

RCW & WAC Section Links	1
Chapter 48.30 RCW — UNFAIR PRACTICES AND FRAUDS	2
48.30.010 — Unfair practices in general — Remedies and penalties.....	2
48.30.015 — Unreasonable denial of a claim for coverage or payment of benefits.	3
48.30.020 — Anticom pact law.....	4
48.30.030 — False financial statements.	5
48.30.040 — False information and advertising.	5
48.30.050 — Advertising must show name and domicile.	5
48.30.060 — Insurer name — Deceptive use prohibited.	6
48.30.070 — Advertising of financial condition.	6
48.30.075 — Using existence of insurance guaranty associations in advertising, etc., to sell insurance.....	6
48.30.080 — Defamation of insurer.	6
48.30.090 — Misrepresentation of policies.	6
48.30.100 — Dividends not to be guaranteed.	7
48.30.110 — Contributions to candidates for insurance commissioner.....	7
48.30.120 — Misconduct of officers, employees.....	7
48.30.130 — Presumption of knowledge of director.	8
48.30.133 Gifts, etc., for the referral of insurance business—Restrictions.	8
48.30.135 Sponsoring events or making contributions—Definitions.	9
48.30.140 — Rebating- Other Inducements.	9
48.30.150 — Illegal inducements.	10
48.30.155 — Life or disability insurers — Insurance as inducement to purchase of goods, etc.....	11
48.30.157 — Charges for extra services.....	11
48.30.170 — Rebate — Acceptance prohibited.....	11
48.30.180 — "Twisting" prohibited.	12
48.30.190 — Illegal dealing in premiums.....	12

48.30.200 — Hypothecation of premium notes.....	13
48.30.210 — Misrepresentation in application for insurance.....	13
48.30.220 — Destruction, injury, secretion, etc., of property.....	13
48.30.230 — False claims or proof — Penalty.	13
48.30.240 — Rate wars prohibited.	14
48.30.250 — Interlocking ownership, management.	14
48.30.260 — Right of debtor or borrower to select insurance producer, surplus line broker, or insurer.....	14
48.30.270 — Public building or construction contracts — Surety bonds or insurance — Violations concerning — Exemption.	16
48.30.300 — Unfair discrimination, generally.....	17
48.30.310 — Commercial motor vehicle employment driving record not to be considered, when.	17
48.30.320 — Notice of reason for cancellation, restrictions based on disability.	18
48.30.330 — Immunity from libel or slander.	18
48.30.340 — Auto glass repair — Restrictions on insurer-owned facilities.	18
48.30.350 Initiating arbitration of claims under the balance billing protection act with such frequency as to indicate a health carrier's general business practice.....	19
48.30.900 — Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.....	19
Chapter 48.30A RCW — INSURANCE FRAUD	21
48.30A.005 — Findings — Intent.....	21
48.30A.010 — Definitions.....	21
48.30A.015 — Unlawful acts — Penalties.....	22
48.30A.020 — Defenses to proceedings under this chapter.....	23
48.30A.030 — Injunction available — Remedies — Costs — Attorneys' fees — Degree of proof — Time limit.....	23
48.30A.035 — Detrimental judgment — Written notification to appropriate regulatory or disciplinary body or agency.....	24

48.30A.040 — Violation — Cause for discipline — Unprofessional conduct — Regulatory penalty. 24

48.30A.045 — Insurance antifraud plan — File plan and changes with commissioner — Exemptions. 24

48.30A.050 — Insurance antifraud plan — Specific procedures. 25

48.30A.055 — Insurance antifraud plan — Review — Disapproval — Notice — Audit to ensure compliance..... 25

48.30A.060 — Insurance antifraud plan — Actions taken by insurer — Report — Not public records..... 25

48.30A.065 — Insurance antifraud plan or summary report — Failure to file or exercise good faith — Penalty — Failure to follow plan — Civil penalty..... 26

48.30A.070 — Duty to investigate, enforce, and prosecute violations. 26

48.30A.900 — Effective date — 1995 c 285..... 26

Chapter 48.17 RCW — INSURANCE PRODUCERS, TITLE INSURANCE AGENTS, AND ADJUSTERS (Formerly Agents, brokers, solicitors, and adjusters) 27

48.17.010 — Definitions. 27

48.17.060 — License required. 29

48.17.062 — Insurance producer license not required under chapter 117, Laws of 2007. 29

48.17.063 — Unlicensed activities — Acts committed in this state — Sanctions. 31

48.17.067 — Determining whether authorization exists — Burden on insurance producer or title insurance agent. 32

48.17.071 Portable electronics—Application of chapter to adjusters—Duties of independent adjuster—Commissioner's authority. 32

48.17.090 Application for license—Commissioner's findings..... 33

48.17.110 Examination of applicants—Exemptions—Rules..... 34

48.17.125 Examination questions—Confidentiality—Penalties. 35

48.17.150 — Continuing education courses and requirements — Rules. 35

48.17.153 — Agents selling federal flood insurance policies — Training requirements..... 36

48.17.180 — Doing business under any name other than legal name. 36

Ethics, Course #619793
Slater All Lines Insurance School

48.17.250 — Insurance producer's bond.....	36
48.17.270 — Insurance producer as insurer's agent — Compensation — Disclosure.....	37
48.17.410 Authority of adjuster.....	39
48.17.420 — Appointed agent may adjust—When license or certification is required—Nonresident adjusters or crop adjusters.	39
48.17.450 — Place of business.	40
284-17-005 — Address of record.....	40
48.17.460 — Display of license.....	41
48.17.470 — Records of insurance producers, title insurance agents, adjusters.	41
48.17.475 — Licensee to reply promptly to inquiry by commissioner.	41
48.17.480 — Reporting and accounting for premiums.	42
48.17.490 — Must be licensed to receive a commission, service fee, or other valuable consideration.	42
48.17.510 — Temporary licenses — Restrictions — Commissioner's discretion.	43
48.17.530 — Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license.....	43
48.17.535 — License or certificate suspension — Noncompliance with support order — Reissuance.....	45
48.17.540 — Procedure to suspend, revoke, or refuse — Effect of conviction of felony.	46
48.17.550 — Duration of suspension.....	46
48.17.560 — Fines may be imposed.	46
48.17.597 — Administrative action taken against a licensee in another jurisdiction or governmental agency — Report to commissioner.....	47
48.17.600 — Separation of premium funds.....	47
48.17.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.....	48
Chapter 284-30 WAC — TRADE PRACTICES	48
284-30-500 — Unfair practices with respect to vehicle insurance.....	48

284-30-550 — Receipts to be given.....	49
284-30-560 — Applications and binders.....	49
284-30-570 — Actual reason for canceling, denying or refusing to renew insurance to be disclosed.	50
284-30-572 — Discrimination prohibited.	50
284-30-574 — Insurer must make independent evaluation.	51
284-30-580 — Policies to be delivered, not held by insurance producers or title insurance agents.	51
284-30-590 — Unfair practices with respect to policy cancellations, renewals, and changes.	52
284-30-600 — Unfair practices with respect to out-of-state group life and disability insurance.....	53
284-30-610 — Unfair practices with respect to the solicitation of coverage under out-of-state group policies.....	55
284-30-620 — Permissible time limit for benefits payable because of accidental injury or death.....	56
284-30-630 — Health questions in applications to be clear and precise.....	56
284-30-650 — Prompt responses required.....	57
284-30-660 — Deceptive use of quotations or evaluations prohibited.....	57
284-30-670 — Insurers must transact business in their legal name.....	57
284-30-700 — Restrictions as to denial and termination of homeowners insurance affected by day-care operations.....	58
284-30-750 — Insurance producers' and surplus line brokers' fees to be disclosed.....	58
Chapter 284-24A WAC — RULES THAT APPLY TO INSURERS THAT USE CREDIT HISTORY FOR PERSONAL INSURANCE UNDERWRITING OR RATING.....	60
284-24A-001 — What is the purpose of these rules?	60
284-24A-005 — Definitions that apply to this chapter.....	60
284-24A-007 — Filing documents incorporated by reference into this chapter.	61
284-24A-010 — What must an insurer tell a consumer when it takes an adverse action?	61

284-24A-011 — What types of information must an insurer provide in addition to the reason(s) for the adverse action to comply with WAC 284-24A-010(2)?	61
284-24A-012 — What types of reasons do not provide enough information to adequately explain an adverse action?.....	62
284-24A-015 — When must an insurer file the insurance scoring model to comply with the law?	62
284-24A-020 — Filing an insurance scoring model.	62
284-24A-025 — Filings by insurance scoring model vendors.	62
284-24A-030 — Confidentiality of insurance scoring models.	63
284-24A-032 — Under RCW 48.19.035 (2)(b) what does "eligibility rules or guidelines" mean?	63
284-24A-033 — How will an insurer or a group of affiliated insurers know its eligibility rules or guidelines will be withheld from public inspection?	63
284-24A-035 — What will the commissioner do with the insurance scoring model after he or she receives it?	64
284-24A-040 — What action will the commissioner take if a model does not comply with Washington law?.....	64
284-24A-045 — If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, how can the insurer show that its rating plan results in premium rates that are not excessive, inadequate, or unfairly discriminatory?.....	64
284-24A-050 — What types of information must an insurer include in a multivariate analysis?	64
284-24A-055 — Should an insurer submit actuarial data based on demographic factors with an insurance scoring model or with a rate filing?..	65
284-24A-065 — Questions and answers.....	66
Chapter 284-12 WAC — INSURANCE PRODUCERS, TITLE INSURANCE AGENTS, SURPLUS LINE BROKERS, AND ADJUSTERS.....	67
284-12-080 — Requirements for separate accounts.	67
284-12-095 — Unfair practice with respect to use of insurance producer defined.	71

284-12-110 — Identification of an insurance producer to a prospective insured.	71
284-12-200 — Operating in this state.....	71
284-12-210 — Affiliates.....	71
284-12-220 — Licensed in this state.....	71
284-12-230 — Notification of appointment.....	72
284-12-250 — Employee.	72
284-12-260 — Form of financial statements.	72
284-12-270 — Expiration and renewal of appointments.	72
284-12-280 — Claim thresholds.	72
Chapter 48.03 RCW — EXAMINATIONS.....	73
48.03.005 — Application.	73
48.03.010 — Examination of insurers, bureaus.	73
48.03.020 — Examination of producers, surplus line brokers, adjusters, title insurance agents, managers, or promoters.	74
48.03.025 — Examiners — Scope of examination — Examiners' handbook. ..	74
48.03.030 — Access to records on examination — Correction of accounts. ...	75
48.03.040 — Examination reports — Consideration by commissioner — Orders — Confidentiality.....	75
48.03.050 — Reports withheld.	76
48.03.060 — Examination expense.....	77
48.03.065 — Appointments by commissioner — Examiners — Exceptions. ...	78
48.03.070 — Witnesses — Subpoenas — Depositions — Oaths.....	78
48.03.075 — Legal protection for commissioner, authorized representatives, and examiners — Good faith — Attorneys' fees — Payment by commissioner.	79

RCW & WAC Section Links

RCW

<http://apps.leg.wa.gov/rcw/default.aspx?cite=48.03&full=true>

<http://apps.leg.wa.gov/rcw/default.aspx?cite=48.17&full=true>

<http://apps.leg.wa.gov/rcw/default.aspx?cite=48.30&full=true>

Changes to RCW 48.30.140 and RCW 48.30.150, as well as two new sections included in RCW 48.30:

<http://lawfilesexternal.leg.wa.gov/biennium/2015-16/Pdf/Bills/Session%20Laws/Senate/5743-S.SL.pdf>

<http://apps.leg.wa.gov/rcw/default.aspx?cite=48.30A&full=true>

WAC

<http://app.leg.wa.gov/wac/default.aspx?cite=284-12&full=true>

<http://app.leg.wa.gov/wac/default.aspx?cite=284-24A&full=true>

<http://app.leg.wa.gov/wac/default.aspx?cite=284-30&full=true>

Chapter 48.30 RCW — UNFAIR PRACTICES AND FRAUDS

48.30.010 — Unfair practices in general — Remedies and penalties.

(1) No person engaged in the business of insurance shall engage in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of such business as such methods, acts, or practices are defined pursuant to subsection (2) of this section.

(2) In addition to such unfair methods and unfair or deceptive acts or practices as are expressly defined and prohibited by this code, the commissioner may from time to time by regulation promulgated pursuant to chapter [34.05](#) RCW, define other methods of competition and other acts and practices in the conduct of such business reasonably found by the commissioner to be unfair or deceptive after a review of all comments received during the notice and comment rule-making period.

(3) (a) In defining other methods of competition and other acts and practices in the conduct of such business to be unfair or deceptive, and after reviewing all comments and documents received during the notice and comment rule-making period, the commissioner shall identify his or her reasons for defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive and shall include a statement outlining these reasons as part of the adopted rule.

(b) The commissioner shall include a detailed description of facts upon which he or she relied and of facts upon which he or she failed to rely, in defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive, in the concise explanatory statement prepared under RCW [34.05.325](#)(6).

(c) Upon appeal the superior court shall review the findings of fact upon which the regulation is based de novo on the record.

(4) No such regulation shall be made effective prior to the expiration of thirty days after the date of the order by which it is promulgated.

(5) If the commissioner has cause to believe that any person is violating any such regulation, the commissioner may order such person to cease and desist therefrom. The commissioner shall deliver such order to such person direct or mail it to the person by registered mail with return receipt requested. If the person violates the order after expiration of ten days after the cease and desist order has been received by him or her, he or she may be fined by the commissioner a sum not to exceed two hundred and fifty dollars for each violation committed thereafter.

(6) If any such regulation is violated, the commissioner may take such other or additional action as is permitted under the insurance code for violation of a regulation.

(7) An insurer engaged in the business of insurance may not unreasonably deny a claim for coverage or payment of benefits to any first party claimant. "First party claimant" has the same meaning as in RCW [48.30.015](#).

48.30.015 — Unreasonable denial of a claim for coverage or payment of benefits.

(1) Any first party claimant to a policy of insurance who is unreasonably denied a claim for coverage or payment of benefits by an insurer may bring an action in the superior court of this state to recover the actual damages sustained, together with the costs of the action, including reasonable attorneys' fees and litigation costs, as set forth in subsection (3) of this section.

(2) The superior court may, after finding that an insurer has acted unreasonably in denying a claim for coverage or payment of benefits or has violated a rule in subsection (5) of this section, increase the total award of damages to an amount not to exceed three times the actual damages.

(3) The superior court shall, after a finding of unreasonable denial of a claim for coverage or payment of benefits, or after a finding of a violation of a rule in subsection (5) of this section, award reasonable attorneys' fees and actual and statutory litigation costs, including expert witness fees, to the first party claimant of an insurance contract who is the prevailing party in such an action.

(4) "First party claimant" means an individual, corporation, association, partnership, or other legal entity asserting a right to payment as a covered person under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such a policy or contract.

(5) A violation of any of the following is a violation for the purposes of subsections (2) and (3) of this section:

- (a) WAC [284-30-330](#), captioned "specific unfair claims settlement practices defined";
- (b) WAC [284-30-350](#), captioned "misrepresentation of policy provisions";
- (c) WAC [284-30-360](#), captioned "failure to acknowledge pertinent communications";
- (d) WAC [284-30-370](#), captioned "standards for prompt investigation of claims";

(e) WAC [284-30-380](#), captioned "standards for prompt, fair and equitable settlements applicable to all insurers"; or

(f) An unfair claims settlement practice rule adopted under RCW [48.30.010](#) by the insurance commissioner intending to implement this section. The rule must be codified in chapter 284-30 of the Washington Administrative Code.

(6) This section does not limit a court's existing ability to make any other determination regarding an action for an unfair or deceptive practice of an insurer or provide for any other remedy that is available at law.

(7) This section does not apply to a health plan offered by a health carrier. "Health plan" has the same meaning as in RCW [48.43.005](#). "Health carrier" has the same meaning as in RCW [48.43.005](#).

(8) (a) Twenty days prior to filing an action based on this section, a first party claimant must provide written notice of the basis for the cause of action to the insurer and office of the insurance commissioner. Notice may be provided by regular mail, registered mail, or certified mail with return receipt requested. Proof of notice by mail may be made in the same manner as prescribed by court rule or statute for proof of service by mail. The insurer and insurance commissioner are deemed to have received notice three business days after the notice is mailed.

(b) If the insurer fails to resolve the basis for the action within the twenty-day period after the written notice by the first party claimant, the first party claimant may bring the action without any further notice.

(c) The first party claimant may bring an action after the required period of time in (a) of this subsection has elapsed.

(d) If a written notice of claim is served under (a) of this subsection within the time prescribed for the filing of an action under this section, the statute of limitations for the action is tolled during the twenty-day period of time in (a) of this subsection.

48.30.020 — Anticomcompact law.

(1) No person shall either within or outside of this state enter into any contract, understanding or combination with any other person to do jointly or severally any act or engage in any practice for the purpose of

(a) controlling the rates to be charged for insuring any risk or any class of risks in this state; or

(b) unfairly discriminating against any person in this state by reason of his or her plan or method of transacting insurance, or by reason of his or her affiliation or nonaffiliation with any insurance organization; or

(c) establishing or perpetuating any condition in this state detrimental to free competition in the business of insurance or injurious to the insuring public.

(2) This section shall not apply relative to ocean marine and foreign trade insurances.

(3) This section shall not be deemed to prohibit the doing of things permitted to be done in accordance with the provisions of chapter [48.19](#) RCW of this code.

(4) Whenever the commissioner has knowledge of any violation of this section he or she shall forthwith order the offending person to discontinue such practice immediately or show cause to the satisfaction of the commissioner why such order should not be complied with. If the offender is an insurer or a licensee under this code and fails to comply with such order within thirty days after receipt thereof, the commissioner may forthwith revoke the offender's certificate of authority or licenses.

48.30.030 — False financial statements.

No person shall knowingly file with any public official nor knowingly make, publish, or disseminate any financial statement of an insurer which does not accurately state the insurer's financial condition.

48.30.040 — False information and advertising.

No person shall knowingly make, publish, or disseminate any false, deceptive or misleading representation or advertising in the conduct of the business of insurance, or relative to the business of insurance or relative to any person engaged therein.

48.30.050 — Advertising must show name and domicile.

Every advertisement of, by, or on behalf of an insurer shall set forth the name in full of the insurer and the location of its home office or principal office, if any, in the United States (if an alien insurer).

48.30.060 — Insurer name — Deceptive use prohibited.

No person who is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

48.30.070 — Advertising of financial condition.

(1) Every advertisement by or on behalf of any insurer purporting to show its financial condition may be in a condensed form but shall in substance correspond with the insurer's last verified statement filed with the commissioner.

(2) No insurer or person in its behalf shall advertise assets except those actually owned and possessed by the insurer in its own exclusive right, available for the payment of losses and claims, and held for the protection of its policyholders and creditors.

48.30.075 — Using existence of insurance guaranty associations in advertising, etc., to sell insurance.

No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement which uses the existence of the Washington Insurance Guaranty Association or the Washington Life and Disability Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Washington Insurance Guaranty Association Act or the Washington Life and Disability Insurance Guaranty Association Act.

48.30.080 — Defamation of insurer.

No person shall make, publish, or disseminate, or aid, abet or encourage the making, publishing, or dissemination of any information or statement which is false or maliciously critical and which is designed to injure in its reputation or business any authorized insurer or any domestic corporation or reciprocal being formed pursuant to this code for the purpose of becoming an insurer.

48.30.090 — Misrepresentation of policies.

No person shall make, issue or circulate, or cause to be made, issued or circulated any misrepresentation of the terms of any policy or the benefits or advantages promised thereby,

or the dividends or share of surplus to be received thereon, or use any name or title of any policy or class of policies misrepresenting the nature thereof.

48.30.100 — Dividends not to be guaranteed.

No insurer, insurance producer, title insurance agent, or other person shall guarantee or agree to the payment of future dividends or future refunds of unused premiums or savings in any specific or approximate amounts or percentages on account of any insurance contract.

48.30.110 — Contributions to candidates for insurance commissioner.

(1) No insurer or fraternal benefit society doing business in this state shall directly or indirectly pay or use, or offer, consent, or agree to pay or use any money or thing of value for or in aid of any candidate for the office of insurance commissioner; nor for reimbursement or indemnification of any person for money or property so used.

(2) Any individual who violates any provision of this section, or who participates in, aids, abets, advises, or consents to any such violation, or who solicits or knowingly receives any money or thing of value in violation of this section, shall be guilty of a gross misdemeanor and shall be liable to the insurer or society for the amount so contributed or received.

48.30.120 — Misconduct of officers, employees.

No director, officer, agent, attorney-in-fact, or employee of an insurer shall:

(1) Knowingly receive or possess himself or herself of any of its property, otherwise than in payment for a just demand, and with intent to defraud, omit to make or to cause or direct to be made, a full and true entry thereof in its books and accounts; nor

(2) Make or concur in making any false entry, or concur in omitting to make any material entry, in its books or accounts; nor

(3) Knowingly concur in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein; nor

(4) Having the custody or control of its books, willfully fail to make any proper entry in the books of the insurer as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by any person entitled by law to inspect the same, or take extracts therefrom; nor

(5) If a notice of an application for an injunction or other legal process affecting or involving the property or business of the insurer is served upon him or her, fail to disclose the fact of such

service and the time and place of such application to the other directors, officers, and managers thereof; nor

(6) Fail to make any report or statement lawfully required by a public officer.

48.30.130 — Presumption of knowledge of director.

A director of an insurer is deemed to have such knowledge of its affairs as to enable him or her to determine whether any act, proceeding, or omission of its directors is a violation of any provision of this chapter. If present at a meeting of directors at which any act, proceeding, or omission of its directors which is a violation of any such provision occurs, he or she must be deemed to have concurred therein unless at the time he or she causes or in writing requires his or her dissent therefrom to be entered on the minutes of the directors.

If absent from such meeting, he or she must be deemed to have concurred in any such violation if the facts constituting such violation appear on the records or minutes of the proceedings of the board of directors, and he or she remains a director of the insurer for six months thereafter without causing or in writing requiring his or her dissent from such violation to be entered upon such record or minutes.

48.30.133 Gifts, etc., for the referral of insurance business—Restrictions.

(1) An insurance producer may give to an individual, prizes, goods, wares, gift cards, gift certificates, or merchandise not exceeding one hundred dollars in value per person in any consecutive twelve-month period for the referral of insurance business to the insurance producer, if the giving of the prizes, goods, wares, gift cards, gift certificates, or merchandise is not conditioned upon the person who is referred applying for or obtaining insurance through the insurance producer.

(2) The payment for the referral must not be in cash, currency, bills, coins, check, or by money order.

(3) The provisions of RCW [48.30.140](#) and [48.30.150](#) do not apply to prizes, goods, wares, gift cards, gift certificates, or merchandise given to a person in compliance with subsections (1) and (2) of this section.

(4) Notwithstanding subsections (1) and (2) of this section, an insurance producer may pay to an unlicensed individual who is neither an insured nor a prospective insured a referral fee conditioned on the submission of an application if made in compliance with the provisions of RCW [48.17.490](#)(4).

48.30.135 Sponsoring events or making contributions—Definitions.

- (1) An insurance producer may sponsor events for, or make contributions to a bona fide charitable or nonprofit organization, if the sponsorship or contribution is not conditioned upon the organization applying for or obtaining insurance through the insurance producer.
- (2) For purposes of this section, a bona fide charitable or nonprofit organization is:
 - (a) Any nonprofit corporation duly existing under the provisions of chapter [24.03A](#) RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, cultural, athletic, scientific, agricultural, or horticultural purposes;
 - (b) Any professional, commercial, industrial, or trade association;
 - (c) Any organization duly existing under the provisions of chapter [24.12](#), [24.20](#), or [24.28](#) RCW;
 - (d) Any agricultural fair authorized under the provisions of chapter [15.76](#) or [36.37](#) RCW; or
 - (e) Any nonprofit organization, whether incorporated or otherwise, when determined by the commissioner to be organized and operated for one or more of the purposes described in (a) through (d) of this subsection.
- (3) RCW [48.30.140](#) and [48.30.150](#) do not apply to sponsorships or charitable contributions that are provided or given in compliance with subsection (1) of this section.

48.30.140 — Rebating- Other Inducements.

- (1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.
- (2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.
- (3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.
- (4) This section shall not apply to advertising or promotional programs conducted by insurers or insurance producers whereby prizes, goods, wares, gift cards, gift certificates, or merchandise, not exceeding one hundred dollars in value per person in the aggregate in any twelve-month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.
- (5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW [48.17.270](#).
- (6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract

containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW **48.43.005**; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(7) Subsection (1) of this section does not apply to a payment by an insurer to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another. Insurers shall describe any such payment in the group insurance policy or in an applicable filing with the commissioner. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW **48.14.020** and **48.14.0201**. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter **48.66** RCW.

(8) Subsection (7) of this section does not apply to small groups as defined in RCW **48.43.005**.

(9) Subsection (1) of this section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

48.30.150 — Illegal inducements.

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of **one hundred dollars** per person in the aggregate in any consecutive twelve-month period. This subsection (1)(c) does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3) (a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the

prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW **48.43.005**; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(4) Subsection (1) of this section does not prohibit an insurer from issuing any payment to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another as provided in RCW **48.30.140**. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW **48.14.020** and **48.14.0201**. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter **48.66** RCW.

(5) Subsection (4) of this section does not apply to small groups as defined in RCW **48.43.005**.

(6) Subsection (1) of this section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

48.30.155 — Life or disability insurers — Insurance as inducement to purchase of goods, etc.

No life or disability insurer shall directly or indirectly participate in any plan to offer or effect any kind or kinds of insurance in this state as an inducement to the purchase by the public of any goods, securities, commodities, services or subscriptions to publications. This section shall not apply to group or blanket insurance issued pursuant to this code.

48.30.157 — Charges for extra services.

Notwithstanding the provisions of RCW [48.30.140](#), [48.30.150](#), and [48.30.155](#), the commissioner may permit an insurance producer to enter into reasonable arrangements with insureds and prospective insureds to charge a reduced fee in situations where services that are charged for are provided beyond the scope of services customarily provided in connection with the solicitation and procurement of insurance, so that an overall charge to an insured or prospective insured is reasonable taking into account receipt of commissions and fees and their relation, proportionally, to the value of the total work performed.

48.30.170 — Rebate — Acceptance prohibited.

(1) No insured person shall receive or accept, directly or indirectly, any rebate of premium or part thereof, or any favor, advantage, share in dividends, or other benefits, or any valuable

consideration or inducement not specified or provided for in the policy, or any commission on any insurance policy to which he or she is not lawfully entitled as a licensed insurance producer or title insurance agent. The retention by the nominal policyholder in any group life insurance contract of any part of any dividend or reduction of premium thereon contrary to the provisions of RCW [48.24.260](#), shall be deemed the acceptance and receipt of a rebate and shall be punishable as provided by this code.

(2) The amount of insurance whereon the insured has so received or accepted any such rebate or any such commission, other than as to life or disability insurances, shall be reduced in the proportion that the amount or value of the rebate or commission bears to the premium for such insurance. In addition to such reduction of insurance, if any, any such insured shall be liable to a **fine of not more than two hundred dollars**.

(3) This section shall not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW [48.17.270](#).

48.30.180 — "Twisting" prohibited.

No person shall by misrepresentations or by misleading comparisons, induce or tend to induce any insured to lapse, terminate, forfeit, surrender, retain, or convert any insurance policy.

48.30.190 — Illegal dealing in premiums.

(1) No person shall willfully collect any sum as premium for insurance, which insurance is not then provided or is not in due course to be provided by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall willfully collect as premium for insurance any sum in excess of the amount actually expended or in due course is to be expended for insurance applicable to the subject on account of which the premium was collected.

(3) No person shall willfully or knowingly fail to return to the person entitled thereto within a reasonable length of time any sum collected as premium for insurance in excess of the amount actually expended for insurance applicable to the subject on account of which the premium was collected.

(4) Each violation of this section which does not amount to a felony shall constitute a misdemeanor.

48.30.200 — Hypothecation of premium notes.

It shall be unlawful for any insurer or its representative, or any insurance producer, to hypothecate, sell, or dispose of any promissory note, received in payment for any premium or part thereof on any contract of life insurance or of disability insurance applied for, prior to delivery of the policy to the applicant.

48.30.210 — Misrepresentation in application for insurance.

A person who knowingly makes a false or misleading statement or impersonation, or who willfully fails to reveal a material fact, in or relative to an application for insurance to an insurer, is guilty of a gross misdemeanor, and the license of any such person may be revoked.

48.30.220 — Destruction, injury, secretion, etc., of property.

Any person, who, with intent to defraud or prejudice the insurer thereof, burns or in any manner injures, destroys, secretes, abandons, or disposes of any property which is insured at the time against loss or damage by fire, theft, embezzlement, or any other casualty, whether the same be the property of or in the possession of such person or any other person, under circumstances not making the offense arson in the first degree, is guilty of a class C felony.

48.30.230 — False claims or proof — Penalty.

(1) It is unlawful for any person, knowing it to be such, to:

(a) Present, or cause to be presented, a false or fraudulent claim, or any proof in support of such a claim, for the payment of a loss under a contract of insurance; or

(b) Prepare, make, or subscribe any false or fraudulent account, certificate, affidavit, or proof of loss, or other document or writing, with intent that it be presented or used in support of such a claim.

(2) (a) Except as provided in (b) of this subsection, a violation of this section is a gross misdemeanor.

(b) If the claim is in excess of one thousand five hundred dollars, the violation is a class C felony punishable according to chapter [9A.20](#)RCW.

48.30.240 — Rate wars prohibited.

(1) Any insurer which precipitates, or aids in precipitating or conducting a rate war and by so doing writes or issues a policy of insurance at a less rate than permitted under its schedules filed with the commissioner, or below the rate deemed by him or her to be proper and adequate to cover the class of risk insured, shall have its certificate of authority to do business in this state suspended until such time as the commissioner is satisfied that it is charging a proper rate of premium.

(2) Any insurer which has precipitated, or aided in precipitating or conducting a rate war for the purpose of punishing or eliminating competitors or stifling competition, or demoralizing the business, or for any other purpose, and has ordered the cancellation or rewriting of policies at a rate lower than that provided by its rating schedules where such rate war is not in operation, and has paid or attempted to pay to the insured any return premiums, on any risk so to be rewritten, on which its appointed insurance producer has received or is entitled to receive a regular commission, such insurer shall not be allowed to charge back to such appointed insurance producer any portion of a commission on the ground that the same has not been earned.

48.30.250 — Interlocking ownership, management.

(1) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this title, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create a monopoly therein.

(2) Any person otherwise qualified may be a director of two or more insurers which are competitors, unless the effect thereof is to substantially lessen competition between insurers generally or tends to create a monopoly.

(3) If the commissioner finds, after a hearing thereon, that there is violation of this section he or she shall order all such persons and insurers to cease and desist from such violation within such time, or extension thereof, as may be specified in such order.

48.30.260 — Right of debtor or borrower to select insurance producer, surplus line broker, or insurer.

(1) Every debtor or borrower, when property insurance of any kind is required in connection with the debt or loan, shall have reasonable opportunity and choice in the selection of the insurance producer, surplus line broker, and insurer through whom such insurance is to be

placed; but only if the insurance is properly provided for the protection of the creditor or lender, whether by policy or binder, not later than at commencement of risk as to such property as respects such creditor or lender, and in the case of renewal of insurance, only if the renewal policy, or a proper binder therefor containing a brief description of the coverage bound and the identity of the insurer in which the coverage is bound, is delivered to the creditor or lender not later than thirty days prior to the renewal date.

(2) Every person who lends money or extends credit and who solicits insurance on real and personal property must explain to the borrower in prominently displayed writing that the insurance related to such loan or credit extension may be purchased from an insurer, surplus line broker, or insurance producer of the borrower's choice, subject only to the lender's right to reject a given insurer, surplus line broker, or insurance producer as provided in subsection (3)(b) of this section.

(3) No person who lends money or extends credit may:

(a) Solicit insurance for the protection of property, after a person indicates interest in securing a loan or credit extension, until such person has received a commitment from the lender as to a loan or credit extension;

(b) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(c) Require that any borrower, mortgagor, purchaser, insurer, surplus line broker, or insurance producer pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subsection does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document;

(d) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance;

(e) Require any procedures or conditions of duly licensed insurance producers, surplus line brokers, or insurers not customarily required of those insurance producers, surplus line

brokers, or insurers affiliated or in any way connected with the person who lends money or extends credit; or

(f) Require property insurance in an amount in excess of the amount which could reasonably be expected to be paid under the policy, or combination of policies, in the event of a loss.

(4) Nothing contained in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(5) Nothing contained in this section shall apply to credit life or credit disability insurance.

48.30.270 — Public building or construction contracts — Surety bonds or insurance — Violations concerning — Exemption.

(1) No officer or employee of this state, or of any public agency, public authority or public corporation except a public corporation or public authority created pursuant to agreement or compact with another state, and no person acting or purporting to act on behalf of such officer or employee, or public agency or public authority or public corporation, shall, with respect to any public building or construction contract which is about to be, or which has been competitively bid, require the bidder to make application to, or to furnish financial data to, or to obtain or procure, any of the surety bonds or contracts of insurance specified in connection with such contract, or specified by any law, general, special or local, from a particular insurer, surplus line broker, or insurance producer.

(2) No such officer or employee or any person, acting or purporting to act on behalf of such officer or employee shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance, except contracts of insurance for builder's risk or owner's protective liability, which can be obtained or procured by the bidder, contractor or subcontractor.

(3) This section shall not be construed to prevent the exercise by such officer or employee on behalf of the state or such public agency, public authority, or public corporation of its right to approve the form, sufficiency or manner or execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds, or contracts of insurance.

(4) Any provisions in any invitation for bids, or in any of the contract documents, in conflict with this section are declared to be contrary to the public policy of this state.

(5) A violation of this section shall be subject to the penalties provided by RCW [48.01.080](#).

(6) section shall not apply to public construction projects, when the actual or estimated aggregate value of the project, exclusive of insurance and surety costs, exceeds two hundred million dollars. For purposes of applying the two hundred million dollar threshold set forth in this subsection, the term "public construction project" means a project that has a public owner and has phases, segments, or component parts relating to a common geographic site or public transportation system, but does not include the aggregation of unrelated construction projects.

(7) The exclusions specified in subsection (6) of this section do not apply to surety bonds.

48.30.300 — Unfair discrimination, generally.

Notwithstanding any provision contained in Title [48](#) RCW to the contrary:

(1) A person or entity engaged in the business of insurance in this state may not refuse to issue any contract of insurance or cancel or decline to renew such contract because of the sex, marital status, or sexual orientation as defined in RCW [49.60.040](#), or the presence of any disability of the insured or prospective insured. The amount of benefits payable, or any term, rate, condition, or type of coverage may not be restricted, modified, excluded, increased, or reduced on the basis of the sex, marital status, or sexual orientation, or be restricted, modified, excluded, or reduced on the basis of the presence of any disability of the insured or prospective insured.

(2) Except as provided in RCW [48.43.0128](#), [48.44.220](#), or [48.46.370](#), this subsection does not prohibit fair discrimination on the basis of sex, or marital status, or the presence of any disability when bona fide statistical differences in risk or exposure have been substantiated.

48.30.310 — Commercial motor vehicle employment driving record not to be considered, when.

When an individual applies for a policy of casualty insurance providing either automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage, or automobile physical damage coverage on an individually owned passenger vehicle or a renewal of such policy, an insurer shall not consider the applicant's commercial motor vehicle employment driving record in determining whether the policy will be issued or renewed or in determining the rates for the policy. An insurer shall not cancel such policy or discriminate in regard to other terms or conditions of the policy based upon the applicant's commercial motor vehicle employment driving record.

"Employment driving record" means that record maintained by the director pertaining to motor vehicle accidents or convictions for violation of motor vehicle laws while the applicant is driving a commercial motor vehicle as an employee of another.

48.30.320 — Notice of reason for cancellation, restrictions based on disability.

Every authorized insurer, upon canceling, denying, or refusing to renew any individual life, individual disability, homeowner, dwelling fire, or private passenger automobile insurance policy, shall, upon written request, directly notify in writing the applicant or insured, as the case may be, of the reasons for the action by the insurer. Any benefits, terms, rates, or conditions of such an insurance contract which are restricted, excluded, modified, increased, or reduced because of the presence of a disability shall, upon written request, be set forth in writing and supplied to the insured. The written communications required by this section shall be phrased in simple language which is readily understandable to a person of average intelligence, education, and reading ability.

48.30.330 — Immunity from libel or slander.

With respect to contracts of insurance as defined in RCW [48.30.320](#), there shall be no liability on the part of, and no cause of action of any nature shall arise against, the insurance commissioner, the commissioner's agents, or members of the commissioner's staff, or against any insurer, its authorized representative, its agents, its employees, furnishing to the insurer information as to reasons for cancellation or refusal to issue or renew, for libel or slander on the basis of any statement made by any of them in any written notice of cancellation or refusal to issue or renew, or in any other communications, oral or written, specifying the reasons for cancellation or refusal to issue or renew or the providing of information pertaining thereto, or for statements made or evidence submitted in any hearing conducted in connection therewith.

48.30.340 — Auto glass repair — Restrictions on insurer-owned facilities.

(1) A person in this state has the right to choose any glass repair facility for the repair of a loss relating to motor vehicle glass.

(2) An insurer or its third-party administrator that owns in whole or in part an automobile glass repair facility that is processing a claim limited only to auto glass shall:

(a) Verbally inform the person making the claim of loss, of the right provided under subsection (1) of this section, at the time information regarding the automobile glass repair or replacement facilities is provided; and

(b) Verbally inform the person making the claim of loss that the third-party administrator is an entity separate from the insurer that has a financial arrangement to process automobile glass claims on the insurer's behalf.

(3) An insurer or its third-party administrator that owns an interest in an automobile glass repair or replacement facility shall post the following notice in each of its repair facilities:

"THIS AUTOMOBILE GLASS REPAIR OR REPLACEMENT FACILITY IS OWNED IN WHOLE OR IN PART BY (NAME OF INSURER OR INSURER'S THIRD-PARTY ADMINISTRATOR). YOU ARE HEREBY NOTIFIED THAT YOU ARE ENTITLED UNDER WASHINGTON LAW TO SEEK REPAIRS AT ANY AUTOMOBILE GLASS REPAIR OR REPLACEMENT FACILITY OF YOUR CHOICE."

The notice must be posted, in not less than eighteen point font, prominently in a location in which it is likely to be seen and read by a customer. If the automobile glass repair or replacement facility is mobile, the notice must be given to the person making the claim verbally by the insurer or its third-party administrator prior to commencement of the repair or replacement.

(4) A person making a claim of loss whose motor vehicle is repaired at an automotive glass repair or replacement facility subject to the notice requirements of this section may file a complaint with the office of the insurance commissioner.

(5) This section does not create a private right or cause of action to or on behalf of any person.

48.30.350 Initiating arbitration of claims under the balance billing protection act with such frequency as to indicate a health carrier's general business practice.

(1) It is an unfair or deceptive practice for a health carrier to initiate, with such frequency as to indicate a general business practice, arbitration under RCW [48.49.040](#) with respect to claims submitted by out-of-network providers for services included in RCW [48.49.020](#) that request payment of a commercially reasonable amount, based on payments for the same or similar services provided in a similar geographic area.

(2) As used in this section, "health carrier" has the same meaning as in RCW [48.43.005](#).

48.30.900 — Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to

marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

Chapter 48.30A RCW — INSURANCE FRAUD

48.30A.005 — Findings — Intent.

The legislature finds that the business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. The payment of kickbacks, bribes, or rebates for referrals to service providers, as has been occurring with increasing regularity in this state, results in inflated or fraudulent insurance claims, results in greater insurance costs for all citizens, and is contrary to the public interest. In particular, the process whereby "cappers" buy and sell insurance claims without the controls of professional licensing and discipline creates a fertile ground for illegal activity and has, in this state, resulted in frauds committed against injured claimants, insurance companies, and the public. Operations that engage in this practice have some or all of the following characteristics: Cappers, acting under an agreement or understanding that they will receive a pecuniary benefit, refer claimants with real or imaginary claims, injuries, or property damage to service providers. This sets off a chain of events that corrupts both the provision of services and casualty or property insurance for all citizens. This chain of events includes false claims for services through the use of false estimates of repair; false prescriptions of care or rehabilitative therapy; services that either do not occur or are provided by persons unqualified to provide the services; submission of false claims; submission of and demands for fraudulent costs, lost wages, pain and suffering, and the like; and other devices meant to result in false claims under casualty or property insurance policies or contracts, whether insured or self-insured, and either directly or through subrogation.

The legislature finds that combatting these practices requires laws carefully fashioned to identify practices that mimic customary business practices. The legislature does not intend this law to be used against medical and other business referral practices that are otherwise legal, customary, and unrelated to the furtherance of some or all of the corrupt practices identified in this chapter.

48.30A.010 — Definitions.

The definitions set forth in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Casualty or property insurance" includes both the insurance under which a claim is filed and insurance that receives a claim through subrogation, and means insurance as defined in RCW [48.11.040](#) and [48.11.070](#) and includes self-insurance arrangements.

(2) "Claimant" means a person who has or is believed by an actor to have an insurance claim.

(3) "Group-buying arrangement" means an arrangement made by a membership organization having one hundred or more members in which the organization asks for or receives valuable

consideration in exchange for referring its members to a service provider; the consideration asked for or received will be or is used to benefit the entire organization, not just one or more individuals in positions of power or influence in the organization; and reasonable efforts are made to disclose to affected members of the organization the nature of the referral relationship, including the nature, extent, amount, and use of the consideration.

(4) "Health care services" means a service provided to a claimant for treatment of physical or mental illness or injury arising in whole or substantial part from trauma.

(5) "Insurance claim" means a claim for payment, benefits, or damages under a contract, plan, or policy of casualty or property insurance.

(6) "Legal provider" means an active member in good standing of the Washington state bar association, and any other person authorized by the Washington state supreme court to engage in full or limited practice of law.

(7) "Service provider" means a person who directly or indirectly provides, advertises, or otherwise claims to provide services.

(8) "Services" means health care services, motor vehicle body or other motor vehicle repair, and preparing, processing, presenting, or negotiating an insurance claim.

(9) "Trauma" means a physical injury or wound caused by external force or violence.

48.30A.015 — Unlawful acts — Penalties.

(1) It is unlawful for a person:

(a) Knowing that the payment is for the referral of a claimant to a service provider, either to accept payment from a service provider or, being a service provider, to pay another; or

(b) To provide or claim or represent to have provided services to a claimant, knowing the claimant was referred in violation of (a) of this subsection.

(2) It is unlawful for a service provider to engage in a regular practice of waiving, rebating, giving, paying, or offering to waive, rebate, give, or pay all or any part of a claimant's casualty or property insurance deductible.

(3) A violation of this section constitutes trafficking in insurance claims.

(4) (a) Trafficking in insurance claims is a gross misdemeanor for a single violation.

(b) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony.

48.30A.020 — Defenses to proceedings under this chapter.

In a proceeding under this chapter, it is a defense if proven by the defendant by a preponderance of the evidence that, at the time of the offense:

- (1) The conduct alleged was authorized by the rules of professional conduct or the admission to practice rules for lawyers as adopted by the state supreme court, Washington business and professions licensing statutes, or rules adopted by the secretary of health or the director of licensing;
- (2) The payment was an incidental nonmonetary gift or gratuity, or was purely social in nature;
- (3) The conduct alleged was an exercise of a group-buying arrangement;
- (4) The conduct alleged was a legal provider paying a service provider's bills from the proceeds of an insurance claim that included the bills;
- (5) The conduct alleged was a legal provider paying for services of an expert witness, including reports, consultation, and testimony; or
- (6) The conduct alleged was a service provider's purchase of advertising from an unrelated business that provides referrals from advertising for groups of ten or more service providers that are not related to the advertising business and not related to each other.

48.30A.030 — Injunction available — Remedies — Costs — Attorneys' fees — Degree of proof — Time limit.

Independent of authority granted to the attorney general, the prosecuting attorney may petition the superior court for an injunction against a person who has violated this chapter. Remedies in an injunctive action brought by a prosecuting attorney are limited to an order enjoining, restraining, or preventing the doing of any act or practice that constitutes a violation of this chapter and imposing a civil penalty of up to five thousand dollars for each violation. The prevailing party in the action may, in the discretion of the court, recover its reasonable investigative costs and the costs of the action including a reasonable attorney's fee. The degree of proof required in an action brought under this section is a preponderance of the evidence. An action under this section must be brought within three years after the violation of this chapter occurred.

48.30A.035 — Detrimental judgment — Written notification to appropriate regulatory or disciplinary body or agency.

Whenever a service provider or a person licensed by the state in a business or profession is convicted, enjoined, or found liable for damages or a civil penalty or other equitable relief under RCW [48.30A.030](#), the attorney general or the prosecuting attorney shall provide written notification of the judgment to the appropriate regulatory or disciplinary body or agency.

48.30A.040 — Violation — Cause for discipline — Unprofessional conduct — Regulatory penalty.

A violation of this chapter is cause for discipline and constitutes unprofessional conduct that could result in any regulatory penalty provided by law, including refusal, revocation, or suspension of a business or professional license, or right or admission to practice. Conduct that constitutes a violation of this chapter is unprofessional conduct in violation of RCW [18.130.180](#).

48.30A.045 — Insurance antifraud plan — File plan and changes with commissioner — Exemptions.

(1) Each insurer licensed to write direct insurance in this state, except those exempted in subsection (2) of this section, shall institute and maintain an insurance antifraud plan. An insurer licensed after July 1, 1995, shall file its antifraud plan within six months of licensure. An insurer shall file any change to the antifraud plan with the insurance commissioner within thirty days after the plan has been modified.

(2) This section does not apply to:

- (a) Health carriers, as defined in RCW [48.43.005](#);
- (b) Life insurers;
- (c) Title insurers;
- (d) Property or casualty insurers with annual gross written medical malpractice insurance premiums in this state that exceed fifty percent of their total annual gross written premiums in this state;
- (e) Credit-related insurance written in connection with a credit transaction in which the creditor is named as a beneficiary or loss payee under the policy, except vendor single-interest or collateral protection coverage as defined in RCW [48.22.110](#)(4); or

(f) Insurers with gross written premiums of less than one thousand dollars in Washington during the reporting year.

48.30A.050 — Insurance antifraud plan — Specific procedures.

An insurer's antifraud plan must establish specific procedures to:

- (1) Prevent insurance fraud, including internal fraud involving employees or company representatives, fraud resulting from misrepresentation on applications for insurance coverage, and claims fraud;
- (2) Review claims in order to detect evidence of possible insurance fraud and to investigate claims where fraud is suspected;
- (3) Report fraud to appropriate law enforcement agencies and cooperate with those agencies in their prosecution of fraud cases;
- (4) Undertake civil actions against persons who have engaged in fraudulent activities;
- (5) Train company employees and agents in the detection and prevention of fraud.

48.30A.055 — Insurance antifraud plan — Review — Disapproval — Notice — Audit to ensure compliance.

If after review of an insurer's antifraud plan, the commissioner finds that the plan does not comply with RCW [48.30A.050](#), the commissioner may disapprove the antifraud plan. Notice of disapproval must include a statement of the specific reasons for disapproval. The insurer shall refile a plan disapproved by the commissioner within sixty days of the date of the notice of disapproval. The commissioner may audit insurers to ensure compliance with antifraud plans.

48.30A.060 — Insurance antifraud plan — Actions taken by insurer — Report — Not public records.

By March 31st of each year, each insurer shall provide to the insurance commissioner a summary report on actions taken under its antifraud plan to prevent and combat insurance fraud. The report must also include, but not be limited to, measures taken to protect and ensure the integrity of electronic data processing-generated data and manually compiled data, statistical data on the amount of resources committed to combatting fraud, and the amount of fraud identified and recovered during the reporting period. The antifraud plans and summary of the insurer's antifraud activities are not public records and are exempt from

chapter [42.56](#) RCW, are proprietary, are not subject to public examination, and are not discoverable or admissible in civil litigation.

48.30A.065 — Insurance antifraud plan or summary report — Failure to file or exercise good faith — Penalty — Failure to follow plan — Civil penalty.

An insurer that fails to file a timely antifraud plan or summary report or that fails to make a good faith attempt to file an antifraud plan that complies with RCW [48.30A.050](#) or a summary report that complies with RCW [48.30A.060](#), is subject to the penalty provisions of RCW [48.01.080](#), but no penalty may be imposed for the first filing made by an insurer under this chapter. An insurer that fails to follow the antifraud plan is subject to a civil penalty not to exceed ten thousand dollars for each violation, at the discretion of the commissioner after consideration of all relevant factors, including the willfulness of the violation.

48.30A.070 — Duty to investigate, enforce, and prosecute violations.

It is the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

48.30A.900 — Effective date — 1995 c 285.

This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

Chapter 48.17 RCW — INSURANCE PRODUCERS, TITLE INSURANCE AGENTS, AND ADJUSTERS

(Formerly Agents, brokers, solicitors, and adjusters)

48.17.010 — Definitions.

The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(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 the adjuster's 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 or her profession or an adjuster of marine losses is not deemed to be an "adjuster" for the purpose of this chapter. A salaried employee of an insurer or of a managing general agent is not deemed to be an "adjuster" for the purpose of this chapter, except when acting as a crop adjuster.

(a) "Independent adjuster" means an adjuster representing the interests of the insurer.

(b) "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

(c) "Crop adjuster" means an adjuster, including (i) an independent adjuster, (ii) a public adjuster, and (iii) an employee of an insurer or managing general agent, who acts as an adjuster for claims arising under crop insurance. A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster program approved by the risk management agency of the United States department of agriculture is not a "crop adjuster" for the purposes of this chapter. Proof of certification must be provided to the commissioner upon request.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(3) "Crop insurance" means insurance coverage for damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market, or multiple peril crop insurance reinsured by the federal crop insurance corporation, including but not limited to revenue insurance.

(4) "Home state" means the District of Columbia and any state or territory of the United States or province of Canada in which an insurance producer or adjuster maintains the insurance

producer's or adjuster's principal place of residence or principal place of business, and is licensed to act as an insurance producer or adjuster.

(5) "Insurance education provider" means any insurer, health care service contractor, health maintenance organization, professional association, educational institution created by Washington statutes, or vocational school licensed under Title [28C](#) RCW, or independent contractor to which the commissioner has granted authority to conduct and certify completion of a course satisfying the insurance education requirements of RCW [48.17.150](#).

(6) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. "Insurance producer" does not include title insurance agents as defined in subsection (16) of this section or surplus line brokers licensed under chapter [48.15](#) RCW.

(7) "Insurer" has the same meaning as in RCW [48.01.050](#), and includes a health care service contractor as defined in RCW [48.44.010](#) and a health maintenance organization as defined in RCW [48.46.020](#).

(8) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer or title insurance agent for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurer.

(9) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

(10) "NAIC" means national association of insurance commissioners.

(11) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(12) "Person" means an individual or a business entity.

(13) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(14) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

(15) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

(16) "Title insurance agent" means a business entity licensed under the laws of this state and appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.

(17) "Uniform application" means the current version of the NAIC uniform application for individual insurance producers for resident and nonresident insurance producer licensing.

(18) "Uniform business entity application" means the current version of the NAIC uniform application for business entity insurance license or registration for resident and nonresident business entities.

48.17.060 — License required.

(1) A person shall not sell, solicit, or negotiate insurance in this state for any line or lines of insurance unless the person is licensed for that line of authority in accordance with this chapter.

(2) A person may not act as or hold himself or herself out to be an adjuster in this state unless licensed by the commissioner or otherwise authorized to act as an adjuster under this chapter.

(3) A person may not act as or hold himself or herself out to be a crop adjuster in this state unless licensed by the commissioner or otherwise authorized to act as a crop adjuster under this chapter.

48.17.062 — Insurance producer license not required under chapter 117, Laws of 2007.

(1) Nothing in chapter 117, Laws of 2007 shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(2) A license as an insurance producer is not required of the following:

(a) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state, and:

- (i) The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or
 - (ii) The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or
 - (iii) The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers, and do not include the sale, solicitation, or negotiation of insurance;
- (b) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and disability insurance; or for the purpose of enrolling individuals under plans; or issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;
- (c) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;
- (d) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and who are not individually engaged in the sale, solicitation, or negotiation of insurance;
- (e) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communication in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;
- (f) A person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that the person is otherwise licensed as

an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;

(g) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission; or

(h) Any person securing and forwarding information required for the purposes of group credit life and credit disability insurance or credit casualty insurance against loss or damage resulting from failure of debtors to pay their obligations in connection with an extension of credit and such other credit life and disability insurance or credit casualty insurance against loss or damage resulting from failure of debtors to pay their obligations as the commissioner shall determine, and where no commission or other compensation is payable on account of the securing and forwarding of such information. However, the reimbursement of a creditor's actual expenses for securing and forwarding information required for the purposes of such group insurance will not be considered a commission or other compensation if such reimbursement does not exceed three dollars per certificate issued, or in the case of a monthly premium plan extending beyond twelve months, not to exceed three dollars per loan transaction revision per year.

48.17.063 — Unlicensed activities — Acts committed in this state — Sanctions.

(1) For the purpose of this section, an act is committed in this state if it is committed, in whole or in part, in the state of Washington, or affects persons or property within the state and relates to or involves an insurance contract, health care services contract, or health maintenance agreement.

(2) Any person who knowingly violates RCW [48.17.060](#) is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(3) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(4) (a) If the commissioner has cause to believe that any person has violated the provisions of RCW [48.17.060](#), the commissioner may:

(i) Issue and enforce a cease and desist order in accordance with the provisions of RCW [48.02.080](#);

(ii) Suspend or revoke a license; and/or

(iii) Assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters [34.05](#) and [48.04](#) RCW.

(b) Upon failure to pay a civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty. Any amounts collected by the commissioner must be paid to the state treasurer for the account of the general fund.

48.17.067 — Determining whether authorization exists — Burden on insurance producer or title insurance agent.

Any insurance producer or title insurance agent soliciting, negotiating, or procuring an application for insurance or health care services in this state must make a good faith effort to determine whether the entity that is issuing the coverage is:

- (1) Authorized to transact insurance or health coverage in this state; or
- (2) Conducting business through a surplus line broker licensed under chapter [48.15](#) RCW.

48.17.071 Portable electronics—Application of chapter to adjusters—Duties of independent adjuster—Commissioner's authority.

(1) An individual who collects claim information from, or furnishes claim information to, insureds or claimants, and who enters data is not an "adjuster" for the purpose of this chapter if both of the following are satisfied:

(a) The individual's claim-related activity is limited exclusively to claims originating from policies of insurance issued through a portable electronics insurance program as defined in RCW [48.120.005](#)(6); and

(b) The individual is an employee of, and is supervised by, a person that is licensed as an independent adjuster. For purposes of this section, "employee" includes employees of entities under common ownership with the licensed person.

(2) The person that is licensed as an independent adjuster must maintain complete records of its employees engaged in the activity described in subsection (1) of this section and must comply with either (a) or (b) of this subsection:

(a) The person must submit a list of the names of all such employees to the commissioner on forms prescribed by the commissioner annually and must keep the list current by reporting all changes, deletions, or additions within thirty days after the change, deletion, or addition occurred. Each list must be retained by the licensed independent adjuster for a period of three years from submission; or

(b) The person must maintain a system to track and document in the claim records each employee engaged in the activity described in subsection (1) of this section and, upon request of the commissioner, must identify the employee who has engaged in the activity.

(3) The person licensed as an independent adjuster must provide a training and education program for each employee engaged in the activity described in subsection (1) of this section prior to allowing the employee to engage in the activity. The training must include a section on compliance with applicable insurance laws for which a syllabus outlining the content of this section must be submitted to the commissioner for approval prior to use, and resubmitted for approval of any changes prior to use.

(4) The licensed independent adjuster that supervises the persons engaged in the activity described in subsection (1) of this section is responsible for their conduct. The commissioner may place on probation, revoke, suspend, or refuse to renew the adjuster's license of the independent adjuster, levy a civil penalty in accordance with RCW [48.17.560](#), or any combination of actions for any of the causes for which an adjuster's license may be revoked under chapter [48.17](#) RCW for the violation of any insurance laws, or any rule, subpoena, or order of the commissioner by a person engaged in the activity described in subsection (1) of this section who is employed by the licensed adjuster.

[[2012 c 154 § 6](#).]

48.17.090 Application for license—Commissioner's findings.

(1) An individual applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. As a part of or in connection with the application, the individual applicant shall furnish information concerning the applicant's identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any governmental agency or entity authorized to receive this information for a state and national criminal history background check. If, in the process of verifying fingerprints, business records, or other information, the commissioner's office incurs fees or charges from another governmental agency or from a business firm, the amount of the fees or charges shall be paid to the commissioner's office by the applicant.

(2) Before approving the application, the commissioner shall find that the individual:

(a) Is at least eighteen years of age;

(b) Has not committed any act that is a ground for denial, suspension, or revocation set forth in RCW [48.17.530](#);

(c) Has completed a preclicensing course of study for the lines of authority for which the person has applied;

(d) Has paid the fees set forth in RCW [48.14.010](#); and

(e) Has successfully passed the examinations for the lines of authority for which the person has applied.

(3) A resident business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application, and the individual signing the application shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that:

(a) The business entity has paid the fees set forth in RCW [48.14.010](#);

(b) The business entity has designated a licensed insurance producer responsible for the business entity's compliance with the insurance laws and rules of this state; and

(c) The business entity has not committed any act that is a ground for denial, suspension, or revocation set forth in RCW [48.17.530](#).

(4) A resident business entity acting as a title insurance agent is required to obtain a title insurance agent license. Application shall be made to the commissioner on the uniform business entity application, and the individual submitting the application shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(a) Has paid the fees set forth in RCW [48.14.010](#);

(b) Maintains a lawfully established place of business in this state;

(c) Is empowered to be a title insurance agent under a members' agreement, if a limited liability company, or by its articles of incorporation;

(d) Is appointed as an agent by one or more authorized title insurance companies; and

(e) Has complied with RCW [48.29.155](#) and [48.29.160](#).

(5) The commissioner may require any documents reasonably necessary to verify the information contained in an application and may, from time to time, require any licensed insurance producer or title insurance agent to produce the information called for in an application for license.

48.17.110 Examination of applicants—Exemptions—Rules.

(1) A resident individual applying for an insurance producer license or an individual applying for an adjuster, including crop adjuster, license shall pass a written examination unless exempt under this section or RCW [48.17.175](#). The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer or adjuster, and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under the rules prescribed by the commissioner.

(2) The following are exempt from the examination requirement:

(a) Applicants for licenses under RCW [48.17.170](#)(1) (g), (h), and (i), at the discretion of the commissioner;

(b) With the exception of crop adjusters, applicants for an adjuster's license who for a period of one year, a portion of which was in the year next preceding the date of application, have been a

full-time salaried employee of an insurer or of a managing general agent to adjust, investigate, or report claims arising under insurance contracts;

(c) With the exception of crop adjusters, applicants for a license as a nonresident adjuster who are duly licensed in another state and who are deemed by the commissioner to be fully qualified and competent for a similar license in this state; and

(d) Applicants for a license as a nonresident crop adjuster, who must:

(i) Be duly licensed as a crop adjuster, or hold a valid substantially similar license in another state; and

(ii) Have completed prelicensing education and passed an examination substantially similar to the prelicensing education and examination required for licensure as a resident crop adjuster in this state; or

(iii) If their state of residence does not license crop adjusters, complete prelicensing education and pass an examination that are substantially similar to the prelicensing education and examination required to be licensed as a resident crop adjuster in this state.

(3) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

(4) The commissioner may, at any time, require any licensed insurance producer, adjuster[,] or crop adjuster to take and successfully pass an examination testing the licensee's competence and qualifications as a condition to the continuance or renewal of a license, if the licensee has been guilty of violating this title, or has so conducted affairs under an insurance license as to cause the commissioner to reasonably desire further evidence of the licensee's qualifications.

(5) The commissioner may by rule establish requirements for crop adjusters to:

(a) Successfully complete prelicensing education;

(b) Pass a written examination to obtain a license; and

(c) Renew their license.

48.17.125 Examination questions—Confidentiality—Penalties.

It is unlawful for any unauthorized person to remove, reproduce, duplicate, or distribute in any form, any question(s) used by the state of Washington to determine the qualifications and competence of insurance producers or adjusters required by Title [48](#) RCW to be licensed. This section shall not prohibit an insurance education provider from creating and using sample test questions in courses approved pursuant to RCW [48.17.150](#).

Any person violating this section shall be subject to penalties as provided by RCW [48.01.080](#), [48.17.530](#), and [48.17.560](#).

48.17.150 — Continuing education courses and requirements — Rules.

(1) The commissioner shall by rule establish minimum continuing education requirements for the renewal or reissuance of a license to an insurance producer.

(2) The commissioner may by rule establish minimum continuing education requirements for the renewal or reissuance of a license to a crop adjuster.

(3) The commissioner shall require that continuing education courses will be made available on a statewide basis in order to ensure that persons residing in all geographical areas of this state will have a reasonable opportunity to attend such courses.

(4) The continuing education requirements must be appropriate to the license for the lines of authority specified in RCW [48.17.170](#) or by rule.

48.17.153 — Agents selling federal flood insurance policies — Training requirements.

(1) All Washington state licensed insurance agents who sell federal flood insurance policies must comply with the minimum training requirements of section 207 of the flood insurance reform act of 2004, and basic flood education as outlined at 70 C.F.R. Sec. 52117, or such later requirements as are published by the federal emergency management agency.

(2) Licensed insurers shall demonstrate to the commissioner, upon request, that their licensed and appointed agents who sell federal flood insurance policies have complied with the minimum federal flood insurance training requirements.

48.17.180 — Doing business under any name other than legal name.

An insurance producer or title insurance agent doing business under any name other than the insurance producer's or title insurance agent's legal name is required to register the name in accordance with chapter [19.80](#) RCW and notify the commissioner before using the assumed name.

48.17.250 — Insurance producer's bond.

(1) Every resident insurance producer licensed under this chapter on or after July 1, 2009, who places insurance either directly or indirectly with an insurer with which the insurance producer is not appointed as an agent must maintain in force while so licensed a bond in favor of the people of the state of Washington or a named insured such that the people of Washington are covered by the bond, executed by an authorized corporate surety approved by the commissioner, in the amount of two thousand five hundred dollars, or five percent of the premiums brokered in the previous calendar year, whichever is greater, but not to exceed one hundred thousand dollars total aggregate liability. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the required amount of the bond. The

bond must be contingent on the accounting by the resident insurance producer to any person requesting the resident insurance producer to obtain insurance, for moneys or premiums collected in connection therewith.

(2) Authorized insurance producers of a business entity may meet the requirements of this section with a bond in the name of the business entity, continuous in form, and in the amounts set forth in subsection (1) of this section. Insurance producers may meet the requirements of this section with a bond in the name of an association. The association must have been in existence for five years, have common membership, and have been formed for a purpose other than obtaining a bond. An individual insurance producer remains responsible for assuring that a bond is in effect and is for the correct amount.

(3) The surety may cancel the bond and be released from further liability thereunder upon thirty days' written notice in advance to the principal. The cancellation does not affect any liability incurred or accrued under the bond before the termination of the thirty-day period.

(4) The insurance producer's license may be revoked if the insurance producer acts without a bond that is required under this section.

(5) If a party injured under the terms of the bond requests the insurance producer to provide the name of the surety and the bond number, the insurance producer must provide the information within three working days after receiving the request.

(6) Members of an association may meet the requirements of this section with a bond in the name of the association that is continuous in form and in the amounts set forth in subsection (1) of this section for each participating member.

(7) All records relating to the bond required by this section must be kept available and open to the inspection of the commissioner at any business time.

48.17.270 — Insurance producer as insurer's agent — Compensation — Disclosure.

(1) The sole relationship between an insurance producer and an insurer as to which the insurance producer is appointed as an agent shall, as to transactions arising during the existence of such agency appointment, be that of insurer and agent.

(2) Unless the agency-insurer agreement provides to the contrary, an insurance producer may receive the following compensation:

(a) A commission paid by the insurer;

- (b) A fee paid by the insured; or
- (c) A combination of commission paid by the insurer and a fee paid by the insured from which an insurance producer may offset or reimburse the insured for all or part of the fee.
- (3) If the compensation received by an insurance producer who is dealing directly with the insured includes a fee, for each policy, the insurance producer must disclose in writing to the insured:
- (a) The full amount of the fee paid by the insured;
 - (b) The full amount of any commission paid to the insurance producer by the insurer, if one is received;
 - (c) An explanation of any offset or reimbursement of fees or commissions as described in subsection (2)(c) of this section;
 - (d) When the insurance producer may receive additional commission, notice that states the insurance producer:
 - (i) May receive additional commission in the form of future incentive compensation from the insurer, including contingent commissions and other awards and bonuses based on factors that typically include the total sales volume, growth, profitability, and retention of business placed by the insurance producer with the insurer, and incentive compensation is only paid if the performance criteria established in the agency-insurer agreement is met by the insurance producer or the business entity with which the insurance producer is affiliated; and
 - (ii) Will furnish to the insured or prospective insured specific information relating to additional commission upon request; and
 - (e) The full name of the insurer that may pay any commission to the insurance producer.
- (4) Written disclosure of compensation as required by subsection (3) of this section shall be provided by the insurance producer to the insured prior to the sale of the policy.
- (5) Written disclosure as required by subsection (3) of this section must be signed by the insurance producer and the insured, and the writing must be retained by the insurance producer for five years. For the purposes of this section, written disclosure means the insured's written consent obtained prior to the insured's purchase of insurance. In the case of a purchase over the telephone or by electronic means for which written consent cannot be reasonably obtained, consent documented by the insurance producer shall be acceptable.

48.17.410 Authority of adjuster.

An adjuster shall have authority under an adjuster's license only to either investigate and negotiate settlement relative to insurance claims, or apply the factual circumstances of an insurance claim to the insurance policy provisions, or both, to the adjuster's principal upon claims as limited under RCW [48.17.010](#)(1) on behalf only of the insurers if licensed as an independent adjuster, or on behalf only of insureds if licensed as a public adjuster. An adjuster licensed concurrently as both an independent and a public adjuster shall not represent both the insurer and the insured in the same transaction.

48.17.420 — Appointed agent may adjust—When license or certification is required—Nonresident adjusters or crop adjusters.

(1) An insurance producer or title insurance agent may from time to time act as an adjuster on behalf of and as authorized by an insurer for which an insurance producer or title insurance agent has been appointed as an agent and investigate and report upon claims without being required to be licensed as an adjuster. An insurance producer or title insurance agent must not act as a crop adjuster or investigate or report upon claims arising under crop insurance without first obtaining a crop adjuster license or, if a salaried employee of an insurer or of a managing general agent, without first being certified by a crop adjuster proficiency program approved by the risk management agency of the United States department of agriculture.

(2) Except for losses arising under crop insurance, a license by this state is not required of a nonresident independent adjuster, for the adjustment in this state of a single loss, or of losses arising out of a catastrophe common to all such losses from which the governor proclaims a state of emergency, if the nonresident independent adjuster registers with the commissioner as an emergency adjuster and includes:

- (a) The nonresident independent adjuster's name;
- (b) The nonresident independent adjuster's contact information;
- (c) The nonresident independent adjuster's home state and license number;
- (d) The single loss or specific proclamation from the governor that details the emergency; and
- (e) The insurers the nonresident independent adjuster is representing.

(3) An emergency adjuster:

- (a) Must not operate longer than one hundred eighty days, unless extended by the commissioner;
- (b) Is subject to all the disciplinary provisions and penalties of this title and Title 284 WAC; and
- (c) Is subject to the jurisdiction of the courts of the state of Washington concerning civil liability for all acts in any way related to the emergency adjuster's actions in Washington state.

(4) For losses arising under crop insurance, a license by this state is not required of a nonresident crop adjuster, for the adjustment in this state of a single loss, or of losses arising out of a catastrophe common to all such losses, if the nonresident crop adjuster is:

- (a) Licensed as a crop adjuster in another state;
- (b) Certified by the risk management agency of the United States department of agriculture; or
- (c) A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster proficiency program approved by the risk management agency of the United States department of agriculture.

48.17.450 — Place of business.

(1) Every licensed insurance producer, title insurance agent, and adjuster, other than an insurance producer licensed for life or disability insurances only, shall have and maintain in this state, or, if a nonresident insurance producer or title insurance agent, in this state or in the state of the licensee's domicile, a place of business accessible to the public. Such place of business shall be that wherein the insurance producer or title insurance agent principally conducts transactions under that person's licenses. A licensee maintaining more than one place of business in this state shall obtain a duplicate license or licenses for each additional such place, and shall pay the full fee therefor.

(2) Any notice, order, or written communication from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last address of record with the commissioner.

284-17-005 — Address of record

(1) The address of record used by the commissioner will be:

- (a) For disciplinary orders, the last U.S. mailing address provided by the person or business entity to the commissioner;
- (b) For all other matters, the last email address provided by the person or business entity to the commissioner. This will be the email address listed in the mailing address section of the commissioner's licensing date base [database].

(2) Licensees must advise the commissioner of any change of address within thirty days after a change of address. This includes any change in the person's residence, mailing, business, or email address. Failure to advise the commissioner of a change of address may subject a licensee to disciplinary action under RCW 48.17.530 and 48.17.560.

48.17.460 — Display of license.

The license or licenses of each insurance producer, title insurance agent, or adjuster shall be displayed in a conspicuous place in that part of the place of business which is customarily open to the public.

48.17.470 — Records of insurance producers, title insurance agents, adjusters.

(1) Every insurance producer, title insurance agent, or adjuster shall retain a record of all transactions consummated under the license. This record shall be in organized form and shall include:

(a) If an insurance producer or title insurance agent:

(i) A record of each insurance contract procured or issued, together with the names of the insurers and insureds, the amount of premium paid or to be paid, and a statement of the subject of the insurance;

(ii) The names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid.

(b) If an adjuster, a record of each investigation or adjustment undertaken or consummated, and a statement of any fee, commission, or other compensation received or to be received by the adjuster on account of such investigation or adjustment.

(c) Such other and additional information as shall be customary, or as may reasonably be required by the commissioner.

(2) All such records as to any particular transaction shall be kept available and open to the inspection of the commissioner at any business time during the five years immediately after the date of the completion of such transaction.

(3) This section shall not apply as to life or disability insurances.

48.17.475 — Licensee to reply promptly to inquiry by commissioner.

Every insurance producer, title insurance agent, adjuster, or other person licensed under this chapter shall promptly reply in writing to an inquiry of the commissioner relative to the business of insurance. A timely response is one that is received by the commissioner within fifteen business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section.

48.17.480 — Reporting and accounting for premiums.

(1) An insurance producer, title insurance agent, or any other representative of an insurer involved in the procuring or issuance of an insurance contract shall report to the insurer the exact amount of consideration charged as premium for such contract, and such amount shall likewise be shown in the contract and in the records of the insurance producer, title insurance agent, or other representative. Each willful violation of this provision is a misdemeanor.

(2) All funds representing premiums or return premiums received by an insurance producer or title insurance agent shall be so received in the insurance producer's or title insurance agent's fiduciary capacity, and shall be promptly accounted for and paid to the insured, insurer, title insurance agent, or insurance producer as entitled thereto.

(3) Any person licensed under this chapter who receives funds which belong to or should be paid to another person as a result of or in connection with an insurance transaction is deemed to have received the funds in a fiduciary capacity. The licensee shall promptly account for and pay the funds to the person entitled to the funds.

(4) Any insurance producer, title insurance agent, adjuster, or other person licensed under this chapter who, not being lawfully entitled thereto, diverts or appropriates funds received in a fiduciary capacity or any portion thereof to his or her own use, is guilty of theft under chapter [9A.56](#) RCW.

48.17.490 — Must be licensed to receive a commission, service fee, or other valuable consideration.

(1) An insurance company, insurance producer, or title insurance agent shall not pay a commission, service fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter or chapter [48.15](#) RCW and is not so licensed.

(2) A person shall not accept a commission, service fee, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter or chapter [48.15](#) RCW and is not so licensed.

(3) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this state if the person was required to be licensed under this chapter or chapter [48.15](#) RCW at the time of the sale, solicitation, or negotiation, and was so licensed at that time.

(4) An insurer, except a title insurer, or insurance producer may pay or assign commissions, service fees, or other valuable consideration to an insurance agency, or to persons who do not

sell, solicit, or negotiate insurance in this state, unless the payment would violate RCW [48.30.140](#), [48.30.150](#), [48.30.155](#), [48.30.157](#), or [48.30.170](#).

48.17.510 — Temporary licenses — Restrictions — Commissioner's discretion.

(1) The commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty days without requiring an examination if the commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(a) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the insurance producer or for the recovery or return of the insurance producer to the business, or to provide for the training and licensing of new personnel to operate the insurance producer's business;

(b) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

(c) To the designee of a licensed insurance producer entering active service in the armed forces of the United States; or

(d) In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of this license.

(2) The commissioner may, by order, limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and who assumes responsibility for all acts of the temporary licensee, and may impose other similar requirements designed to protect insureds and the public. The commissioner may, by order, revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representatives dispose of the business.

48.17.530 — Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license.

(1) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an adjuster's license, an insurance producer's license, a title insurance agent's license, or any surplus line broker's license, or may levy a civil penalty in accordance with RCW [48.17.560](#) or any combination of actions, for any one or more of the following causes:

- (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
 - (b) Violating any insurance laws, or violating any rule, subpoena, or order of the commissioner or of another state's insurance commissioner;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
 - (f) Having been convicted of a felony;
 - (g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
 - (h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere;
 - (i) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
 - (j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
 - (k) Improperly using notes or any other reference material to complete an examination for an insurance license;
 - (l) Knowingly accepting insurance business from a person who is required to be licensed under this title and is not so licensed, other than orders for issuance of title insurance on property located in this state placed by a nonresident title insurance agent authorized to act as a title insurance agent in the title insurance agent's home state; or
 - (m) Obtaining a loan from an insurance client that is not a financial institution and who is not related to the insurance producer by birth, marriage, or adoption, except the commissioner may, by rule, define and permit reasonable arrangements.
- (2) The license of a business entity may be suspended, revoked, or refused if the commissioner finds that an individual licensee's violation was known or should have been known by one or

more of the partners, officers, or managers acting on behalf of the partnership or corporation, and the violation was neither reported to the commissioner nor corrective action taken.

(3) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and this title against any person who is under investigation for or charged with a violation of this chapter or this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(4) The holder of any license which has been revoked or suspended shall surrender the license certificate to the commissioner at the commissioner's request.

(5) The commissioner may probate a suspension or revocation of a license under reasonable terms determined by the commissioner. In addition, the commissioner may require a licensee who is placed on probation to:

- (a) Report regularly to the commissioner on matters that are the basis of the probation;
- (b) Limit practice to an area prescribed by the commissioner; or
- (c) Continue or renew continuing education until the licensee attains a degree of skill satisfactory to the commissioner in the area that is the basis of the probation.

(6) At any time during a probation term where the licensee has violated the probation order, the commissioner may:

- (a) Rescind the probation and enforce the commissioner's original order; and
- (b) Impose any disciplinary action permitted under this section in addition to or in lieu of enforcing the original order.

48.17.535 — License or certificate suspension — Noncompliance with support order — Reissuance.

The commissioner shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW [74.20A.320](#) by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the commissioner's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

48.17.540 — Procedure to suspend, revoke, or refuse — Effect of conviction of felony.

(1) The commissioner may revoke or refuse to renew any license issued under this chapter, or any surplus line broker's license, immediately and without hearing, upon sentencing of the licensee for conviction of a felony by final judgment of any court of competent jurisdiction, if the facts giving rise to such conviction demonstrate the licensee to be untrustworthy to maintain any such license.

(2) The commissioner may suspend, revoke, or refuse to renew any such license:

(a) By an order served by mail or personal service upon the licensee not less than fifteen days prior to the effective date thereof, subject to the right of the licensee to have a hearing as provided in RCW [48.04.010](#); or

(b) By an order on hearing made as provided in chapter [34.05](#) RCW, the Administrative Procedure Act, effective not less than ten days after the date of the service of the order, subject to the right of the licensee to appeal to the superior court.

(3) The commissioner may temporarily suspend such license by an order served by mail or by personal service upon the licensee not less than three days prior to the effective date thereof, provided the order contains a notice of revocation and includes a finding that the public safety or welfare imperatively requires emergency action. Such suspension shall continue only until proceedings for revocation are concluded. The commissioner also may temporarily suspend such license in cases where proceedings for revocation are pending if he or she finds that the public safety or welfare imperatively requires emergency action.

(4) Service by mail under this section shall mean posting in the United States mail, addressed to the licensee at the most recent address shown in the commissioner's licensing records for the licensee. Service by mail is complete upon deposit in the United States mail.

48.17.550 — Duration of suspension.

Every order suspending any such license shall specify the period during which suspension will be effective, and which period shall in no event exceed twelve months.

48.17.560 — Fines may be imposed.

After hearing or upon stipulation by the licensee or insurance education provider, and in addition to or in lieu of the suspension, revocation, or refusal to renew any such license or insurance education provider approval, the commissioner may levy a fine upon the licensee or insurance education provider. (1) For each offense the fine shall be an amount not more than one thousand dollars. (2) The order levying such fine shall specify that the fine shall be fully paid not less than fifteen nor more than thirty days from the date of the order. (3) Upon failure

to pay any such fine when due, the commissioner shall revoke the licenses of the licensee or the approval(s) of the insurance education provider, if not already revoked. The fine shall be recovered in a civil action brought on behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

48.17.597 — Administrative action taken against a licensee in another jurisdiction or governmental agency — Report to commissioner.

(1) An insurance producer, title insurance agent, or adjuster shall report to the commissioner any administrative action taken against the insurance producer, title insurance agent, or adjuster in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

(2) Within thirty days of the initial pretrial hearing date, an insurance producer, title insurance agent, or adjuster shall report to the commissioner any criminal prosecution of the insurance producer, title insurance agent, or adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

48.17.600 — Separation of premium funds.

(1) All funds representing premiums or return premiums received by an insurance producer or title insurance agent in the insurance producer's or title insurance agent's fiduciary capacity shall be accounted for and maintained in a separate account from all other business and personal funds.

(2) An insurance producer or title insurance agent shall not commingle or otherwise combine premiums with any other moneys, except as provided in subsection (3) of this section.

(3) An insurance producer or title insurance agent may commingle with premium funds any additional funds as the insurance producer or title insurance agent may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies as may arise in the insurance producer's or title insurance agent's business of receiving and transmitting premium or return premium funds.

(4) Each willful violation of this section shall constitute a misdemeanor.

48.17.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

Chapter 284-30 WAC — TRADE PRACTICES

284-30-500 — Unfair practices with respect to vehicle insurance.

(1) The following practices by any insurer with respect to every vehicle liability insurance policy applicable to private passenger automobiles registered or principally garaged in this state are unfair and prohibited:

(a) Failing to provide, to any insured under such policy, liability limits at least as great as those required by RCW [46.29.090](#), as measured at the effective date of the applicable policy or its renewal;

(b) Denying or limiting liability coverage in such policy to less than the insured's policy limits solely because the injured person qualifies as an insured as defined in RCW [48.22.005](#) (5)(a);

(2) Denying or limiting liability coverage in such policy, with respect to injuries sustained by motorcycle passengers, to an amount below the bodily injury liability limits required by RCW [46.29.090](#), if the policy provides liability coverage for an insured's ownership, operation, or use of a motorcycle.

(3) With respect to vehicle insurance policies applicable to private passenger vehicles registered or principally garaged in this state, failing to provide a named insured an itemization of the premium costs for the coverages under the policy if there are identifiable separate premium charges for the coverages is unfair and prohibited. The required itemization must be given to a named insured no later than at the time of delivery of a policy and must accompany each offer to renew thereafter.

(4) It is an unfair practice for any insurer to consider traffic violations or accidents which occurred more than three years in the past, with respect to the acceptance, rejection, cancellation or nonrenewal of any insured under a private passenger automobile insurance policy, unless, because of the individual's violations, accidents or driving record during the three years immediately past, the earlier violations or accidents are significantly relevant to the individual's qualifications for insurance.

(5) For purposes of this section, the definition of a "private passenger automobile" is that set forth in RCW [48.18.297](#), and includes a motorcycle except as otherwise specifically provided in this section.

284-30-550 — Receipts to be given.

(1) To effectuate RCW [48.17.470](#) and 48.17.480 and to eliminate unfair practices in accord with RCW [48.30.010](#), any insurance producer or other representative of an insurer who receives a contract payment or premium from or on behalf of an insured or applicant for homeowners', dwelling fire, private passenger automobile, motorcycle, individual life, or individual disability insurance shall deliver or mail a signed receipt therefor as promptly as possible, which should generally be no later than the next business day. Such receipt must be dated, identify the insurance producer and the insurance producer's address, identify the person by or for whom payment is made, state the amount received, identify the applicable insurer by its full legal name (or the premium finance company or Washington automobile insurance plan if payment is intended therefor), and identify the contract or policy including a brief description of the coverage for which payment is received.

(2) The receipt need not be an independent document but may be incorporated in an application or binder, if appropriate.

(3) For purposes of this section "life insurance" includes annuities.

(4) For purposes of this section "insurer" includes a health care service contractor and a health maintenance organization, and "disability insurance" includes their contracts and agreements.

(5) This section shall not apply to the receipt of checks or other instruments payable on their face to the insurer, premium finance company or the Washington Automobile Insurance Plan. It also shall not apply to payments (other than by cash) received by an insurance producer after delivery of the policy for which payment is made, when the payment is pursuant to a premium financing arrangement with the insurance producer or in response to a billing by the insurance producer.

(6) A failure to comply with this section shall be an unfair practice pursuant to RCW [48.30.010](#), and a violation of a regulation pursuant to RCW [48.17.530](#).

(7) Each insurer shall inform its insurance producers and appropriate representatives of the requirements of this section.

284-30-560 — Applications and binders.

(1) Every application form used in connection with homeowners', dwelling fire and vehicle insurance, shall contain a clear and conspicuous statement setting forth whether or not coverage has commenced.

(a) If coverage has commenced, the effective date shall be stated.

(b) If coverage has not commenced, there shall be an explanation as to the circumstances which will cause coverage to commence and the time when coverage will become effective.

- (c) The statement concerning commencement of coverage shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the other contents of the application so as to be confusing, misleading or not readily evident.
- (d) A copy of such application shall be delivered or mailed to the applicant promptly following its execution.
- (2) Every binder used pending the issuance of a policy of property, marine and transportation, vehicle and general casualty insurance, as those kinds of insurance are defined in chapter [48.11](#) RCW, shall be reduced to writing or printed form and delivered or mailed to the insured as promptly as possible, which should generally be no later than the next business day.
- (a) Such binder must be dated, identify the insurer in which coverage is bound, briefly describe the coverage bound, state the date and time coverage is effective, and acknowledge receipt of the amount of any premium money received.
- (b) Such binder may be incorporated in or be attached to the application for the insurance but must be clear and conspicuous.
- (3) Binders should be replaced promptly with insurance policies. With few exceptions and then only in compliance with RCW [48.18.230](#)(2), insurers must replace binders within ninety days of their effective date.
- (4) It shall be an unfair practice and unfair competition for an insurer or insurance producer to engage in acts or practices which are contrary to or not in conformity with the requirements of this section, and a violation of this section is prohibited and shall subject an insurer and insurance producer to the penalties or procedures set forth in RCW [48.05.140](#), 48.17.530, or 48.30.010.
- (5) Each insurer shall inform its insurance producers and appropriate representatives of the requirements of this section.

284-30-570 — Actual reason for canceling, denying or refusing to renew insurance to be disclosed.

Whenever an insurer is required by law to give the reason for its canceling, denying, or refusing to renew insurance, as, for example, pursuant to RCW [48.18.291](#), 48.18.292, or 48.30.320, it shall give the true and actual reason for its action in clear and simple language, so that the insured or applicant will not need to resort to additional research to understand the real reason for the action. It is not sufficient, for example, to state that an insured "does not meet the company's underwriting standards." The reason why the individual does not meet such underwriting standards is what must be given. If the actual reason relates to medical information, the insurer may make a broad reference thereto and limit specific disclosure of details to the applicant's or insured's physician.

284-30-572 — Discrimination prohibited.

- (1) It shall be an unfair practice for any insurer to decline, cancel, or refuse to renew any homeowners, dwelling fire or vehicle insurance policy, or to vary its terms, rates, conditions or

benefits, because of an insured's or applicant's race, creed, color, national origin, religion, or ability to read, write, or speak the English language.

(2) It is an unfair practice for any insurer, and a prohibited practice for any health care service contractor or health maintenance organization, to discourage a claimant or an insured from contacting the insurance commissioner, or to unfairly discriminate against such person because of such contact.

284-30-574 — Insurer must make independent evaluation.

It shall be an unfair practice for any insurer to rely solely on another insurer's denial, cancellation, or nonrenewal of insurance to support a denial or termination of coverage. In every case, an insurer must go behind another insurer's action and make its own independent decision on the merits. This section does not prohibit an insurer from denying a binder pending its evaluation of another insurer's action, and does not apply to an insurer-reinsurer relationship.

284-30-580 — Policies to be delivered, not held by insurance producers or title insurance agents.

(1) RCW [48.18.260](#) requires that policies be delivered within a reasonable period of time after issuance. If an insurer relies upon its appointed insurance producers or title insurance agents to make deliveries of its policies, the insurer, as well as the appointed insurance producer or title insurance agent, is responsible for any delay resulting from the failure of the appointed insurance producer or title insurance agent to act diligently.

(2) Insurance producers and title insurance agents delivering insurance policies to insureds must make an actual physical delivery. It is not acceptable for an insurance producer or title insurance agent to merely obtain a receipt indicating a delivery and then to retain the policy, for safekeeping or otherwise, in the insurance producer's or title insurance agent's possession.

(3) Insurance producers and title insurance agents may obtain policies from owners or insureds and hold such policies briefly for analysis or servicing, giving a receipt therefor in every instance, but shall promptly return any such policies to their owners or insureds. Insurance producers and title insurance agents shall not otherwise take custody of, or hold, insurance policies, whether for fee or at no charge, unless a family or legal relationship clearly justifies such conduct, as, for example, where a policy belonging to a minor child of the insurance producer and title insurance agent is held, or where the insurance producer or title insurance agent is acting as a legal guardian or a court appointed representative and holds a policy of a ward or of an estate.

(4) It shall be an unfair practice and unfair competition for an insurer or insurance producer or title insurance agent to engage in acts or practices which are contrary to or not in conformity with the requirements of this section, and a violation of this section is prohibited and shall subject an insurer, insurance producer and title insurance agent to the penalties or procedures set forth in RCW [48.05.140](#), 48.17.530, or 48.30.010.

(5) Each insurer shall inform its appointed insurance producers or title insurance agents and appropriate representatives of the requirements of this section.

284-30-590 — Unfair practices with respect to policy cancellations, renewals, and changes.

(1) It is unfair practice to utilize a twenty-day notice to increase premiums by a change of rates or to change the terms of a policy to the adverse interest of the insured thereunder, except on a one time basis in connection with the renewal of a policy as permitted by RCW [48.18.2901](#)(2), or to utilize such notice if it is not, by its contents, made clearly and specifically applicable to the particular policy and to the insured thereunder or does not provide sufficient information to enable the insured to understand the basic nature of any change in terms or to calculate any premium resulting from a change of rates.

(2) In the unusual situation where a contract permits a midterm change of rates or terms, other than in connection with a renewal, it is an unfair practice to effectuate such change with less than forty-five days advance written notice to the named insured, or to utilize a contract provision which is not set forth conspicuously in the contract under an appropriate caption of sufficient prominence that it will not be minimized or rendered obscure.

(3) It is an unfair practice to effectuate a change of rates or terms other than prospectively. Such changes may be effective no sooner than the first day following the expiration of the required notice.

(4) If an insured elects to not continue coverage beyond the effective date of any change of rates or terms, it is an unfair practice to refund any premium on less than a pro rata basis.

(5) The cancellation and renewal provisions set forth in chapter [48.18](#) RCW do not apply to surplus line policies. To avoid unfair competition and to prevent unfair practices with respect to consumers, it is an unfair practice for any surplus line broker to procure any policy of insurance pursuant to chapter [48.15](#) RCW that is cancelable by less than ten days advance notice for nonpayment of premium and twenty days for any other reason, except as to a policy of insurance of a kind exempted by RCW [48.15.160](#). This rule shall not prevent the cancellation of a fire insurance policy on shorter notice in accord with chapter [48.53](#) RCW.

(6) Except where the insurance policy is providing excess liability or excess property insurance including so-called umbrella coverage, it is an unfair practice for an insurer to make a common practice of giving a notice of nonrenewal of an insurance policy followed by its offer to rewrite the insurance, unless the proposed renewal insurance is substantially different from that under the expiring policy.

(7) Where the rate has not changed but an incorrect premium has been charged, if the insurer elects to make a midterm premium revision, it is an unfair practice to treat the insured less favorably than as follows:

(a) If the premium revision is necessary because of an error made by the insurer or its agent, the insurer shall:

(i) Notify the applicant or insured of the nature of the error and the amount of additional premium required; and

- (ii) Offer to cancel the policy or binder pro rata based on the original (incorrect) premium for the period for which coverage was provided; or
- (iii) Offer to continue the policy for its full term with the correct premium applying no earlier than twenty days after the notice of additional premium is mailed to the insured.
- (b) If the premium revision results from erroneous or incomplete information supplied by the applicant or insured, the insurer shall:
 - (i) Correct the premium or rate retroactive to the effective date of the policy; and
 - (ii) Notify the applicant or insured of the reason for the amount of the change. If the insured is not willing to pay the additional premium billed, the insurer shall cancel the policy, with appropriate statutory notice for nonpayment of premium, and compute any return premium based on the correct premium.
- (c) This subsection recognizes that an insurer may elect to allow an incorrect premium to remain in effect to the end of the policy term because the insured is legally or equitably entitled to the benefit of a bargain made.
- (8) If a policy includes conditions allowing the insured to cancel the policy, the insured may cancel the policy or binder issued as evidence of coverage.
 - (a) The insured may provide notice before the effective date of cancellation using one of these methods:
 - (i) Written notice of cancellation to the insurer or producer by mail, fax or e-mail;
 - (ii) Surrender of the policy or binder to the insurer or producer; or
 - (iii) Verbal notice to the insurer or producer.
 - (b) If the insurer receives notice of cancellation from the insured, it must accept and promptly cancel the policy or any binder issued as evidence of coverage effective the later of:
 - (i) The date notice is received; or
 - (ii) The date the insured requests cancellation.
 - (c) If an insured provides verbal notice of cancellation to the insurer, the insurer may require the insured to provide written confirmation of cancellation, but may not impose a waiting period for cancellation by requiring written confirmation from the insured.
 - (d) Insurers may retroactively cancel a policy to accommodate the insured.
 - (e) Insurers must establish safeguards to ensure the person requesting cancellation:
 - (i) Is authorized to do so; and
 - (ii) Is informed that the request to cancel the policy is binding on both parties.

284-30-600 — Unfair practices with respect to out-of-state group life and disability insurance.

- (1) Under RCW [48.30.010](#), it is an unfair method of competition and an unfair practice for any insurer to engage in any insurance transaction, as defined in RCW [48.01.060](#), regarding life insurance, annuities, or disability insurance coverage on individuals in this state under a group policy delivered to a policyholder outside this state when:
 - (a) The policy or certificate providing coverage in the state of Washington, including, but not limited to, applications, riders, or endorsements, contains any inconsistent, ambiguous or

misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the policy or certificate.

(b) The policy or certificate providing coverage in the state of Washington, including, but not limited to, applications, riders, or endorsements, has any title, heading, or other indication of its provisions which is misleading.

(c) The policy or certificate delivered to residents of the state of Washington does not include all terms and conditions of the coverage.

(d) The type of group being covered under the contract providing coverage in the state of Washington does not qualify for group life insurance or group disability insurance under the provisions of Title 48 RCW.

(e) The coverage is being solicited by deceptive advertising.

(f) With respect to disability insurance, the policy or certificate providing coverage in the state of Washington does not:

(i) Provide that claims will be processed in compliance with RCW [48.21.130](#) through [48.21.148](#);

(ii) Meet the requirements as to benefits and coverage mandated by chapter [48.21](#) RCW and rules effectuating that chapter, specifically including those set forth in chapter [284-51](#) WAC, and WAC [284-30-610](#), [284-30-620](#) and [284-30-630](#);

(iii) With respect to long-term care insurance, also meet the requirements of chapter [48.84](#) RCW and chapter [284-54](#) WAC;

(iv) With respect to medicare supplemental insurance, also meet the requirements of chapter [48.66](#) RCW and chapter [284-66](#) WAC; and

(v) Meet the loss ratio standards applicable to group insurance under RCW [48.66.100](#) and [48.70.030](#) and chapter [284-60](#) WAC.

(g) With respect to life insurance, the out-of-state group policy or certificate providing coverage in the state of Washington fails to comply with the provisions of:

(i) Chapter [48.24](#) RCW;

(ii) WAC [284-23-550](#) and [284-23-600](#) through [284-23-730](#);

(iii) WAC [284-30-620](#); and

(iv) WAC [284-30-630](#).

(2) Except as provided in subsection (3)(c) of this section, for purposes of this section it is immaterial whether the coverage is offered by means of a solicitation through: A sponsoring organization; the mail broadcast or print media; electronic communication, including electronic mail and web sites; licensed insurance producers; or any other method of communication.

(3) It is further defined to be an unfair practice for any insurer marketing group insurance coverage in this state to do the following with respect to the coverage:

(a) To fail to comply with the requirements of this state relating to advertising and claims settlement practices, and to fail to furnish the commissioner, upon request, copies of all advertising materials intended for use in this state;

(b) To fail to file copies of all certificate forms and any other related forms providing coverage in Washington, including trust documents or articles of incorporation with the commissioner at least thirty days prior to use; and

(c) To fail to file with the commissioner a copy of the disclosure statement required by WAC [284-30-610](#), where the sale of coverage to individuals in this state will be through solicitation by insurance producers. The disclosure statement must be appropriately completed, as it appears when delivered to the Washington individuals who are solicited by the Washington licensees.

The disclosure form must also be filed at least thirty days prior to any solicitation of coverage.

(4) This section does not apply to self-funded plans that are defined by and subject to the federal Employee Retirement Income Security Act of 1974 (ERISA) or to insurers when acting as third-party administrators for self-funded ERISA plans.

284-30-610 — Unfair practices with respect to the solicitation of coverage under out-of-state group policies.

(1) It is an unfair method of competition and an unfair practice for an insurer to permit a licensed insurance producer, whether appointed by the insurer or not, to solicit an individual in the state of Washington to buy or apply for life insurance, annuities, or disability insurance coverage when the coverage is provided under the terms of a group policy delivered to an association or organization (or to a trustee designated by the association or organization), as policyholder, outside this state, unless the following steps are taken:

(a) An accurately completed disclosure statement, substantially in the form set forth in subsection (2) of this section, must be brought to the attention of the individual being solicited before the application for coverage is completed and signed. The disclosure form must be signed by both the soliciting licensee and the individual being solicited and it must be given to the individual.

(b) A copy of the completed disclosure statement must be submitted by the soliciting licensee, with the application for coverage, to the insurer providing the coverage.

(c) The insurer must confirm the accuracy of the form's contents, and retain the copy for not less than three years from the date the coverage commences or from the date received, whichever is later.

(2) Disclosure statement form: (Type size to be no less than ten-point)

(Insurer's name and address)

IMPORTANT INFORMATION ABOUT THE COVERAGE YOU ARE BEING OFFERED

Save this statement! It may be important to you in the future. The Washington State Insurance Commissioner requires that we give you the following information about the coverage offered to you under a group policy issued by (insurer) , (to/on behalf of) (association or organization) .

The policy is subject to and governed by the laws of the state of

The certificate of coverage issued to you is governed by the state of Washington.

The Washington State Insurance Commissioner has authority to assist you concerning your coverage.

To keep this coverage, you (must/need not) continue membership in the group. If you are not now a member, the initial cost of membership is \$ Additional dues or membership fees

are currently \$ per Membership costs (may/will not) increase in future years. You will also have the premiums to pay.

The coverage (can/can not) be discontinued by the group. It (can/can not) be terminated by the insurer. If the group organization ceases to exist, your coverage (would/would not) terminate. You (are/are not) entitled by the contract to convert your coverage to your own policy.

(Group organization's name) (will/will not) be paid for its participation in this insurance program. (An explanation of payments must be inserted here.) .

If you apply for this coverage, you (will/will not) have a "free look" (of days*) during which you may cancel your contract and recover your premium without obligation. Your membership fee to join the group (is/is not) refundable. *(Omit phrase, "of days", if there is no "free look.")

DELIVERED to the applicant this day of (month) , (year) , by
(Signed) (insurance producer).

Printed Name:

I ACKNOWLEDGE THAT I HAVE RECEIVED AND UNDERSTAND THIS DISCLOSURE STATEMENT:
. Applicant.

(3) This section does not apply with respect to coverage provided to individuals under a group contract which is provided for a group of a type described in RCW [48.24.035](#), 48.24.040, 48.24.060, 48.24.080, 48.24.090, or 48.24.095.

284-30-620 — Permissible time limit for benefits payable because of accidental injury or death.

Beginning January 1, 1988, it shall be an unfair practice for any insurer to deliver a policy of insurance in this state which provides for benefits in case of accidental death or accidental injury, if it limits the benefits payable thereunder to losses occurring within a stated period of time after the accident, unless such period of time extends for at least one year from the time of the accident. In other words, benefits for accidental death or for covered expenses incurred because of an accidental injury shall be paid if the covered death occurs, or the covered services are incurred, within one year of the accident.

284-30-630 — Health questions in applications to be clear and precise.

If an insurer, including a health care service contractor or a health maintenance organization, intends to rely on an applicant's or enrollee's answers to health questions in an application to determine eligibility for coverage or the existence of a preexisting condition, such questions must be clear and precise. Simply asking whether the applicant has been under the care of a physician during the preceding year, for example, is not sufficient to require a "yes" answer where the applicant has been using medications that were prescribed prior to the start of the preceding year and the applicant has not seen a physician for more than a year.

284-30-650 — Prompt responses required.

It is an unfair practice for an insurer, and a prohibited practice for a health care service contractor or a health maintenance organization, to fail to respond promptly to any inquiry from the insurance commissioner relative to the business of insurance. A lack of response within fifteen business days from receipt of an inquiry will be considered untimely. A response must be in writing, unless otherwise indicated in the inquiry. If the inquiry originates from the commissioner's electronic company complaint system, the response must be in writing and submitted using that same system. This rule also applies to any other entity or person subject to the requirements of chapter [48.30](#) RCW.

284-30-660 — Deceptive use of quotations or evaluations prohibited.

(1) It is an unfair or deceptive practice and an unfair method of competition pursuant to RCW [48.30.010](#) for any insurance company, insurance producer, surplus line broker, or title insurance agent in connection with the business of insurance, to utilize quotations or evaluations from rating or advisory services or other independent sources, in a manner likely to deceive the persons to whom the information is directed.

(2) Acts which are prohibited by this section include the following examples:

(a) If an insurer represents in its advertising that it has received an "A+" rating from an advisory service, such representation is deceptive unless it includes a clear explanation that such advisory service's practice is to rate insurance companies on the basis of "AAA," "AA," and declining to "A," if such is the case. The absence of such explanation would reasonably cause the ordinary person to believe falsely that the insurer had received the highest rating available from the service.

(b) Similarly, quoting figures or comments from a report, such as those representing claims paid or the capital or reserves or the quality of an insurer, in a manner to suggest that such figures or comments are impressive or that the report demonstrates the company to be particularly strong financially or of high quality relative to other companies, when such is not the case, creates a false impression and is deceptive.

284-30-670 — Insurers must transact business in their legal name.

(1) Purpose and Scope. The purpose of this regulation is to adopt a long standing bulletin and a technical assistance advisory regarding the use of trade names, group names, logos or trademarks. The purpose of this regulation is also to set forth requirements to help ensure that a consumer knows the legal name of the insurer they are doing business with.

(2) Pursuant to RCW [48.30.010](#), the commissioner has found and hereby defines it to be an unfair practice for an insurer to conduct its business in any name other than its own legal name as required by RCW [48.05.190](#). Unless consumers are aware of the insurer's legal name, a consumer's policy rights and legal rights may be compromised. In addition, when consumers seek the commissioner's assistance and are not aware of the insurer's legal name, the commissioner's staff must research it, which unnecessarily wastes the commissioner's resources and delays the inquiry and resolution, posing a risk of harm to the consumer.

- (3) When used in this regulation, "legal name" of the insurer means the name displayed on the Washington state certificate of authority issued by the commissioner.
- (4) Each insurer must have standards and procedures to ensure that each consumer with whom they conduct an insurance transaction is informed of and can consistently identify the legal name of the insurer. Each insurer must provide the insurance commissioner with its standards and procedures and proof of its compliance upon request. The insurer must be able to show the legal name was provided when issuing policy documents, billing statements, and other written communications regarding policy services, underwriting, and claims and at the point during policy sales transactions when the company is determined.
- (5) To assist the commissioner in identifying the legal name of the insurer, insurers' written communications to the commissioner in response to any investigation, inquiry, enforcement matter or examination must include the insurer's NAIC code.
- (6) This regulation does not bar the use of trade names, logos, trademarks or group names that identify companies collectively, for brand identification or for general purposes, but an insurer must also provide its legal name in the following situations:
- (a) When the specific insurer is known, in negotiations preliminary to the execution of an insurance contract;
 - (b) In the execution of an insurance contract;
 - (c) In the transaction of matters subsequent to the execution of an insurance contract and arising out of it.
- (7) Violation of this regulation is not a violation for purposes of RCW [48.30.015](#)(5).

284-30-700 — Restrictions as to denial and termination of homeowners insurance affected by day-care operations.

- (1) Beginning August 1, 1985, pursuant to RCW [48.30.010](#), it shall be an unfair practice for any insurer transacting homeowners insurance to deny homeowners insurance to an applicant therefor, or to terminate any homeowners insurance policy covering a dwelling located in this state, whether by cancellation or nonrenewal, for the principal reason that an insured under such policy is engaged in the operation of a day care facility, pursuant to chapter [74.15](#)RCW, at the insured location.
- (2) This rule does not prevent an insurer from excluding or limiting coverage with respect to liability or property losses arising out of business pursuits of an insured, specifically including those related to the operation of day care facilities.

284-30-750 — Insurance producers' and surplus line brokers' fees to be disclosed.

It shall be an unfair practice for any insurance producer or surplus line broker providing services in connection with the procurement of insurance to charge a fee in excess of the usual commission which would be paid to an insurance producer or surplus line broker without

having advised the insured or prospective insured, in writing, in advance of the rendering of services, that there will be a charge and its amount or the basis on which such charge will be determined.

Chapter 284-24A WAC — RULES THAT APPLY TO INSURERS THAT USE CREDIT HISTORY FOR PERSONAL INSURANCE UNDERWRITING OR RATING

284-24A-001 — What is the purpose of these rules?

These rules describe the standards that apply to insurers that use underwriting criteria or rating plans for personal insurance based on credit history. The rules have been adopted under the authority and purposes of the following laws: RCW [48.02.060](#); chapters [48.18](#); 48.19; and [48.30](#) RCW.

284-24A-005 — Definitions that apply to this chapter.

The definitions in this section apply throughout this chapter:

(1) "Demographic factors" means the factors listed below if they are used in an insurer's rates, rating tiers, rating factors, rating rules or risk classification plan:

- (a) Age of the insured;
- (b) Sex of the insured;
- (c) The rating territory assigned to the property location for residential property insurance and to the vehicle's garage location for personal auto insurance.

(2) "Premium" means the same as RCW [48.18.170](#).

(3) "Rate" means the cost of insurance per exposure unit.

(4) "Rating factor" means a number used to calculate premium.

(5) "Risk classification plan" means a plan to formulate different premiums for the same coverage based on group characteristics.

(6) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

(7) "Significant factor" means an important element of a consumer's credit history or insurance score. Examples of significant factors include:

- (a) Bankruptcies, judgments, and liens;
- (b) Delinquent accounts;
- (c) Accounts in collection;
- (d) Payment history;
- (e) Outstanding debt;
- (f) Length of credit history; and
- (g) Number of credit accounts.

(8) "Substantive underwriting factor" means a factor that is very important to an underwriting decision. Examples of substantive underwriting factors include:

- (a) History of filing claims;
- (b) History of moving violations or accidents;
- (c) History of driving uninsured;

- (d) Type of performance for which a vehicle is designed; and
 - (e) Maintenance of a structure to be insured.
- (9) "Vehicle" means any motorized vehicle that can be insured under a private passenger auto insurance policy.

284-24A-007 — Filing documents incorporated by reference into this chapter.

SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

- (1) The *SERFF Industry Manual* available within the SERFF application; and
- (2) The *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

284-24A-010 — What must an insurer tell a consumer when it takes an adverse action?

- (1) An insurer must tell a consumer about significant factors that adversely affect the consumer's credit history or insurance score. As many as four factors may be needed to explain the adverse action.
- (2) An insurer must explain what significant factors led to an adverse action as defined in RCW [48.18.545](#) (1)(a). The insurer is responsible for making sure that the reason(s) an adverse action occurred is written in reasonably clear and simple language, even if the reason(s) is provided to the insurer by a vendor.

284-24A-011 — What types of information must an insurer provide in addition to the reason(s) for the adverse action to comply with WAC [284-24A-010\(2\)](#)?

- (1) Insurers must provide information that helps the consumer determine why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer. The following information must be included with the reason for the adverse action:
 - (a) A description of the attribute of credit history that adversely affected the consumer's insurance score;
 - (b) How the attribute of credit history affected the insurance score; and
 - (c) Any actions that are available to the consumer that may improve this attribute of the insurance score.
- (2) If an insurer refers to insurance industry research or studies to justify the effect of an insurance score on premiums or eligibility for coverage, the insurer must file those studies with the insurance commissioner so that they are available for public disclosure.

284-24A-012 — What types of reasons do not provide enough information to adequately explain an adverse action?

An insurer must explain any adverse action in reasonably clear and simple language. Insurers must not use phrases that do not explain why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer.

(1) Explanations of adverse actions that do not meet this standard include, but are not limited to:

- (a) Unfavorable length of credit history.
- (b) Absence of revolving credit account.
- (c) Age of oldest account or revolving credit account.
- (d) Age that consumer first opened a credit account.
- (e) Unfavorable number of bank or revolving accounts.
- (f) Unfavorable debt ratio.
- (g) Unfavorable number of accounts opened in past year.

(2) Insurers must not use the term "unfavorable" to describe an attribute of credit history because it does not provide clear information to the consumer about their credit history.

284-24A-015 — When must an insurer file the insurance scoring model to comply with the law?

(1) Every insurer that uses an insurance scoring model to underwrite personal insurance coverage must file the model with the commissioner before January 1, 2003.

(2) Every insurer that uses an insurance scoring model to determine personal insurance rates or premiums must file the model with the commissioner before June 30, 2003. Related rates, risk classification plans, rating factors and rating plans must be filed and approved by June 30, 2003.

284-24A-020 — Filing an insurance scoring model.

(1) Insurance scoring models must be filed separately. The model must not be filed with any rate or rule filing.

(2) The insurance scoring model must be filed in SERFF in accordance with the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

284-24A-025 — Filings by insurance scoring model vendors.

(1) The commissioner will allow vendors to file insurance scoring models. The vendor must file the scoring model in SERFF in accordance with the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

(2) Insurers may use models filed by vendors after the commissioner determines the model complies with Washington state laws.

(3) An insurer may use a model that has been filed by a vendor and accepted by the commissioner if the insurer submits a filing in SERFF that:

- (a) References the vendor that filed the model;
- (b) References the filing number and model name used by the vendor;
- (c) States whether the insurance scoring model will be used for underwriting, rating, or both; and
- (d) Proposes an effective date for the insurer's use of the model.

284-24A-030 — Confidentiality of insurance scoring models.

(1) The law says insurance scoring models will remain confidential unless the commissioner is taking an enforcement action. An insurer or vendor may request that its insurance scoring model be available for public inspection.

(2) To restrict public access to an insurance scoring model filing, the insurer or vendor must follow the procedures in the *Washington State SERFF Personal Insurance Scoring Model Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

284-24A-032 — Under RCW [48.19.035](#) (2)(b) what does "eligibility rules or guidelines" mean?

"Eligibility rules or guidelines" mean rules that determine whether a consumer is eligible for insurance from a single insurer or a group of affiliated companies. Eligibility rules or guidelines do not include rules that determine which company within an affiliated group of companies a consumer will be placed based on their insurance score or other underwriting criteria.

284-24A-033 — How will an insurer or a group of affiliated insurers know its eligibility rules or guidelines will be withheld from public inspection?

Eligibility guidelines will be kept as confidential records if they:

- (1) Conform to the definition in WAC [284-24A-032](#); and
- (2) Are clearly identified.

To ensure confidentiality, insurers should submit eligibility guidelines in a separate and distinct part of the related rate filing so they may be separated from other documents in the filing that are public records under RCW [48.19.040](#)(5).

284-24A-035 — What will the commissioner do with the insurance scoring model after he or she receives it?

Actuarial analysts will review the model to determine whether it complies with Title 48 RCW. The scope of the review will include whether the model includes:

- (1) Any prohibited factors; and
- (2) Attributes that may result in unfair discrimination.

284-24A-040 — What action will the commissioner take if a model does not comply with Washington law?

The commissioner will:

- (1) Notify the insurer or vendor that the model does not comply with Washington law;
- (2) State the reasons why the model does not comply with Washington law;
- (3) Offer the insurer or vendor sixty days to revise the model to resolve the issue(s) outlined in subsection (2) of this section; and
- (4) Provide a specific date when the model may no longer be used in Washington if the model has not been revised to resolve the issue(s).

284-24A-045 — If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, how can the insurer show that its rating plan results in premium rates that are not excessive, inadequate, or unfairly discriminatory?

If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, the insurer must:

- (1) Submit a multi variate analysis with the first rate and rule filing the insurer makes to comply with this law.
- (2) Submit a multivariate analysis any time the insurer uses credit history or an insurance score to revise a risk classification plan, rating factor, rating plan, rating tier, or base rates.

284-24A-050 — What types of information must an insurer include in a multivariate analysis?

(1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

- (a) For homeowners, dwelling property, earthquake, and personal inland marine insurance:
 - (i) Insurance score;
 - (ii) Territory and/or geographic area;
 - (iii) Protection class;
 - (iv) Amount of insurance;

- (v) Surcharges or discounts based on loss history;
 - (vi) Number of family units; and
 - (vii) Policy form relativity.
- (b) For private passenger automobile, personal liability and theft, and mechanical breakdown insurance:
- (i) Insurance score;
 - (ii) Driver class;
 - (iii) Multicar discount;
 - (iv) Territory and/or geographic area;
 - (v) Vehicle use;
 - (vi) Rating factors related to driving record; and
 - (vii) Surcharges or discounts based on loss history.
- (2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:
- (a) Formulas the model uses;
 - (b) Rating factors that are included in the modeling process; and
 - (c) Output from the model, such as indicated rates or rating factors.
- (3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

284-24A-055 — Should an insurer submit actuarial data based on demographic factors with an insurance scoring model or with a rate filing?

- (1) Insurers should not submit actuarial data based on demographic factors with their insurance scoring model.
- (2) Insurers must submit actuarial data based on demographic factors to support any difference in rates or premiums based on:
- (a) **"No hit,"** which means the absence of credit history; or
 - (b) **"No score,"** which means the inability to determine the consumer's credit history.
- (3) The actuarial data must include:
- (a) Loss history for an experience period acceptable to the commissioner. The length of the experience period will be determined by the amount of data available to the insurer.
 - (b) Earned exposures.
 - (c) Earned premiums.
 - (d) An analysis of the credibility of the data.
- (4) The actuarial data must be segmented by:
- (a) Demographic factors, which may be grouped in broader categories in a manner acceptable to the commissioner;
 - (b) "No hit"; and
 - (c) "No score."
- (5) The actuarial data must show that the proposed rates, rating factors, rating rules, or risk classification plans relating to "no hit" and "no score" comply with RCW [48.19.020](#).

(6) These filings are subject to prior approval by the commissioner under the provisions of RCW [48.19.040](#).

284-24A-065 — Questions and answers.

(1) Our insurance company uses insurance scoring bands (a range of scores) to determine what to charge a consumer based on their personal insurance score. Does an insurer have to file its insurance scoring bands? Yes. If an insurer uses insurance scoring bands for rating purposes, the insurer must file them (and any future changes to those bands). The bands are part of the rating plan and must be supported by actuarial analysis.

(2) What types of data can an insurer use to support a credit-based rating plan? A credit-based rating plan must be based on the experience of the insurer, an affiliated insurer under the same management, or a licensed rating organization. The commissioner will accept data from other states where comparable credit-based rating plans are in effect.

(3) The law says an insurer cannot use the number of credit inquiries to set rates or to deny insurance. Can an insurer consider the amount of time since the most recent inquiry? Yes. The law prohibits an insurer from considering the number of credit-seeking or promotional inquiries. It does not prohibit an insurer from considering the length of time since the most recent inquiry about a consumer's credit rating.

(4) The law says an insurer cannot use collections identified with a medical industry code to set rates or to deny insurance. Not all credit vendors provide industry codes for collection accounts. If a vendor searches for medical references in a text field, would that action comply with the law? Yes. Collections identified with a medical industry code cannot be used. If medical history is not coded or identified, insurers and vendors are not required to perform additional research.

(5) The law says an insurer cannot use the initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history to set rates or to deny insurance. Can my company use the number of such loans and/or the outstanding balance of such loans?

- An insurer may not use the initial purchase of a home or vehicle to affect eligibility for insurance or insurance premiums. The initial purchase is the first loan taken out to buy a home or vehicle.
- An insurer may evaluate any subsequent borrowing by a consumer.
- A method an insurer or vendor can use to comply with the law is to eliminate vehicle and home loans from the consumer's debt load calculation.

(6) The law says an insurer cannot use the total available line of credit to set rates or to deny insurance. Can my company use number of credit lines with limits over a set amount?

- The law prohibits use of data related to the consumer's total available line of credit. Any attribute that evaluates the total amount of credit available to a consumer is prohibited.
- Your insurer may use the debt/credit ratio or other ratios that consider the actual debt load.

Chapter 284-12 WAC — INSURANCE PRODUCERS, TITLE INSURANCE AGENTS, SURPLUS LINE BROKERS, AND ADJUSTERS

284-12-080 — Requirements for separate accounts.

(1) The purpose of this section is to effectuate RCW [48.15.180](#), 48.17.600 and 48.17.480 with respect to the separation and accounting of premium funds by insurance producers, title insurance agents and surplus line brokers, collectively referred to in this section as "producers." Pursuant to RCW [48.30.010](#), the commissioner has found and hereby defines it to be an unfair practice for any producer, except as allowed by statute, to conduct insurance business without complying with the requirements of RCW [48.15.180](#), 48.17.600 and this section.

(2) All funds representing premiums as defined in RCW [48.18.170](#), which includes premium taxes and commissions, and return premiums received on Washington business by a producer in his or her fiduciary capacity on or after January 1, 1987, must be deposited in one or more identifiable separate accounts which may be interest bearing.

(a) A producer must not deposit funds other than premiums as defined in RCW [48.18.170](#), which includes premium taxes and commissions and return premiums to the separate account except as follows:

- (i) Funds reasonably sufficient to pay bank charges;
- (ii) Funds a producer may deem prudent for advancing premiums, or establishing reserves for the paying of return premiums;
- (iii) Funds for contingencies as may arise in the business of receiving and transmitting premiums or return premiums; and
- (iv) Fees paid by insureds as permitted under RCW [48.17.270](#)(2).

(b) A producer may commingle Washington premiums as defined in RCW [48.18.170](#), which includes premium taxes and commissions, and return premiums with those produced in other states, provided adequate records are maintained to identify the amounts for Washington business. There must be no commingling of any funds not permitted by this section.

(3) (a) The separate account funds must be:

- (i) Deposited in a checking account, demand account, or a savings account in a bank, national banking association, savings and loan association, mutual savings bank, stock

savings bank, credit union, or trust company located in the state of Washington. The account must be insured by an entity of the federal government; or

(ii) Invested in United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States government is pledged for payment of principal and interest, and repurchase agreements collateralized by securities issued by the United States government. Insurers may, of course, restrict investments of separate account funds by their agent.

(b) A nonresident licensee, or a resident producer with affiliated operations under common ownership in two or more states, may utilize comparable accounts in another state provided such accounts otherwise meet the requirements of RCW [48.15.180](#), 48.17.600, 48.17.480 and this rule, and are accessible to the commissioner for purposes of examination or audit at the expense of the producer.

(4) Disbursements or withdrawals from a separate account must only be made for the following purposes, and in the manner stated:

(a) For charges imposed by a bank or other financial institution for operation of the separate account;

(b) For payments of premiums, directly to insurers or other producers entitled thereto;

(c) For payments of return premiums, which includes premium taxes, directly to the insureds or other persons entitled thereto;

(d) For payments of earned commissions and other funds belonging to the separate account's producer, directly to another account maintained by such producer as an operating or business account, but only to the extent that the premium funds for the policy or policies have actually been deposited into the separate premium account;

(e) For transfer of fiduciary funds, directly to another separate premium account which meets the requirements of this section;

(f) For payment of surplus line premium taxes to the state; and

(g) For payment of earned producer fees, but only to the extent that the fees were originally deposited in the separate premium account.

(5) (a) The funds deposited in the separate premium account must be paid promptly to the insurer or to another producer entitled thereto, in accordance with the terms of any applicable agreement between the parties.

(b) Return premiums received by a producer and the producer's share of any premiums required to be refunded, must be deposited promptly to the separate account. The funds must be paid promptly to the insured or person entitled thereto.

(6) (a) When a producer receives a premium payment in the form of an instrument, such as a check, which is made payable to an insurer, general agent or surplus line broker, the producer may forward the instrument directly to the payee if that can be done without endorsement or alteration. In this case, the producer's separate account is not involved because the producer has not "received" any funds.

(b) If the producer receives a premium payment in the form of cash or an instrument requiring endorsement by the producer, the premium must be deposited into the producer's separate account, unless the insurer entitled to such funds has established other procedures by written direction to a producer who is its appointed agent, which procedures:

- (i) Recognize that the producer is receiving premiums directly on behalf of the insurer; and
- (ii) Direct the producer to give adequate receipts on behalf of the insurer; and
- (iii) Require deposit of the proceeds into the insurer's own account or elsewhere as permitted by the insurer's direction.

Thus, for example, an insurer may utilize the services of a licensed insurance producer, acting as a "captive agent," in the sale of its insurance and in the operation of its places of business, and directly receive payments intended for it without the payments being deposited into and accounted for through the licensed insurance producer's separate account. In these cases, for purposes of this rule, the insurer, as distinguished from the insurance producer, is actually "receiving" the funds and is immediately responsible therefor.

(c) When a producer receives premiums as a surplus line broker, licensed under chapter [48.15](#) RCW, after a binder or other written evidence of insurance has been issued to the insured, subject to the express written direction of the insurer involved, the premiums, except premium taxes, may be removed from the separate account.

(7) The commissioner recognizes the practical problems of accounting for the small amounts of interest involved spread over a large number of insurers and insureds. Therefore, absent any

agreement between the producer and the insured or insurer to the contrary, interest earned on the deposits held in the separate account may be retained by the producer and used to offset bank charges, establish reserves, pay return premiums, or for any of the purposes listed in subsection (2) of this section, or the interest may be removed to the operating account.

(8) A producer must establish and maintain records and an appropriate accounting system for all premiums as defined in RCW [48.18.170](#), which includes premium taxes and commissions, return premiums, and fees received by the producer, and must make the records available for inspection by the commissioner during regular business hours upon demand during the five years immediately after the date of the transaction.

(9) The accounting system used must effectively isolate the separate account from any operating accounts and segment or identify all Washington business from that of other states. All recordkeeping systems, whether manual or electronic must provide an audit trail so that details underlying the summary data, such as invoices, checks, and statements, may be identified and made available on request. The system must provide the means to trace any transaction back to its original source or forward to final entry, as is accomplished by a conventional double-entry bookkeeping system. When automatic data processing systems are used, a description of the system must be available for review by the commissioner. A balance forward system (as in an ordinary checking account) is not acceptable.

(10) (a) A producer that is a business entity may utilize one separate account for the funds received by its affiliated persons operating under its license, and the affiliated persons may deposit the funds they receive in this capacity directly into the separate account of their firm or corporation.

(b) Funds received by an insurance producer who is employed by and offices with another insurance producer may be deposited into and accounted for through the separate account of the employing insurance producer. This provision does not, however, authorize the insurance producer employee to represent an insurer as to which he or she has no appointment.

(11) Premium taxes deposited to the separate premium account are held in trust for the state and must be maintained in the account until paid to the state.

(12) The separate premium account is a fiduciary account and not the personal asset or account of the producer. A producer must not make withdrawals from the account except as provided in this section. The separate premium account must not be encumbered in any manner nor be pledged as collateral for a loan.

(13) For the purposes of this section, a commission is earned no earlier than when the policy is bound or effective.

284-12-095 — Unfair practice with respect to use of insurance producer defined.

It is an unfair or deceptive practice and an unfair method of competition pursuant to RCW [48.30.010](#) for an authorized insurer to cancel or refuse to renew any insurance policy because its contract or arrangement with an appointed or a nonappointed insurance producer through whom such policy was written has been terminated.

284-12-110 — Identification of an insurance producer to a prospective insured.

It shall be an unfair practice for an insurance producer initiating a sales presentation away from his or her office to fail to inform the prospective purchaser, prior to commencing the sales presentation, that the insurance producer is acting as an insurance producer, and to fail thereafter to inform the prospective purchaser of the full name of the insurance company whose product the insurance producer offers to the buyer. This rule shall apply to all lines of insurance and to all coverage solicited in this state including coverage under a group policy delivered in another state, whether or not membership in the group is also being solicited.

284-12-200 — Operating in this state.

A managing general agent is "operating in this state" for purposes of the Managing General Agents Act (chapter 48.— RCW, sections 34-42, chapter 462, Laws of 1993) ("the act") section 38(5), chapter 462, Laws of 1993, if he or she does in Washington any act for which a license is required by the act or chapter [48.17](#), or does in Washington any activities listed in section 35 (3)(a)(i) or (ii), chapter 462, Laws of 1993.

284-12-210 — Affiliates.

"Affiliates" as used in section 35 (3)(a), chapter 462, Laws of 1993, has the meaning indicated in RCW 48.—.—, section 2, chapter 462, Laws of 1993.

284-12-220 — Licensed in this state.

A person is licensed in this state for purposes of RCW [48.98.010](#) (1) and (2), if the person holds a resident or nonresident insurance producer's license issued by the commissioner.

284-12-230 — Notification of appointment.

When notifying the commissioner of the appointment of a managing general agent under section 38(5), chapter 462, Laws of 1993, in addition to the information specified there, the insurer shall include the following information about the appointee:

- (1) Current address;
- (2) Other addresses in the past five years;
- (3) What licenses are held, and which states issued them;
- (4) Whether any license has ever been revoked, suspended, or not renewed, and whether any disciplinary action has ever been taken or is now being considered by an insurance regulatory official or officer, and if so, give details.

284-12-250 — Employee.

Whether a person is an "employee" of the insurer for purposes of section 35 (3)(b)(i), chapter 462, Laws of 1993, depends on the facts and is not controlled by a mere labelling of the person as an employee in an agreement.

284-12-260 — Form of financial statements.

The independent audited financial statements required by section 38(1), chapter 462, Laws of 1993, shall be in such a form that they clearly show the results of operations, and the assets, liabilities, and equity of the managing general agent, and the income and expense attributable to acting as managing general agent for the insurer. Nothing in the act or this regulation (WAC [284-12-200](#) through 284-12-260) prevents the insurer from requiring additional information, more detail, or a specified format so long as that specified format at least meets the requirements of this section.

284-12-270 — Expiration and renewal of appointments.

Appointments of managing general agents shall be for two years. They expire unless timely renewed. They expire on the same date that insurance producer appointments for the same insurer expire under WAC [284-17-410](#).

284-12-280 — Claim thresholds.

The claim threshold under sections 35 (3)(a)(i) and 37 (7)(b)(i) and (v), chapter 462, Laws of 1993, is twenty thousand dollars.

Chapter 48.03 RCW — EXAMINATIONS

48.03.005 — Application.

This chapter applies to the financial analysis and examination of insurers and other regulated entities.

48.03.010 — Examination of insurers, bureaus.

(1) The commissioner shall examine the affairs, transactions, accounts, records, documents, and assets of each authorized insurer as often as he or she deems advisable. The commissioner shall so examine each insurer holding a certificate of authority or certificate of registration not less frequently than every five years. Examination of an alien insurer may be limited to its insurance transactions in the United States. In scheduling and determining the nature, scope, and frequency of an examination, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the examiner's handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section.

(2) As often as the commissioner deems advisable and at least once in five years, the commissioner shall fully examine each rating organization and examining bureau licensed in this state. As often as he or she deems it advisable the commissioner may examine each advisory organization, any statistical reporting agent designated by the commissioner under RCW [48.29.017](#), and each joint underwriting or joint reinsurance group, association, or organization.

(3) The commissioner shall in like manner examine each insurer or rating organization applying for authority to do business in this state.

(4) In lieu of making an examination under this chapter, the commissioner may accept a full report of the last recent examination of a nondomestic rating or advisory organization, or joint underwriting or joint reinsurance group, association or organization, as prepared by the insurance supervisory official of the state of domicile or of entry. In lieu of an examination under this chapter of a foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, an examination report may be accepted only if: (a) That insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' financial regulation standards and accreditation program; or (b) the examination was performed either under the supervision of an accredited insurance department or with the participation of one or more examiners employed by an accredited state insurance department who, after a review of the examination work papers and report, state under oath that the

examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(5) The commissioner may elect to accept and rely on an audit report made by an independent certified public accountant for the insurer in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his or her report of the examination.

(6) For the purposes of completing an examination of any company under this chapter, the commissioner may examine or investigate any managing general agent or any other person, or the business of any managing general agent or other person, insofar as that examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company.

48.03.020 — Examination of producers, surplus line brokers, adjusters, title insurance agents, managers, or promoters.

For the purpose of ascertaining its condition, or compliance with this code, the commissioner may as often as he or she deems advisable examine the accounts, records, documents, and transactions of:

- (1) Any insurance producer, surplus line broker, adjuster, or title insurance agent.
- (2) Any person having a contract under which he or she enjoys in fact the exclusive or dominant right to manage or control a stock or mutual insurer.
- (3) Any person holding the shares of capital stock or policyholder proxies of a domestic insurer for the purpose of control of its management either as voting trustee or otherwise.
- (4) Any person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer, or an insurance holding corporation, or a stock corporation to finance a domestic mutual insurer or the production of its business, or a corporation to be attorney-in-fact for a domestic reciprocal insurer.

48.03.025 — Examiners — Scope of examination — Examiners' handbook.

Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the National Association of Insurance Commissioners. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

48.03.030 — Access to records on examination — Correction of accounts.

(1) Every person being examined, its officers, employees, and representatives shall produce and make freely accessible to the commissioner the accounts, records, documents, and files in his or her possession or control relating to the subject of the examination, and shall otherwise facilitate the examination.

(2) If the commissioner finds the accounts to be inadequate, or improperly kept or posted, he or she may employ experts to rewrite, post or balance them at the expense of the person being examined.

48.03.040 — Examination reports — Consideration by commissioner — Orders — Confidentiality.

(1) No later than sixty days after completion of each examination, the commissioner shall make a full written report of each examination made by him or her containing only facts ascertained from the accounts, records, and documents examined and from the sworn testimony of individuals, and such conclusions and recommendations as may reasonably be warranted from such facts.

(2) The report shall be certified by the commissioner or by his or her examiner in charge of the examination, and shall be filed in the commissioner's office subject to subsection (3) of this section.

(3) The commissioner shall furnish a copy of the examination report to the person examined not less than ten days and, unless the time is extended by the commissioner, not more than thirty days prior to the filing of the report for public inspection in the commissioner's office. If such person so requests in writing within such period, the commissioner shall hold a hearing to consider objections of such person to the report as proposed, and shall not so file the report until after such hearing and until after any modifications in the report deemed necessary by the commissioner have been made.

(4) Within thirty days of the end of the period described in subsection (3) of this section, unless extended by order of the commissioner, the commissioner shall consider the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order:

(a) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure that violation;

(b) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling under this section; or

(c) Calling for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(5) All orders entered under subsection (4) of this section must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. Such an order is considered a final administrative decision and may be appealed under the Administrative Procedure Act, chapter [34.05](#) RCW, and must be served upon the company by certified mail or certifiable electronic means, together with a copy of the adopted examination report. A copy of the adopted examination report must be sent by certified mail or certifiable electronic means to each director at the director's residence address or to a personal e-mail account.

(6) (a) Upon the adoption of the examination report under subsection (4) of this section, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of five days except that the order may be disclosed to the person examined. Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(b) Nothing in this title prohibits the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

(c) If the commissioner determines that regulatory action is appropriate as a result of any examination, he or she may initiate any proceedings or actions as provided by law.

(d) Nothing contained in this section requires the commissioner to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

48.03.050 — Reports withheld.

The commissioner may withhold from public inspection any examination or investigation report for so long as he or she deems it advisable, subject to RCW [48.32.080](#).

48.03.060 — Examination expense.

(1) Examinations within this state of any insurer or self-funded multiple employer welfare arrangement as defined in RCW [48.125.010](#) domiciled or having its home offices in this state, other than a title insurer, made by the commissioner or the commissioner's examiners and employees must, except as to fees, mileage, and expense incurred as to witnesses, be at the expense of the state.

(2) Every other examination, whatsoever, or any part of the examination of any person domiciled or having its home offices in this state requiring travel and services outside this state, must be made by the commissioner or by examiners designated by the commissioner and must be at the expense of the person examined; but a domestic insurer must not be liable for the compensation of examiners employed by the commissioner for such services outside this state.

(3) When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the cost of which must be borne by the person who is the subject of the examination, except as provided in subsection (1) of this section.

(4) The person examined and liable must reimburse the state upon presentation of an itemized statement for the actual travel expenses of the commissioner's examiners, their reasonable living expense allowance, and their per diem compensation, including salary and the employer's cost of employee benefits, at a reasonable rate approved by the commissioner, incurred on account of the examination. Per diem salary and expenses for employees examining insurers domiciled outside the state of Washington must be established by the commissioner on the basis of the national association of insurance commissioner's recommended salary and expense schedule for zone examiners, or the salary schedule established by the state director of personnel, and the expense schedule established by the office of financial management, whichever is higher. A domestic title insurer must pay the examination expense and costs to the commissioner as itemized and billed by the commissioner.

The commissioner or the commissioner's examiners must not receive or accept any additional emolument on account of any examination.

(5) Nothing contained in this chapter limits the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are prima facie evidence in any legal or regulatory action.

(6) The expense of the examination of any statistical reporting agent designated by the commissioner under RCW [48.29.017](#) must be borne by and apportioned among all authorized title insurance companies and licensed title insurance agents in this state.

48.03.065 — Appointments by commissioner — Examiners — Exceptions.

(1) No examiner may be appointed by the commissioner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in a person subject to examination under this chapter. This section does not automatically preclude an examiner from being:

- (a) A policyholder or claimant under an insurance policy;
- (b) A grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;
- (c) An investment owner in shares of regulated diversified investment companies; or
- (d) A settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed.

(2) Notwithstanding the requirements of subsection (1) of this section, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though those persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

48.03.070 — Witnesses — Subpoenas — Depositions — Oaths.

(1) The commissioner may take depositions, may subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation: PROVIDED, That the provisions of RCW [34.05.446](#) shall apply in lieu of the provisions of this section as to subpoenas relative to hearings in rule-making and adjudicative proceedings.

(2) The subpoena shall be effective if served within the state of Washington and shall be served in the same manner as if issued from a court of record.

(3) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a court of record. Witness fees, mileage, and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person as to whom the examination is being made, or by the person if other than the commissioner, at whose request the hearing is held.

(4) Enforcement of subpoenas shall be in accord with RCW [34.05.588](#).

48.03.075 — Legal protection for commissioner, authorized representatives, and examiners — Good faith — Attorneys' fees — Payment by commissioner.

(1) No cause of action may arise nor may any liability be imposed against the commissioner, the commissioner's authorized representatives, or an examiner appointed by the commissioner for statements made or conduct performed in good faith while carrying out this chapter.

(2) No cause of action may arise nor may any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this chapter, if that act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

(3) This section does not modify a privilege or immunity previously enjoyed by a person identified in subsection (1) of this section.

(4) A person identified in subsection (1) of this section is entitled to an award of attorneys' fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander, or any other tort arising out of activities in carrying out this chapter and the party bringing the action was not substantially justified in doing so. For purposes of this section a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(5) If a claim is made or threatened of the sort described in subsection (1) of this section, the commissioner shall provide or pay for the defense of himself or herself, the examiner or representative, and shall pay a judgment or settlement, until it is determined that the person did not act in good faith or did act with fraudulent intent or the intent to deceive.

(6) The immunity, indemnification, and other protections under this section are in addition to those now or hereafter existing under other law.