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SENATE BILL 5247

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Conway, Keiser, and Kline; by request of Insurance Commissioner

Read first time 01/19/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to health insurance rates; adding a new section to  
2 chapter 48.43 RCW; creating a new section; and providing an effective  
3 date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that health insurance  
6 rate increases in Washington state have resulted in premiums increasing  
7 faster than incomes. While the legislature acknowledges that a vital  
8 health insurance market is essential to Washington's economy and its  
9 citizens, the accumulation of capital and surplus for nonprofit health  
10 insurance carriers exceeds two billion dollars even as they request  
11 rate increases. By requiring carriers to propose rates that  
12 acknowledge actual net underwriting gain exceeding the gain originally  
13 projected by the carrier, premiums will more closely align with the  
14 benefits they confer without providing a windfall to the nonprofit  
15 health carrier at the consumer's expense.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW  
17 to read as follows:

18 (1) For the purpose of this section:

1 (a) "Carrier" means a nonprofit health care service contractor or  
2 health maintenance organization that offers a health plan.

3 (b) "Contribution to surplus, contingency charges, or risk charges"  
4 means the portion of the projected earned premium not associated  
5 directly with claims or expenses.

6 (c) "Surplus" means the amount reported on line 31, page 3 of the  
7 2010 health annual statement filed with the commissioner or the  
8 comparable amount on any subsequent revision of the health annual  
9 statement.

10 (2) For each proposed rate filing submitted by a nonprofit health  
11 carrier for either the individual or small group markets, the filing  
12 must include a determination of whether the carrier's surplus exceeds  
13 the three month average of the amount reported on line 16, page 4 of  
14 the 2010 health annual statement, or the comparable amount reported on  
15 any subsequent revision of the health annual statement.

16 (3) If the carrier's surplus exceeds the three-month average, the  
17 carrier must submit the following information to the commissioner with  
18 its proposed rate filing:

19 (a) The actual net underwriting gain for the line of business for  
20 the three calendar years preceding the year in which the rate filing  
21 being reviewed is submitted, as reported on the additional data  
22 statement form filed with the health annual statement;

23 (b) A comparison of the underwriting gains reported under (a) of  
24 this subsection to the prior projections of contribution to surplus,  
25 contingency charges or risk charges, or any combination thereof, that  
26 were submitted with its proposed rate filings for the three calendar  
27 years preceding the year in which the rate filing being reviewed is  
28 submitted; and

29 (c) For each of the three preceding calendar years, with its  
30 proposed rate filing, a report on investment income based on the total  
31 of line 25, page 4 of the health annual statement, apportioned by  
32 premium volume. This investment income must be included in the  
33 calculation of actual net underwriting gain.

34 (4) If the total of the actual net underwriting gain is greater  
35 than the total of the proposed contribution to surplus, contingency  
36 charges, or risk charges, or any combination thereof, the commissioner  
37 must disallow the rate unless the carrier has adjusted its proposed  
38 rate:

1 (a) By reducing the overall rate by the three-year averaged  
2 difference between the gain and proposed contribution; and

3 (b) By reducing its proposed contribution to surplus, contingency  
4 charges, or risk charges, or any combination thereof, to zero.

5 (5) If the total of the actual net underwriting gain is the same or  
6 less than the total of the proposed contribution to surplus,  
7 contingency charges, or risk charges, or any combination thereof, the  
8 commissioner must disallow the rate unless the carrier has reduced its  
9 proposed contribution to surplus, contingency charges, or risk charges,  
10 or any combination thereof, to zero.

11 (6) In addition to the requirements set forth in subsections (2)  
12 through (4) of this section, the commissioner must disallow a proposed  
13 rate if the carrier:

14 (a) Does not recognize investment earnings, allocated  
15 proportionally to each product line based on the ratio of its premium  
16 volume to the entire premium collected by the company, in its  
17 calculation or in the development of its proposed rates;

18 (b) Includes fines, remittances, penalties, administrative  
19 sanctions, or similar impositions paid by the carrier, directly or  
20 indirectly, in the calculation of rates; or

21 (c) Includes, directly or indirectly, any net loss incurred on a  
22 self-funded plan for which it performs only administrative services in  
23 the calculation or development of rates for underwritten health plans.

24 (7) All other statutes and rules related to rate filing for the  
25 individual and small group plan market remain in effect to the extent  
26 that they are consistent with this section.

27 (8) If a proposed rate filing is for a line of business without a  
28 three-year history, and the carrier's surplus exceeds the standard set  
29 forth in this section, the carrier may not propose a contribution to  
30 surplus, contingency charges, or risk charges, or any combination  
31 thereof, during the first three years of the line's operation.

32 (9) The commissioner may approve a rate that would otherwise be  
33 disapproved if the commissioner finds that failure to approve the  
34 proposed rate unreasonably impairs the financial health of the carrier.  
35 The commissioner may waive or modify these requirements upon a finding  
36 that a line of business contains or involves unique provisions or  
37 circumstances and that the requirements represent an extraordinary  
38 administrative burden on the carrier.

1        NEW SECTION.    **Sec. 3.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 4.**    This act takes effect January 1, 2012.

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