
SUBSTITUTE SENATE BILL 5715

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Benton, Berkey, Hobbs, Prentice, Hatfield, Franklin and Shin; by request of Insurance Commissioner)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to persons selling, soliciting, or negotiating
2 insurance; amending RCW 48.17.010, 48.17.060, 48.17.063, 48.17.065,
3 48.17.067, 48.17.090, 48.17.110, 48.17.125, 48.17.150, 48.17.160,
4 48.17.170, 48.17.180, 48.17.250, 48.17.270, 48.17.380, 48.17.390,
5 48.17.410, 48.17.420, 48.17.450, 48.17.460, 48.17.470, 48.17.475,
6 48.17.480, 48.17.490, 48.17.510, 48.17.530, 48.17.565, 48.17.591,
7 48.17.600, and 48.14.010; reenacting and amending RCW 42.56.400; adding
8 new sections to chapter 48.17 RCW; repealing RCW 48.17.020, 48.17.030,
9 48.17.040, 48.17.050, 48.17.055, 48.17.070, 48.17.100, 48.17.120,
10 48.17.130, 48.17.190, 48.17.200, 48.17.210, 48.17.230, 48.17.240,
11 48.17.260, 48.17.280, 48.17.290, 48.17.300, 48.17.310, 48.17.320,
12 48.17.330, 48.17.340, 48.17.500, 48.17.520, and 48.05.310; prescribing
13 penalties; and providing an effective date.

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

15 **Sec. 1.** RCW 48.17.010 and 1985 c 264 s 7 are each amended to read
16 as follows:

17 (~~"Agent" means any person appointed by an insurer to solicit~~
18 ~~applications for insurance on its behalf. If authorized so to do, an~~

1 ~~agent may effectuate insurance contracts. An agent may collect~~
2 ~~premiums on insurances so applied for or effectuated.))~~

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adjuster" means any person who, for compensation as an
6 independent contractor or as an employee of an independent contractor,
7 or for fee or commission, investigates or reports to the adjuster's
8 principal relative to claims arising under insurance contracts, on
9 behalf solely of either the insurer or the insured. An attorney-at-law
10 who adjusts insurance losses from time to time incidental to the
11 practice of his or her profession, or an adjuster of marine losses, or
12 a salaried employee of an insurer or of a managing general agent, is
13 not deemed to be an "adjuster" for the purpose of this chapter.

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

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

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

22 (3) "Home state" means the District of Columbia and any state or
23 territory of the United States or province of Canada in which an
24 insurance producer maintains the insurance producer's principal place
25 of residence or principal place of business, and is licensed to act as
26 an insurance producer.

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

34 (5) "Insurance producer" means a person required to be licensed
35 under the laws of this state to sell, solicit, or negotiate insurance.
36 "Insurance producer" does not include title insurance agent as defined
37 in subsection (15) of this section.

1 (6) "Insurer" has the same meaning as in RCW 48.01.050, and
2 includes a health care service contractor as defined in RCW 48.44.010
3 and a health maintenance organization as defined in RCW 48.46.020.

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

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

17 (9) "NAIC" means national association of insurance commissioners.

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

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

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

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

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

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

37 (16) "Uniform business entity application" means the current

1 version of the NAIC uniform application for business entity insurance
2 license or registration for resident and nonresident business entities.

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

6 **Sec. 2.** RCW 48.17.060 and 2003 c 250 s 4 are each amended to read
7 as follows:

8 ~~((1) A person may not act as or hold himself or herself out to be~~
9 ~~an agent, broker, solicitor, or adjuster in this state unless licensed~~
10 ~~by the commissioner.~~

11 ~~(2) An agent, solicitor, or broker may not solicit or take~~
12 ~~applications for, procure, or place for others any kind of insurance~~
13 ~~for which he or she is not then licensed.~~

14 ~~(3) This section does not apply with respect to any person securing~~
15 ~~and forwarding information required for the purposes of group credit~~
16 ~~life and credit disability insurance or credit casualty insurance~~
17 ~~against loss or damage resulting from failure of debtors to pay their~~
18 ~~obligations in connection with an extension of credit and such other~~
19 ~~credit life and disability insurance or credit casualty insurance~~
20 ~~against loss or damage resulting from failure of debtors to pay their~~
21 ~~obligations as the commissioner shall determine, and where no~~
22 ~~commission or other compensation is payable on account of the securing~~
23 ~~and forwarding of such information. However, the reimbursement of a~~
24 ~~creditor's actual expenses for securing and forwarding information~~
25 ~~required for the purposes of such group insurance will not be~~
26 ~~considered a commission or other compensation if such reimbursement~~
27 ~~does not exceed three dollars per certificate issued, or in the case of~~
28 ~~a monthly premium plan extending beyond twelve months, not to exceed~~
29 ~~three dollars per loan transaction revision per year.))~~

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

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.17 RCW
34 to read as follows:

35 (1) Nothing in this act shall be construed to require an insurer to

1 obtain an insurance producer license. In this section, the term
2 "insurer" does not include an insurer's officers, directors, employees,
3 subsidiaries, or affiliates.

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

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

10 (i) The officer, director, or employee's activities are executive,
11 administrative, managerial, clerical, or a combination of these, and
12 are only indirectly related to the sale, solicitation, or negotiation
13 of insurance; or

14 (ii) The officer, director, or employee's function relates to
15 underwriting, loss control, inspection, or the processing, adjusting,
16 investigating, or settling of a claim on a contract of insurance; or

17 (iii) The officer, director, or employee is acting in the capacity
18 of a special agent or agency supervisor assisting insurance producers
19 where the person's activities are limited to providing technical advice
20 and assistance to licensed insurance producers, and do not include the
21 sale, solicitation, or negotiation of insurance;

22 (b) A person who secures and furnishes information for the purpose
23 of group life insurance, group property and casualty insurance, group
24 annuities, group or blanket accident and disability insurance; or for
25 the purpose of enrolling individuals under plans; or issuing
26 certificates under plans or otherwise assisting in administering plans;
27 or performs administrative services related to mass marketed property
28 and casualty insurance; where no commission is paid to the person for
29 the service;

30 (c) An employer or association or its officers, directors,
31 employees, or the trustees of an employee trust plan, to the extent
32 that the employers, officers, employees, director, or trustees are
33 engaged in the administration or operation of a program of employee
34 benefits for the employer's or association's own employees or the
35 employees of its subsidiaries or affiliates, which program involves the
36 use of insurance issued by an insurer, as long as the employers,
37 associations, officers, directors, employees, or trustees are not in

1 any manner compensated, directly or indirectly, by the company issuing
2 the contracts;

3 (d) Employees of insurers or organizations employed by insurers who
4 are engaging in the inspection, rating, or classification of risks, or
5 in the supervision of the training of insurance producers, and who are
6 not individually engaged in the sale, solicitation, or negotiation of
7 insurance;

8 (e) A person whose activities in this state are limited to
9 advertising without the intent to solicit insurance in this state
10 through communication in printed publications or other forms of
11 electronic mass media whose distribution is not limited to residents of
12 the state, provided that the person does not sell, solicit, or
13 negotiate insurance that would insure risks residing, located, or to be
14 performed in this state;

15 (f) A person who is not a resident of this state who sells,
16 solicits, or negotiates a contract of insurance for commercial property
17 and casualty risks to an insured with risks located in more than one
18 state insured under that contract, provided that the person is
19 otherwise licensed as an insurance producer to sell, solicit, or
20 negotiate the insurance in the state where the insured maintains its
21 principal place of business and the contract of insurance insures risks
22 located in that state;

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

28 (h) Any person securing and forwarding information required for the
29 purposes of group credit life and credit disability insurance or credit
30 casualty insurance against loss or damage resulting from failure of
31 debtors to pay their obligations in connection with an extension of
32 credit and such other credit life and disability insurance or credit
33 casualty insurance against loss or damage resulting from failure of
34 debtors to pay their obligations as the commissioner shall determine,
35 and where no commission or other compensation is payable on account of
36 the securing and forwarding of such information. However, the
37 reimbursement of a creditor's actual expenses for securing and
38 forwarding information required for the purposes of such group

1 insurance will not be considered a commission or other compensation if
2 such reimbursement does not exceed three dollars per certificate
3 issued, or in the case of a monthly premium plan extending beyond
4 twelve months, not to exceed three dollars per loan transaction
5 revision per year.

6 **Sec. 4.** RCW 48.17.063 and 2003 c 250 s 5 are each amended to read
7 as follows:

8 ~~(1) ((As used in this section, "person" has the same meaning as in
9 RCW 48.01.070.~~

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

15 ~~((3))~~ (2) Any person who knowingly violates RCW 48.17.060~~((1))~~
16 is guilty of a class B felony punishable under chapter 9A.20 RCW.

17 ~~((4) Any person who knowingly violates RCW 48.17.060(2) is guilty
18 of a class B felony punishable under chapter 9A.20 RCW.~~

19 ~~(5))~~ (3) Any criminal penalty imposed under this section is in
20 addition to, and not in lieu of, any other civil or administrative
21 penalty or sanction otherwise authorized under state law.

22 ~~((6))~~ (4)(a) If the commissioner has cause to believe that any
23 person has violated the provisions of RCW 48.17.060 ~~((1) or (2))~~, the
24 commissioner may:

25 (i) Issue and enforce a cease and desist order in accordance with
26 the provisions of RCW 48.02.080;

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

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

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

1 **Sec. 5.** RCW 48.17.065 and 1983 c 202 s 7 are each amended to read
2 as follows:

3 The provisions of this chapter shall apply to ~~((agents of))~~
4 insurance producers appointed by either health care service contractors
5 ~~((and))~~ or health maintenance organizations, or both.

6 **Sec. 6.** RCW 48.17.067 and 2003 c 250 s 6 are each amended to read
7 as follows:

8 Any ~~((solicitor, agent, or broker))~~ insurance producer or title
9 insurance agent soliciting, negotiating, or procuring an application
10 for insurance or health care services in this state must make a good
11 faith effort to determine whether the entity that is issuing the
12 coverage is:

- 13 (1) Authorized to transact insurance or health coverage in this
14 state; or
- 15 (2) Conducting business through a surplus line~~((s))~~ broker licensed
16 under chapter 48.15 RCW.

17 **Sec. 7.** RCW 48.17.090 and 2002 c 227 s 2 are each amended to read
18 as follows:

19 ~~((Application for a license to be an agent, broker, solicitor,~~
20 ~~or adjuster shall be made to the commissioner upon forms furnished by~~
21 ~~the commissioner. As a part of or in connection with any such~~
22 ~~application, the applicant shall furnish information concerning his or~~
23 ~~her identity, including fingerprints for submission to the Washington~~
24 ~~state patrol, the federal bureau of investigation, and any governmental~~
25 ~~agency or entity authorized to receive this information for a state and~~
26 ~~national criminal history background check, personal history,~~
27 ~~experience, business record, purposes, and other pertinent facts, as~~
28 ~~the commissioner may reasonably require.~~

29 ~~((2) Persons resident in the United States but not in Washington may~~
30 ~~apply for such a license on a form prepared by the national association~~
31 ~~of insurance commissioners or others, if those forms are approved by~~
32 ~~the commissioner by rule. An applicant shall also furnish any other~~
33 ~~information required to be submitted but not provided for in that form.~~

34 ~~((3) Any person willfully misrepresenting any fact required to be~~
35 ~~disclosed in any such application shall be liable to penalties as~~
36 ~~provided by this code.~~

1 ~~(4) If in the process of verifying fingerprints under subsection~~
2 ~~(1) of this section, business records, or other information the~~
3 ~~commissioner's office incurs fees or charges from another governmental~~
4 ~~agency or from a business firm, the amount of such fees or charges~~
5 ~~shall be paid to the commissioner's office by the applicant.))~~ A person
6 applying for a resident insurance producer license shall make
7 application to the commissioner on the uniform application and declare
8 under penalty of refusal, suspension, or revocation of the license that
9 the statements made in the application are true, correct, and complete
10 to the best of the individual's knowledge and belief. As a part of or
11 in connection with the application, the applicant shall furnish
12 information concerning the applicant's identity, including fingerprints
13 for submission to the Washington state patrol, the federal bureau of
14 investigation, and any governmental agency or entity authorized to
15 receive this information for a state and national criminal history
16 background check. If, in the process of verifying fingerprints,
17 business records, or other information, the commissioner's office
18 incurs fees or charges from another governmental agency or from a
19 business firm, the amount of the fees or charges shall be paid to the
20 commissioner's office by the applicant.

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

23 (a) Is at least eighteen years of age;

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

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

28 (d) Has paid the fees set forth in RCW 48.14.010; and

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

31 (3) A business entity acting as an insurance producer is required
32 to obtain an insurance producer license. Application shall be made
33 using the uniform business entity application. Before approving the
34 application, the commissioner shall find that:

35 (a) The business entity has paid the fees set forth in RCW
36 48.14.010; and

37 (b) The business entity has designated a licensed insurance

1 producer responsible for the business entity's compliance with the
2 insurance laws and rules of this state.

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

11 (a) Has paid the fees set forth in RCW 48.14.010;

12 (b) Maintains a lawfully established place of business in this
13 state or holds a corresponding license issued by the state of its
14 principal place of business, and has complied with the laws of this
15 state governing the admission of foreign corporations;

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

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

20 (e) Has complied with RCW 48.29.155 and 48.29.160.

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

26 **Sec. 8.** RCW 48.17.110 and 1990 1st ex.s. c 3 s 2 are each amended
27 to read as follows:

28 ~~(1) ((Each applicant for license as an agent, broker, solicitor, or~~
29 ~~adjuster shall, prior to the issuance of any such license, personally~~
30 ~~take and pass to the satisfaction of the examining authority, an~~
31 ~~examination given as a test of that person's qualifications and~~
32 ~~competence, but this requirement shall not apply to:~~

33 ~~(a) Applicants for limited licenses under RCW 48.17.190, at the~~
34 ~~discretion of the commissioner.~~

35 ~~(b) Applicants who within the two year period next preceding date~~
36 ~~of application have been licensed as a resident in this state under a~~
37 ~~license requiring qualifications similar to qualifications required by~~

1 the license applied for or who have successfully completed a course of
2 study recognized as a mark of distinction by the insurance industry and
3 who are deemed by the commissioner to be fully qualified and competent.

4 ~~(c) Applicants for license as a nonresident agent or as a
5 nonresident broker or as a nonresident adjuster who are duly licensed
6 in their state of residence and who are deemed by the commissioner to
7 be fully qualified and competent for a similar license in this state.~~

8 ~~(d) Applicants for an agent's or solicitor's license covering the
9 same kinds of insurance as an agent's or solicitor's license then held
10 by them.~~

11 ~~(e) Applicants for an adjuster's license who for a period of one
12 year, a portion of which was in the year next preceding the date of
13 application, have been a full time salaried employee of an insurer or
14 of a general agent to adjust, investigate, or report claims arising
15 under insurance contracts.~~

16 ~~(2) Any person licensed as an insurance broker by this state prior
17 to June 8, 1967, who is otherwise qualified to be a licensed insurance
18 broker, shall be entitled to renew that person's broker's license by
19 payment of the applicable fee for such of the broker's licenses
20 authorized by RCW 48.17.240, as that person shall elect, without taking
21 any additional examination, except as provided in subsection (3).~~

22 ~~(3) The commissioner may at any time require any licensed agent,
23 broker, solicitor, or adjuster to take and successfully pass an
24 examination testing the licensee's competence and qualifications as a
25 condition to the continuance or renewal of a license, if the licensee
26 has been guilty of violation of this code, or has so conducted affairs
27 under an insurance license as to cause the commissioner reasonably to
28 desire further evidence of the licensee's qualifications.)~~ A resident
29 individual applying for an insurance producer or adjuster license shall
30 pass a written examination unless exempt under this section or section
31 14 of this act. The examination shall test the knowledge of the
32 individual concerning the lines of authority for which application is
33 made, the duties and responsibilities of an insurance producer or
34 adjuster, and the insurance laws and rules of this state. Examinations
35 required by this section shall be developed and conducted under the
36 rules prescribed by the commissioner. The commissioner shall prepare,
37 or approve, and make available a manual specifying in general terms the

1 subjects which may be covered in any examination for a particular
2 license.

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

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

6 (b) Applicants who within the two-year period next preceding date
7 of application have been licensed as a resident in this state under a
8 license requiring qualifications similar to qualifications required by
9 the license applied for, or who have successfully completed a course of
10 study recognized as a mark of distinction by the insurance industry,
11 and who are deemed by the commissioner to be fully qualified and
12 competent;

13 (c) Applicants for an adjuster's license who for a period of one
14 year, a portion of which was in the year next preceding the date of
15 application, have been a full-time salaried employee of an insurer or
16 of a managing general agent to adjust, investigate, or report claims
17 arising under insurance contracts;

18 (d) Applicants deemed by the commissioner to be qualified by past
19 experience to deal in ocean marine and related coverages.

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

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

29 **Sec. 9.** RCW 48.17.125 and 1989 c 323 s 1 are each amended to read
30 as follows:

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

1 Any person violating this section shall be subject to penalties as
2 provided by RCW 48.01.080, 48.17.530, and 48.17.560.

3 **Sec. 10.** RCW 48.17.150 and 2005 c 223 s 7 are each amended to read
4 as follows:

5 ~~(1) ((To qualify for an agent's or broker's license, an applicant
6 must otherwise comply with this code and must:~~

7 ~~(a) Be at least eighteen years of age, if an individual;~~

8 ~~(b) Be a bona fide resident of and actually reside in this state,
9 or if a corporation, be other than an insurer and maintain a lawfully
10 established place of business in this state, except as provided in RCW
11 48.17.330;~~

12 ~~(c) Be empowered to be an agent or broker under its members'
13 agreement, if a firm, or by its articles of incorporation, if a
14 corporation;~~

15 ~~(d) Complete the minimum educational requirements for the issuance
16 of an agent's license for the kinds of insurance specified in RCW
17 48.17.210 as may be required by regulation issued by the commissioner;~~

18 ~~(e) Successfully pass any examination as required under RCW
19 48.17.110;~~

20 ~~(f) Be a trustworthy person;~~

21 ~~(g)(i) If for an agent's license, be appointed as its agent by one
22 or more authorized insurers, subject to issuance of the license;~~

23 ~~(ii) The commissioner may by regulation establish requirements,
24 including notification formats, in addition to or in lieu of the
25 requirements of (g)(i) of this subsection to allow an agent to act as
26 a representative of and place insurance with an insurer without first
27 notifying the commissioner of the appointment for a period of time up
28 to but not exceeding thirty days from the date the first insurance
29 application is executed by the agent; and~~

30 ~~(h) If for broker's license, have had at least two years experience
31 either as an agent, solicitor, adjuster, general agent, broker, or as
32 an employee of insurers or representatives of insurers, and special
33 education or training of sufficient duration and extent reasonably to
34 satisfy the commissioner that the applicant possesses the competence
35 necessary to fulfill the responsibilities of broker.~~

36 ~~(2) The commissioner shall by regulation establish minimum~~

1 continuing education requirements for the renewal or reissuance of a
2 license to an agent or a broker.

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

7 ((b)) (2) The continuing education requirements must be
8 appropriate to the license for the ((kinds)) lines of ((insurance))
9 authority specified in RCW ((48.17.210)) 48.17.170 or by rule.

10 ((c)) (3) The continuing education requirements may be waived by
11 the commissioner for good cause shown.

12 ((3) If the commissioner finds that the applicant is qualified and
13 that the license fee has been paid, the license shall be issued.
14 Otherwise, the commissioner shall refuse to issue the license.))

15 **Sec. 11.** RCW 48.17.160 and 1994 c 131 s 5 are each amended to read
16 as follows:

17 (1) ((Each insurer on appointing an agent in this state shall file
18 written notice thereof with the commissioner on forms as prescribed and
19 furnished by the commissioner, and shall pay the filing fee therefor as
20 provided in RCW 48.14.010. The commissioner shall return the
21 appointment of agent form to the insurer for distribution to the agent.
22 The commissioner may adopt regulations establishing alternative
23 appointment procedures for individuals within licensed firms,
24 corporations, or sole proprietorships who are empowered to exercise the
25 authority conferred by the firm, corporate, or sole proprietorship
26 license.

27 (2) Each appointment shall be effective until the agent's license
28 expires or is revoked, the appointment has expired, or written notice
29 of termination of the appointment is filed with the commissioner,
30 whichever occurs first.

31 (3) When the appointment is revoked by the insurer, written notice
32 of such revocation shall be given to the agent and a copy of the notice
33 of revocation shall be mailed to the commissioner.

34 (4) Revocation of an appointment by the insurer shall be deemed to
35 be effective as of the date designated in the notice as being the
36 effective date if the notice is actually received by the agent prior to

1 such designated date; otherwise, as of the earlier of the following
2 dates:

3 (a) The date such notice of revocation was received by the agent.

4 (b) The date such notice, if mailed to the agent at his last
5 address of record with the insurer, in due course should have been
6 received by the agent.

7 (5) ~~Appointments expire if not timely renewed. Each insurer shall~~
8 ~~pay the renewal fee set forth for each agent holding an appointment on~~
9 ~~the renewal date assigned the agents of the insurer by the~~
10 ~~commissioner. The commissioner, by rule, shall determine renewal~~
11 ~~dates. If a staggered system is used, fees shall be prorated in the~~
12 ~~conversion to a staggered system.))~~ An insurance producer or title
13 insurance agent shall not act as an agent of an insurer unless the
14 insurance producer or title insurance agent becomes an appointed agent
15 of that insurer. An insurance producer who is not acting as an agent
16 of an insurer is not required to become appointed.

17 (2) To appoint an insurance producer or title insurance agent as
18 its agent, the appointing insurer shall file, in a format approved by
19 the commissioner, a notice of appointment within fifteen days from the
20 date the agency contract is executed or when the first insurance
21 application is submitted, whichever is later.

22 (3) Upon receipt of the notice of appointment, the commissioner
23 shall verify within a reasonable time, not to exceed thirty days, that
24 the insurance producer or title insurance agent is eligible for
25 appointment. If the insurance producer or title insurance agent is
26 determined to be ineligible for appointment, the commissioner shall
27 notify the insurer within ten days of the determination.

28 (4) An insurer shall pay an appointment fee, in the amount and
29 method of payment set forth in RCW 48.14.010, for each insurance
30 producer or title insurance agent appointed by the insurer.

31 (5) Contingent upon payment of the appointment renewal fee as set
32 forth in RCW 48.14.010, an appointment shall be effective until
33 terminated by the insurance company, insurance producer, or title
34 insurance agent and notice has been given to the commissioner as
35 required by section 32 of this act.

36 **Sec. 12.** RCW 48.17.170 and 1979 ex.s. c 269 s 3 are each amended
37 to read as follows:

1 (~~Agents', solicitors', adjusters' and brokers' licenses shall be~~
2 ~~in the form and contain the essential information prescribed by the~~
3 ~~commissioner.~~) (1) Unless denied licensure under RCW 48.17.530,
4 persons who have met the requirements of RCW 48.17.090 and 48.17.110
5 shall be issued an insurance producer license. An insurance producer
6 may receive a license in one or more of the following lines of
7 authority:

8 (a) "Life", which is insurance coverage on human lives, including
9 benefits of endowment and annuities, and may include benefits in the
10 event of death or dismemberment by accident and benefits for disability
11 income;

12 (b) "Disability", which is insurance coverage for accident, health,
13 and disability or sickness, bodily injury, or accidental death, and may
14 include benefits for disability income;

15 (c) "Property", which is insurance coverage for the direct or
16 consequential loss or damage to property of every kind;

17 (d) "Casualty", which is insurance coverage against legal
18 liability, including that for death, injury, or disability or damage to
19 real or personal property;

20 (e) "Variable life and variable annuity products", which is
21 insurance coverage provided under variable life insurance contracts,
22 variable annuities, or any other life insurance or annuity product that
23 reflects the investment experience of a separate account;

24 (f) "Personal lines", which is property and casualty insurance
25 coverage sold to individuals and families for primarily noncommercial
26 purposes;

27 (g) Limited lines:

28 (i) Surety;

29 (ii) Limited line credit insurance;

30 (iii) Travel;

31 (h) Specialty lines:

32 (i) Communications equipment or services;

33 (ii) Rental car; or

34 (i) Any other line of insurance permitted under state laws or
35 rules.

36 (2) Unless denied licensure under RCW 48.17.530, persons who have
37 met the requirements of RCW 48.17.090(4) shall be issued a title
38 insurance agent license.

1 (3) All insurance producers', title insurance agents', and
2 adjusters' licenses issued by the commissioner shall be valid for the
3 time period established by the commissioner unless suspended or revoked
4 at an earlier date.

5 (4) Subject to the right of the commissioner to suspend, revoke, or
6 refuse to renew any insurance producer's, title insurance agent's, or
7 adjuster's license as provided in this title, the license may be
8 renewed into another like period by filing with the commissioner by any
9 means acceptable to the commissioner on or before the expiration date
10 a request, by or on behalf of the licensee, for such renewal
11 accompanied by payment of the renewal fee as specified in RCW
12 48.14.010.

13 (5) If the request and fee for renewal of an insurance producer's,
14 title insurance agent's, or adjuster's license is filed with the
15 commissioner prior to expiration of the existing license, the licensee
16 may continue to act under such license, unless sooner revoked or
17 suspended, until the issuance of a renewal license, or until the
18 expiration of fifteen days after the commissioner has refused to renew
19 the license and has mailed order of such refusal to the licensee. Any
20 request for renewal not so filed until after date of expiration may be
21 considered by the commissioner as an application for a new license.

22 (6) For all licenses, if request for renewal of an insurance
23 producer's, title insurance agent's, or adjuster's license or payment
24 of the fee is not received by the commissioner prior to the expiration
25 date as required under subsection (4) of this section, the insurer or
26 applicant for renewal shall pay to the commissioner and the
27 commissioner shall collect, in addition to the regular fee, a surcharge
28 as follows: For the first thirty days or part thereof of delinquency
29 the surcharge is fifty percent of the fee; for all delinquencies
30 extending more than thirty days, the surcharge is one hundred percent
31 of the fee. A surcharge of two hundred percent of the renewal fee is
32 required for any delinquency extending more than sixty days after the
33 expiration date. This subsection shall not exempt any person from any
34 penalty provided by law for transacting business without a valid and
35 subsisting license or appointment, or affect the commissioner's right,
36 at his or her discretion, to consider such delinquent application as
37 one for a new license or appointment.

1 (7) An individual insurance producer, title insurance agent, or
2 adjuster who allows his or her license to lapse may, within twelve
3 months after the expiration date, reinstate the same license without
4 the necessity of passing a written examination.

5 (8) A licensed insurance producer who is unable to comply with
6 license renewal procedures due to military service or some other
7 extenuating circumstance such as a long-term medical disability, may
8 request a waiver of those procedures. The producer may also request a
9 waiver of any examination requirement or any other fine or sanction
10 imposed for failure to comply with renewal procedures.

11 (9) The license shall contain the licensee's name, address,
12 personal identification number, and the date of issuance, lines of
13 authority, expiration date, and any other information the commissioner
14 deems necessary.

15 (10) Licensees shall inform the commissioner by any means
16 acceptable to the commissioner of a change of address within thirty
17 days of the change. Failure to timely inform the commissioner of a
18 change in legal name or address may result in a penalty under either
19 RCW 48.17.530 or 48.17.560, or both.

20 NEW SECTION. Sec. 13. A new section is added to chapter 48.17 RCW
21 to read as follows:

22 (1) Unless denied licensure under RCW 48.17.530, a nonresident
23 person shall receive a nonresident producer license for the line or
24 lines of authority under RCW 48.17.170 which is substantially
25 equivalent to the line or lines of authority granted to the nonresident
26 person in the person's home state if:

27 (a) The person is currently licensed as a resident and in good
28 standing in the person's home state;

29 (b) The person has submitted the proper request for licensure and
30 has paid the fees required by RCW 48.14.010;

31 (c) The person has submitted or transmitted to the commissioner the
32 application for licensure that the person submitted to the person's
33 home state, or in lieu, a completed uniform application;

34 (d) The person's home state awards nonresident producer licenses to
35 residents of this state on the same basis; and

36 (e) The person, as part of the request for licensure, has furnished
37 information concerning the person's identity, including fingerprints

1 for submission to the Washington state patrol, the federal bureau of
2 investigation, and any governmental agency or entity authorized to
3 receive this information for a state and national criminal history
4 background check. If, in the process of verifying fingerprints,
5 business records, or other information, the commissioner's office
6 incurs fees or charges from another governmental agency or from a
7 business firm, the amount of the fees or charges shall be paid to the
8 commissioner's office by the applicant.

9 (2) The commissioner shall waive any license application
10 requirements for a nonresident license applicant with a valid license
11 from the applicant's home state, except the requirements imposed by
12 this section, if the applicant's home state awards nonresident licenses
13 to residents of this state on the same basis.

14 (3) A nonresident insurance producer's satisfaction of the
15 nonresident insurance producer's home state's continuing education
16 requirements for licensed insurance producers shall constitute
17 satisfaction of this state's continuing education requirements if the
18 nonresident producer's home state recognizes the satisfaction of its
19 continuing education requirements imposed upon producers from this
20 state on the same basis.

21 (4) The commissioner shall waive the requirement for providing
22 fingerprints for submission to the Washington state patrol, the federal
23 bureau of investigation, and any governmental agency or entity
24 authorized to receive this information for a state and national
25 criminal history background check, if the person possesses a valid
26 insurance producer's or surplus line broker's license from the person's
27 home state and the person's home state requires submission of
28 information concerning a person's identity, including fingerprints for
29 the licensure of its resident insurance producers or surplus line
30 brokers, respectively.

31 (5) The commissioner may verify the producer's licensing status
32 through the producer database maintained by the NAIC, its affiliates,
33 or subsidiaries.

34 (6) A nonresident producer who moves from one state to another
35 state or a resident producer who moves from this state to another state
36 shall file a change of address and provide certification from the new
37 resident state within thirty days of the change of legal residence. No
38 fee or license application is required.

1 (7) A person licensed as a surplus lines producer in the person's
2 home state and complying with the requirements of subsection (1) of
3 this section and chapter 48.15 RCW shall receive a nonresident surplus
4 line broker license under subsection (1) of this section.

5 (8) A person licensed as a limited line credit insurance or other
6 type of limited lines producer in the person's home state and who
7 complies with the requirements of subsection (1) of this section shall
8 receive a nonresident limited lines producer license, under subsection
9 (1) of this section, granting the same scope of authority as granted
10 under the license issued by the producer's home state. For the purpose
11 of this subsection, limited line insurance is any authority granted by
12 the home state which restricts the authority of the license to the
13 lines set out in RCW 48.17.170(1)(g).

14 (9) Each licensed nonresident insurance producer or title insurance
15 agent shall appoint the commissioner as the insurance producer's or
16 title insurance agent's attorney to receive service of legal process
17 issued against the insurance producer or title insurance agent in this
18 state upon causes of action arising within this state. Service upon the
19 commissioner as attorney shall constitute effective legal service upon
20 the insurance producer or title insurance agent.

21 (a) The appointment shall be irrevocable for as long as there could
22 be any cause of action against the insurance producer or title
23 insurance agent arising out of the insurance producer's or title
24 insurance agent's insurance transactions in this state.

25 (b) Duplicate copies of such legal process against such insurance
26 producer or title insurance agent shall be served upon the commissioner
27 either by a person competent to serve a summons, or through registered
28 mail. At the time of such service the plaintiff shall pay to the
29 commissioner ten dollars, taxable as costs in the action.

30 (c) Upon receiving such service, the commissioner shall forthwith
31 send one of the copies of the process, by registered mail with return
32 receipt requested, to the defendant insurance producer or title
33 insurance agent at the insurance producer's or title insurance agent's
34 last address of record with the commissioner.

35 (d) The commissioner shall keep a record of the day and hour of
36 service upon the commissioner of all such legal process. No proceedings
37 shall be had against the defendant insurance producer or title

1 insurance agent, and the defendant shall not be required to appear,
2 plead, or answer until the expiration of forty days after the date of
3 service upon the commissioner.

4 NEW SECTION. **Sec. 14.** A new section is added to chapter 48.17 RCW
5 to read as follows:

6 (1) An individual who applies for an insurance producer license in
7 this state who was previously licensed for the same lines of authority
8 in another state shall not be required to complete any prelicensing
9 education or examination. This exemption is only available if the
10 person is currently licensed in that state or if the application is
11 received within ninety days of the cancellation of the applicant's
12 previous license, and if the prior state issues a certification that,
13 at the time of cancellation, the applicant was in good standing in that
14 state or the state's producer database records, maintained by the NAIC,
15 its affiliates, or subsidiaries, indicate that the producer is or was
16 licensed in good standing for the line of authority requested.

17 (2) A person licensed as an insurance producer in another state who
18 moves to this state shall make application within ninety days of
19 establishing legal residence to become a resident licensee under RCW
20 48.17.090. No prelicensing education or examination shall be required
21 of that person to obtain any line of authority previously held in the
22 prior state except where the commissioner determines otherwise by rule.

23 **Sec. 15.** RCW 48.17.180 and 1990 1st ex.s. c 3 s 4 are each amended
24 to read as follows:

25 ~~((1) A firm or corporation may be licensed as an agent, adjuster,~~
26 ~~or broker if each individual empowered to exercise the authority~~
27 ~~conferred by the corporate or firm license is also licensed. Exercise~~
28 ~~or attempted exercise of the powers of the firm or corporation by an~~
29 ~~unlicensed person, with the knowledge or consent of the firm or~~
30 ~~corporation, shall constitute cause for the revocation or suspension of~~
31 ~~the license.~~

32 ~~(2) Licenses shall be issued in a trade name only upon proof~~
33 ~~satisfactory to the commissioner that the trade name has been lawfully~~
34 ~~registered.~~

35 ~~(3) For the purpose of this section, a firm shall include a duly~~

1 ~~licensed individual acting as a sole proprietorship having associated~~
2 ~~licensees authorized to act on the proprietor's behalf in the~~
3 ~~proprietor's business or trade name.))~~

4 An insurance producer or title insurance agent doing business under
5 any name other than the insurance producer's or title insurance agent's
6 legal name is required to register the name in accordance with chapter
7 19.80 RCW and notify the commissioner before using the assumed name.

8 **Sec. 16.** RCW 48.17.250 and 1979 ex.s. c 269 s 8 are each amended
9 to read as follows:

10 (1) Every (~~applicant for a broker's license or for the renewal of~~
11 ~~a broker's license existing~~) insurance producer licensed under this
12 chapter on or after the effective date of this ((code shall file with
13 the application or request for renewal and shall thereafter)) act who
14 places insurance either directly or indirectly with an insurer with
15 which the insurance producer is not appointed as an agent must maintain
16 in force while so licensed a bond in favor of the people of the state
17 of Washington or a named insured such that the people of Washington are
18 covered by the bond, executed by an authorized corporate surety
19 approved by the commissioner, in the amount of (~~twenty~~) two thousand
20 five hundred dollars, or five percent of the premiums brokered in the
21 previous calendar year, whichever is greater, but not to exceed one
22 hundred thousand dollars total aggregate liability. ((If the applicant
23 is a firm or corporation, the bond shall be in the amount of twenty
24 thousand dollars plus five thousand dollars for the second and five
25 thousand dollars for each additional individual empowered and
26 designated in the license to exercise the powers conferred thereby.))
27 The bond may be continuous in form, and total aggregate liability on
28 the bond may be limited to the required amount of the bond. The bond
29 shall be contingent on the accounting by the (~~broker~~) insurance
30 producer to any person requesting the (~~broker~~) insurance producer
31 to obtain insurance, for moneys or premiums collected in connection
32 therewith.

33 (2) (~~Any such bond shall remain in force until the surety is~~
34 ~~released from liability by the commissioner, or until the bond is~~
35 ~~canceled by the surety. Without prejudice to any liability accrued~~
36 ~~prior to such cancellation, the surety may cancel the bond upon thirty~~
37 ~~days advance notice in writing filed with the commissioner.))~~

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

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

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

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

21 (6) An association may meet the requirements of this section for
22 all of its members with a bond in the name of the association that is
23 continuous in form and in the amounts set forth in subsection (1) of
24 this section.

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

28 **Sec. 17.** RCW 48.17.270 and 1994 c 203 s 1 are each amended to read
29 as follows:

30 ~~(1) ((A licensed agent may be licensed as a broker and be a broker~~
31 ~~as to insurers for which the licensee is not then appointed as agent.~~
32 ~~A licensed broker may be licensed as and be an agent as to insurers~~
33 ~~appointing such agent.))~~ The sole relationship between ~~((a broker))~~ an
34 insurance producer and an insurer as to which the ~~((licensee))~~
35 insurance producer is appointed as an agent shall, as to transactions
36 arising during the existence of such agency appointment, be that of
37 insurer and agent.

1 (2) Unless the agency-insurer agreement provides to the contrary,
2 an insurance (~~(agent licensed as a broker)~~) producer may(~~(, with~~
3 ~~respect to property and casualty insurance,~~) receive the following
4 compensation:

5 (a) A commission paid by the insurer;

6 (b) A fee paid by the insured; or

7 (c) A combination of commission paid by the insurer and a fee paid
8 by the insured from which (~~(a broker)~~) an insurance producer may offset
9 or reimburse the insured for all or part of the fee.

10 (3) If the compensation received by an (~~(agent who is also licensed~~
11 ~~as a broker and)~~) insurance producer who is dealing directly with the
12 insured includes a fee, (~~(the full amount of compensation, including an~~
13 ~~explanation of any offset or reimbursement, must be disclosed in~~
14 ~~writing, signed by the broker and the insured, and the writing must be~~
15 ~~retained by the broker for not less than five years)~~) for each policy,
16 the insurance producer must disclose in writing to the insured:

17 (a) The full amount of the fee paid by the insured;

18 (b) The full amount of any commission paid to the insurance
19 producer by the insurer, if one is received;

20 (c) An explanation of any offset or reimbursement of fees or
21 commissions as described in subsection (2)(c) of this section;

22 (d) When the insurance producer may receive additional commission,
23 notice that states the insurance producer:

24 (i) May receive additional commission in the form of future
25 incentive compensation from the insurer, including contingent
26 commissions and other awards and bonuses based on factors that
27 typically include the total sales volume, growth, profitability, and
28 retention of business placed by the insurance producer with the
29 insurer, and incentive compensation is only paid if the performance
30 criteria established in the agency-insurer agreement is met by the
31 insurance producer or the business entity with which the insurance
32 producer is affiliated; and

33 (ii) Will furnish to the insured or prospective insured specific
34 information relating to additional commission upon request; and

35 (e) The full name of the insurer that may pay any commission to the
36 insurance producer.

37 (4) Written disclosure of compensation as required by subsection

1 (3) of this section shall be provided by the insurance producer to the
2 insured prior to the sale of the policy.

3 (5) Written disclosure as required by subsection (3) of this
4 section must be signed by the insurance producer and the insured, and
5 the writing must be retained by the insurance producer for five years.
6 For the purposes of this section, written disclosure means the
7 insured's written consent obtained prior to the insured's purchase of
8 insurance. In the case of a purchase over the telephone or by
9 electronic means for which written consent cannot be reasonably
10 obtained, consent documented by the producer shall be acceptable.

11 **Sec. 18.** RCW 48.17.380 and 1981 c 339 s 15 are each amended to
12 read as follows:

13 The commissioner shall license as an adjuster only an individual(~~(~~
14 ~~firm~~~~)~~) or (~~(~~~~corporation~~~~)~~) business entity which has otherwise complied
15 with this code therefor and the individual or responsible officer of
16 the (~~(~~~~firm or corporation~~~~)~~) business entity has furnished evidence
17 satisfactory to the commissioner that (~~(he)~~) the individual or
18 responsible officer of the business entity is qualified as follows:

19 (1) Is eighteen or more years of age.

20 (2) Is a bona fide resident of this state, or is a resident of a
21 state which will permit residents of this state to act as adjusters in
22 such other state.

23 (3) Is a trustworthy person.

24 (4) Has had experience or special education or training with
25 reference to the handling of loss claims under insurance contracts, of
26 sufficient duration and extent reasonably to make (~~(him)~~) the
27 individual or responsible officer of the business entity competent to
28 fulfill the responsibilities of an adjuster.

29 (5) Has successfully passed any examination as required under this
30 chapter.

31 (6) If for a public adjuster's license, has filed the bond required
32 by RCW 48.17.430.

33 **Sec. 19.** RCW 48.17.390 and 1981 c 339 s 16 are each amended to
34 read as follows:

35 The commissioner may license an individual(~~(~~~~,~~ ~~firm,~~ ~~or~~
36 ~~corporation~~~~)~~) or business entity as an independent adjuster or as a

1 public adjuster, and separate licenses shall be required for each type
2 of adjuster. An individual(~~(, firm, or corporation)~~) or business
3 entity may be concurrently licensed under separate licenses as an
4 independent adjuster and as a public adjuster. The full license fee
5 shall be paid for each such license.

6 **Sec. 20.** RCW 48.17.410 and 1947 c 79 s .17.41 are each amended to
7 read as follows:

8 An adjuster shall have authority under (~~his~~) an adjuster's
9 license only to investigate or report to (~~his~~) the adjuster's
10 principal upon claims as limited under RCW (~~48.17.050~~) 48.17.010(1)
11 on behalf only of the insurers if licensed as an independent adjuster,
12 or on behalf only of insureds if licensed as a public adjuster. An
13 adjuster licensed concurrently as both an independent and a public
14 adjuster shall not represent both the insurer and the insured in the
15 same transaction.

16 **Sec. 21.** RCW 48.17.420 and 1947 c 79 s .17.42 are each amended to
17 read as follows:

18 (1) On behalf of and as authorized by an insurer for which (~~he is~~
19 ~~licensed~~) an insurance producer or title insurance agent has been
20 appointed as an agent, an insurance producer or title insurance agent
21 may from time to time act as an adjuster and investigate and report
22 upon claims without being required to be licensed as an adjuster.

23 (2) No license by this state shall be required of a nonresident
24 independent adjuster, for the adjustment in this state of a single
25 loss, or of losses arising out of a catastrophe common to all such
26 losses.

27 **Sec. 22.** RCW 48.17.450 and 1990 1st ex.s. c 3 s 5 are each amended
28 to read as follows:

29 (1) Every licensed (~~agent, broker,~~) insurance producer, title
30 insurance agent, and adjuster, other than an (~~agent~~) insurance
31 producer licensed for life or disability insurances only, shall have
32 and maintain in this state, or, if a nonresident (~~agent or nonresident~~
33 ~~broker~~) insurance producer or title insurance agent, in this state or
34 in the state of the licensee's domicile, a place of business accessible
35 to the public. Such place of business shall be that wherein the

1 (~~agent or broker~~) insurance producer or title insurance agent
2 principally conducts transactions under that person's licenses. (~~The~~
3 ~~address of the licensee's place of business shall appear on all of that~~
4 ~~person's licenses, and the licensee shall promptly notify the~~
5 ~~commissioner of any change thereof.~~) A licensee maintaining more than
6 one place of business in this state shall obtain a duplicate license or
7 licenses for each additional such place, and shall pay the full fee
8 therefor.

9 (2) Any notice, order, or written communication from the
10 commissioner to a person licensed under this chapter which directly
11 affects the person's license shall be sent by mail to the person's last
12 (~~residential address, if an individual, and to the person's last~~
13 ~~business address, if licensed as a firm or corporation, as such address~~
14 ~~is shown in the commissioner's licensing records. A licensee shall~~
15 ~~promptly notify the commissioner of any change of residential or~~
16 ~~business~~) address of record with the commissioner.

17 **Sec. 23.** RCW 48.17.460 and 1947 c 79 s .17.46 are each amended to
18 read as follows:

19 (~~(1)~~) The license or licenses of each (~~agent, other than~~
20 ~~licenses as to life or disability insurances only, or of each broker~~)
21 insurance producer, title insurance agent, or adjuster shall be
22 displayed in a conspicuous place in that part of (~~his~~) the place of
23 business which is customarily open to the public.

24 (~~(2) The license of a solicitor shall be so displayed in the place~~
25 ~~of business of the agent or broker by whom he is employed.~~)

26 **Sec. 24.** RCW 48.17.470 and 1947 c 79 s .17.47 are each amended to
27 read as follows:

28 (1) Every (~~agent, or broker,~~) insurance producer, title insurance
29 agent, or adjuster shall (~~keep at his address as shown on his~~
30 ~~license,~~) retain a record of all transactions consummated under
31 (~~his~~) the license. This record shall be in organized form and shall
32 include:

33 (a) If an (~~agent or broker,~~) insurance producer or title
34 insurance agent:

35 (i) A record of each insurance contract procured(~~(7)~~) or issued,

1 ((~~or countersigned,~~)) together with the names of the insurers and
2 insureds, the amount of premium paid or to be paid, and a statement of
3 the subject of the insurance;

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

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

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

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

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

19 **Sec. 25.** RCW 48.17.475 and 1967 c 150 s 13 are each amended to
20 read as follows:

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

28 **Sec. 26.** RCW 48.17.480 and 2003 c 53 s 269 are each amended to
29 read as follows:

30 (1) An ((~~agent~~)) insurance producer, title insurance agent, or any
31 other representative of an insurer involved in the procuring or
32 issuance of an insurance contract shall report to the insurer the exact
33 amount of consideration charged as premium for such contract, and such
34 amount shall likewise be shown in the contract and in the records of
35 the ((~~agent~~)) insurance producer, title insurance agent, or other

1 representative. Each willful violation of this provision is a
2 misdemeanor.

3 (2) All funds representing premiums or return premiums received by
4 an ~~((agent, solicitor or broker,))~~ insurance producer or title
5 insurance agent shall be so received in ~~((his or her))~~ the insurance
6 producer's or title insurance agent's fiduciary capacity, and shall be
7 promptly accounted for and paid to the insured, insurer, ~~((or))~~ title
8 insurance agent, or insurance producer as entitled thereto.

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

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

19 **Sec. 27.** RCW 48.17.490 and 1988 c 248 s 13 are each amended to
20 read as follows:

21 ~~((No agent, general agent, solicitor, or broker shall~~
22 ~~compensate or offer to compensate in any manner any person other than~~
23 ~~an agent, general agent, solicitor, or broker, licensed in this or any~~
24 ~~other state or province, for procuring or in any manner helping to~~
25 ~~procure applications for or to place insurance in this state. This~~
26 ~~provision shall not prohibit the payment of compensation not contingent~~
27 ~~upon volume of business transacted, in the form of salaries to the~~
28 ~~regular employees of such agent, general agent, solicitor or broker, or~~
29 ~~the payment for services furnished by an unlicensed person who does not~~
30 ~~participate in the transaction of insurance in any way requiring~~
31 ~~licensing as an agent, solicitor, broker, or adjuster and who is not~~
32 ~~compensated on any basis dependent upon a sale of insurance being made.~~

33 ~~((2) No such licensee shall be promised or allowed any compensation~~
34 ~~on account of the procuring of applications for or the placing of kinds~~
35 ~~of insurance which he himself is not then licensed to procure or place.~~

36 ~~((3) The commissioner shall suspend or revoke the licenses of all~~
37 ~~licensees participating in any violation of this section)) An insurance~~

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

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

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

15 (4) An insurer, except a title insurer, or insurance producer may
16 pay or assign commissions, service fees, or other valuable
17 consideration to an insurance agency, or to persons who do not sell,
18 solicit, or negotiate insurance in this state, unless the payment would
19 violate RCW 48.30.140, 48.30.150, 48.30.155, 48.30.157, or 48.30.170.

20 **Sec. 28.** RCW 48.17.510 and 1982 c 181 s 7 are each amended to read
21 as follows:

22 ~~(1) The commissioner may issue ((an agent's or broker's temporary~~
23 ~~license in the following circumstances:~~

24 ~~(a) To the surviving spouse or next of kin or to the administrator~~
25 ~~or executor, or the employee of the administrator or executor, of a~~
26 ~~licensed agent or broker becoming deceased.~~

27 ~~(b) To the spouse, next of kin, employee, or legal guardian of a~~
28 ~~licensed agent or broker becoming disabled because of sickness,~~
29 ~~insanity, or injury.~~

30 ~~(c) To a surviving member of a firm or surviving officer or~~
31 ~~employee of a corporation licensed as agent or broker upon the death of~~
32 ~~an individual designated in the firm or corporation's license to~~
33 ~~exercise powers thereunder.~~

34 ~~(2) An individual to be eligible for any such temporary license~~
35 ~~must be qualified as for a permanent license except as to experience,~~
36 ~~training, or the taking of any examination.~~

1 ~~(3) Any fee paid to the commissioner for issuance of a temporary~~
2 ~~license as specified in RCW 48.14.010 shall be credited toward the fee~~
3 ~~required for a permanent license which is issued to replace the~~
4 ~~temporary license prior to the expiration of such temporary license))~~
5 a temporary insurance producer license for a period not to exceed one
6 hundred eighty days without requiring an examination if the
7 commissioner deems that the temporary license is necessary for the
8 servicing of an insurance business in the following cases:

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

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

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

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

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

33 **Sec. 29.** RCW 48.17.530 and 1973 1st ex.s. c 152 s 2 are each
34 amended to read as follows:

35 (1) The commissioner may ~~((suspend, revoke, or refuse to issue or~~
36 ~~renew any license which is issued or may be issued under this chapter~~

1 ~~or any surplus line broker's license for any cause specified in any~~
2 ~~other provision of this code, or for any of the following causes:~~

3 ~~(a) For any cause for which issuance of the license could have been~~
4 ~~refused had it then existed and been known to the commissioner.~~

5 ~~(b) If the licensee or applicant wilfully violates or knowingly~~
6 ~~participates in the violation of any provision of this code or any~~
7 ~~proper order or regulation of the commissioner.~~

8 ~~(c) If the licensee or applicant has obtained or attempted to~~
9 ~~obtain any such license through wilful misrepresentation or fraud, or~~
10 ~~has failed to pass any examination required under this chapter.~~

11 ~~(d) If the licensee or applicant has misappropriated or converted~~
12 ~~to his own use or has illegally withheld moneys required to be held in~~
13 ~~a fiduciary capacity.~~

14 ~~(e) If the licensee or applicant has, with intent to deceive,~~
15 ~~materially misrepresented the terms or effect of any insurance~~
16 ~~contract; or has engaged or is about to engage in any fraudulent~~
17 ~~transaction.~~

18 ~~(f) If the licensee or applicant has been guilty of "twisting," as~~
19 ~~defined in RCW 48.30.180, or of rebating, as defined in chapter 48.30~~
20 ~~RCW.~~

21 ~~(g) If the licensee or applicant has been convicted, by final~~
22 ~~judgment, of a felony.~~

23 ~~(h) If the licensee or applicant has shown himself to be, and is so~~
24 ~~deemed by the commissioner, incompetent, or untrustworthy, or a source~~
25 ~~of injury and loss to the public.~~

26 ~~(i) If the licensee has dealt with, or attempted to deal with,~~
27 ~~insurances, or to exercise powers relative to insurance outside the~~
28 ~~scope of his licenses.~~

29 ~~(2) If any natural person named under a firm or corporate license,~~
30 ~~or application therefor, commits or has committed any act or fails or~~
31 ~~has failed to perform any duty which is a ground for the commissioner~~
32 ~~to revoke, suspend or refuse to issue or renew the license or~~
33 ~~application for license, the commissioner may revoke, suspend, refuse~~
34 ~~to renew, or refuse to issue:~~

35 ~~(a) The license, or application therefor, of the corporation or~~
36 ~~firm; or~~

37 ~~(b) The right of the natural person to act thereunder; or~~

38 ~~(c) Any other license held or applied for by the natural person; or~~

1 ~~(d) He may take all such steps.~~

2 ~~(3) Any conduct of an applicant or licensee which constitutes~~
3 ~~ground for disciplinary action under this code shall be deemed such~~
4 ~~ground notwithstanding that such conduct took place in another state.~~

5 ~~(4) The holder of any license which has been revoked or suspended~~
6 ~~shall surrender the license certificate to the commissioner at the~~
7 ~~commissioner's request)) place on probation, suspend, revoke, or refuse~~
8 ~~to issue or renew an adjuster's license, an insurance producer's~~
9 ~~license, a title insurance agent's license, or any surplus line~~
10 ~~broker's license, or may levy a civil penalty in accordance with RCW~~
11 ~~48.17.560 or any combination of actions, for any one or more of the~~
12 ~~following causes:~~

13 ~~(a) Providing incorrect, misleading, incomplete, or materially~~
14 ~~untrue information in the license application;~~

15 ~~(b) Violating any insurance laws, or violating any rule, subpoena,~~
16 ~~or order of the commissioner or of another state's insurance~~
17 ~~commissioner;~~

18 ~~(c) Obtaining or attempting to obtain a license through~~
19 ~~misrepresentation or fraud;~~

20 ~~(d) Improperly withholding, misappropriating, or converting any~~
21 ~~moneys or properties received in the course of doing insurance~~
22 ~~business;~~

23 ~~(e) Intentionally misrepresenting the terms of an actual or~~
24 ~~proposed insurance contract or application for insurance;~~

25 ~~(f) Having been convicted of a felony;~~

26 ~~(g) Having admitted or been found to have committed any insurance~~
27 ~~unfair trade practice or fraud;~~

28 ~~(h) Using fraudulent, coercive, or dishonest practices, or~~
29 ~~demonstrating incompetence, untrustworthiness, or financial~~
30 ~~irresponsibility in this state or elsewhere;~~

31 ~~(i) Having an insurance producer license, or its equivalent,~~
32 ~~denied, suspended, or revoked in any other state, province, district,~~
33 ~~or territory;~~

34 ~~(j) Forging another's name to an application for insurance or to~~
35 ~~any document related to an insurance transaction;~~

36 ~~(k) Improperly using notes or any other reference material to~~
37 ~~complete an examination for an insurance license;~~

1 (l) Knowingly accepting insurance business from a person who is
2 required to be licensed under this title and is not so licensed, other
3 than orders for issuance of title insurance on property located in this
4 state placed by a nonresident title insurance agent authorized to act
5 as a title insurance agent in the title insurance agent's home state;
6 or

7 (m) Obtaining a loan from an insurance client that is not a
8 financial institution and who is not related to the insurance producer
9 by birth, marriage, or adoption, except the commissioner may, by rule,
10 define and permit reasonable arrangements.

11 (2) The license of a business entity may be suspended, revoked, or
12 refused if the commissioner finds that an individual licensee's
13 violation was known or should have been known by one or more of the
14 partners, officers, or managers acting on behalf of the partnership or
15 corporation, and the violation was neither reported to the commissioner
16 nor corrective action taken.

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

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

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

30 (a) Report regularly to the commissioner on matters that are the
31 basis of the probation;

32 (b) Limit practice to an area prescribed by the commissioner; or

33 (c) Continue or renew continuing education until the licensee
34 attains a degree of skill satisfactory to the commissioner in the area
35 that is the basis of the probation.

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

1 ~~agent's gross and willful misconduct, the agent's loss of license by~~
2 ~~order of the insurance commissioner, the agent's sale of, or material~~
3 ~~change of ownership in, the agency, the agent's fraud or material~~
4 ~~misrepresentation relative to the business of insurance, or the agent's~~
5 ~~default in payments due the insurer under the terms of the agreement))~~
6 one of the reasons set forth in RCW 48.17.530. During the notice
7 period the insurer shall not amend the existing contract without the
8 consent of the ((~~agent~~)) insurance producer.

9 (a) Unless the agency contract provides otherwise, during the one
10 hundred twenty day notice period the independent ((~~agent~~)) insurance
11 producer shall not write or bind any new business on behalf of the
12 terminating insurer without specific written approval. However,
13 routine adjustments by insureds are permitted. The terminating insurer
14 shall permit renewal of all its policies in the ((~~agent's~~)) insurance
15 producer's book of business for a period of one year following the
16 effective date of the termination, to the extent the policies meet the
17 insurer's underwriting standards and the insurer has no other reason
18 for nonrenewal. The rate of commission for any policies renewed under
19 this provision shall be the same as the ((~~agent~~)) insurance producer
20 would have received had the agency agreement not been terminated.

21 (b) An independent ((~~agent~~)) insurance producer whose agency
22 contract has been terminated shall have a reasonable opportunity to
23 transfer affected policies to other insurers with which the ((~~agent~~))
24 insurance producer has an appointment: PROVIDED, HOWEVER, That prior
25 to the conclusion of the one-year renewal period following the
26 effective date of the termination, an insurer without a reason for not
27 renewing an insured's policy and which has not received notification of
28 the placement of such policy with another insurer shall provide its
29 insured with appropriate written notice of an offer to continue the
30 policy. In such cases, except where the terminated ((~~agent~~)) insurance
31 producer has placed the policy with another agent of the insurer, the
32 insurer shall, where practical, assign the policy to an appointed
33 ((~~agent~~)) insurance producer located reasonably near the insured
34 willing to accept the assignment.

35 (c) An insurer is not required to continue the appointment of a
36 terminated independent ((~~agent~~)) insurance producer during or after the
37 one year renewal period. However, an ((~~agent~~)) insurance producer
38 whose contract has been terminated by the insurer remains an agent of

1 the terminating insurer as to actions associated with the policies
2 subject to this section just as if (~~he or she~~) the insurance producer
3 were appointed by the insurer as its agent.

4 (3) In the absence of receipt of notice from the insured that
5 coverage will not be continued with the existing insurer, an insurer
6 whose agency contract has been terminated by an independent (~~agent~~)
7 insurance producer, or by the mutual agreement of the insurer and the
8 (~~agent~~) insurance producer, that elects to renew or lacks a reason
9 not to renew, shall give the renewal notice required by chapter 48.18
10 RCW to affected insureds, and continue renewed coverage in accordance
11 with the methods specified in subsection (2)(b) of this section.
12 (~~Agents~~) Insurance producers affected by this subsection may provide
13 the notice to an insurer that an insured does not intend to continue
14 existing coverage with the insurer, after receiving written authority
15 to do so from an insured.

16 (4) For purposes of this section an "independent (~~agent~~)
17 insurance producer" is a licensed insurance (~~agent~~) producer
18 representing an insurer on an independent contractor basis and not as
19 an employee. This term includes only those (~~agents~~) insurance
20 producers not obligated by contract to place insurance accounts with a
21 particular insurer or group of insurers.

22 (5) This section does not apply to:

23 (a) (~~agents~~) Insurance producers or policies of an insurer or
24 group of insurers if the business is not owned by the (~~agent~~)
25 insurance producer and the termination of any such contractual
26 agreement does not result in the cancellation or nonrenewal of any
27 policies of insurance;

28 (b) Managing general agents, to the extent that they are acting in
29 that capacity;

30 (c) Life, disability, surety, ocean marine and foreign trade, and
31 title insurance policies;

32 (d) Situations where the termination of the agency contract results
33 from the insolvency or liquidation of the terminating insurer.

34 (6) No insurer may terminate its agency contract with an appointed
35 (~~agent~~) insurance producer unless it complies with this section.

36 (7) Nothing contained in this section excuses an insurer from
37 giving cancellation and renewal notices that may be required by chapter
38 48.18 RCW.

1 NEW SECTION. **Sec. 32.** A new section is added to chapter 48.17 RCW
2 to read as follows:

3 (1) An insurer or authorized representative of the insurer that
4 terminates the appointment, employment, contract, or other insurance
5 business relationship with an insurance producer or title insurance
6 agent shall notify the commissioner within thirty days following the
7 effective date of the termination, using a format prescribed by the
8 commissioner, if the reason for termination is one of the reasons set
9 forth in RCW 48.17.530 or the insurer has knowledge the insurance
10 producer or title insurance agent was found by a court, government
11 body, or self-regulatory organization authorized by law to have engaged
12 in any of the activities in RCW 48.17.530. Upon the written request of
13 the commissioner, the insurer shall provide additional information,
14 documents, records, or other data pertaining to the termination or
15 activity of the insurance producer or title insurance agent.

16 (2) An insurer or authorized representative of the insurer that
17 terminates the appointment, employment, or contract with an insurance
18 producer or title insurance agent for any reason not set forth in RCW
19 48.17.530, shall notify the commissioner within thirty days following
20 the effective date of the termination, using a format prescribed by the
21 commissioner. Upon written request of the commissioner, the insurer
22 shall provide additional information, documents, records, or other data
23 pertaining to the termination.

24 (3) The insurer or the authorized representative of the insurer
25 shall promptly notify the commissioner in a format acceptable to the
26 commissioner if, upon further review or investigation, the insurer
27 discovers additional information that would have been reportable to the
28 commissioner in accordance with subsection (1) of this section had the
29 insurer then known of its existence.

30 (4) A copy of the notification to the commissioner shall be
31 provided to the insurance producer or title insurance agent.

32 (a) Within fifteen days after making the notification required by
33 subsections (1), (2), and (3) of this section, the insurer shall mail
34 a copy of the notification to the insurance producer or title insurance
35 agent at the insurance producer's or title insurance agent's last known
36 address. If the insurance producer or title insurance agent is
37 terminated for cause for any of the reasons listed in RCW 48.17.530,
38 the insurer shall provide a copy of the notification to the insurance

1 producer or title insurance agent at the insurance producer's or title
2 insurance agent's last known address by certified mail, return receipt
3 requested, postage prepaid, or by overnight delivery using a nationally
4 recognized carrier.

5 (b) Within thirty days after the insurance producer or title
6 insurance agent has received the original or additional notification,
7 the insurance producer or title insurance agent may file written
8 comments concerning the substance of the notification with the
9 commissioner. The insurance producer or title insurance agent shall,
10 by the same means, simultaneously send a copy of the comments to the
11 reporting insurer, and the comments shall become a part of the
12 commissioner's file and accompany every copy of a report distributed or
13 disclosed for any reason about the insurance producer or title
14 insurance agent as permitted under subsection (6) of this section.

15 (5) Immunities shall apply as follows:

16 (a) In the absence of actual malice, an insurer, the authorized
17 representative of the insurer, an insurance producer, title insurance
18 agent, the commissioner, or an organization of which the commissioner
19 is a member and that compiles the information and makes it available to
20 other insurance commissioners or regulatory or law enforcement agencies
21 shall not be subject to civil liability, and a civil cause of action of
22 any nature shall not arise against these entities or their respective
23 agents or employees, as a result of any statement or information
24 required by or provided under this section, or any information relating
25 to any statement that may be requested in writing by the commissioner,
26 from an insurer, insurance producer, or title insurance agent; or a
27 statement by a terminating insurer, insurance producer, or title
28 insurance agent to an insurer, insurance producer, or title insurance
29 agent limited solely and exclusively to whether a termination for cause
30 under subsection (1) of this section was reported to the commissioner,
31 provided that the propriety of any termination for cause under
32 subsection (1) of this section is certified in writing by an officer or
33 authorized representative of the insurer, insurance producer, or title
34 insurance agent terminating the relationship.

35 (b) In any action brought against a person that may have immunity
36 under (a) of this subsection for making any statement required by this
37 section or providing any information relating to any statement that may
38 be requested by the commissioner, the party bringing the action shall

1 plead specifically in any allegation that (a) of this subsection does
2 not apply because the person making the statement or providing the
3 information did so with actual malice.

4 (c) Subsection (5)(a) or (b) of this section shall not abrogate or
5 modify any existing statutory or common law privileges or immunities.

6 (6) Information provided under this section is confidential.

7 (a) Any documents, materials, or other information in the control
8 or possession of the commissioner that is furnished by an insurer,
9 insurance producer, title insurance agent, or an employee or agent
10 thereof acting on behalf of the insurer, insurance producer, or title
11 insurance agent, or obtained by the commissioner in an investigation
12 pursuant to this section shall be confidential by law and privileged,
13 shall not be subject to disclosure under chapter 42.56 RCW, shall not
14 be subject to subpoena, and shall not be subject to discovery or
15 admissible in evidence in any private civil action. However, the
16 commissioner is authorized to use the documents, materials, or other
17 information in the furtherance of any regulatory or legal action
18 brought as a part of the commissioner's duties.

19 (b) Neither the commissioner nor any person who received documents,
20 materials, or other information while acting under the authority of the
21 commissioner shall be permitted or required to testify in any private
22 civil action concerning any confidential or privileged documents,
23 materials, or information subject to (a) of this subsection.

24 (c) In order to assist in the performance of the commissioner's
25 duties under this act and in accordance with RCW 48.02.065, the
26 commissioner:

27 (i) May share documents, materials, or other information, including
28 the confidential and privileged documents, materials, or information
29 subject to (a) of this subsection, with other state, federal, and
30 international regulatory agencies, with the NAIC, its affiliates, or
31 subsidiaries, and with state, federal, and international law
32 enforcement authorities, provided that the recipient agrees to maintain
33 the confidentiality and privileged status of the document, material, or
34 other information;

35 (ii) May receive documents, materials, or information, including
36 otherwise confidential and privileged documents, materials, or
37 information, from the NAIC, its affiliates, or subsidiaries, and from
38 regulatory and law enforcement officials of other foreign or domestic

1 jurisdictions, and shall maintain as confidential or privileged any
2 document, material, or information received with notice or the
3 understanding that it is confidential or privileged under the laws of
4 the jurisdiction that is the source of the document, material, or
5 information; and

6 (iii) May enter into agreements governing sharing and use of
7 information consistent with this subsection.

8 (d) No waiver of any applicable privilege or claim of
9 confidentiality in the documents, materials, or information shall occur
10 as a result of disclosure to the commissioner under this section or as
11 a result of sharing as authorized in subsection (5)(c) of this section.

12 (e) Nothing in this chapter shall prohibit the commissioner from
13 releasing final, adjudicated actions including for cause terminations
14 that are open to public inspection pursuant to chapter 42.56 RCW to a
15 database or other clearinghouse service maintained by the NAIC, its
16 affiliates, or subsidiaries.

17 (7) An insurer, the authorized representative of the insurer,
18 insurance producer, or title insurance agent that fails to report as
19 required under the provisions of this section or that is found to have
20 reported with actual malice by a court of competent jurisdiction may,
21 after notice and hearing, have its license or certificate of authority
22 suspended or revoked, and may be fined in accordance with this title.

23 **Sec. 33.** RCW 48.17.600 and 1988 c 248 s 15 are each amended to
24 read as follows:

25 (1) All funds representing premiums or return premiums received by
26 an (~~agent, solicitor or broker~~) insurance producer or title insurance
27 agent in (~~his or her~~) the insurance producer's or title insurance
28 agent's fiduciary capacity shall be accounted for and maintained in a
29 separate account from all other business and personal funds.

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

33 (3) An (~~agent, solicitor or broker~~) insurance producer or title
34 insurance agent may commingle with premium funds any additional funds
35 as (~~he or she~~) the insurance producer or title insurance agent may
36 deem prudent for the purpose of advancing premiums, establishing
37 reserves for the paying of return premiums, or for any contingencies as

1 may arise in (~~his or her~~) the insurance producer's or title insurance
2 agent's business of receiving and transmitting premium or return
3 premium funds.

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

6 (~~(5) This section shall not apply to agents for title insurance~~
7 ~~companies or insurance brokers whose average daily balance for premiums~~
8 ~~received on behalf of insureds in the state of Washington equals or~~
9 ~~exceeds one million dollars.))~~

10 NEW SECTION. Sec. 34. A new section is added to chapter 48.17 RCW
11 to read as follows:

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

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

25 NEW SECTION. Sec. 35. A new section is added to chapter 48.17 RCW
26 to read as follows:

27 The commissioner may adopt rules to implement and administer this
28 chapter.

29 **Sec. 36.** RCW 42.56.400 and 2006 c 284 s 17 and 2006 c 8 s 210 are
30 each reenacted and amended to read as follows:

31 The following information relating to insurance and financial
32 institutions is exempt from disclosure under this chapter:

33 (1) Records maintained by the board of industrial insurance appeals
34 that are related to appeals of crime victims' compensation claims filed
35 with the board under RCW 7.68.110;

1 (2) Information obtained and exempted or withheld from public
2 inspection by the health care authority under RCW 41.05.026, whether
3 retained by the authority, transferred to another state purchased
4 health care program by the authority, or transferred by the authority
5 to a technical review committee created to facilitate the development,
6 acquisition, or implementation of state purchased health care under
7 chapter 41.05 RCW;

8 (3) The names and individual identification data of all viators
9 regulated by the insurance commissioner under chapter 48.102 RCW;

10 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

11 (5) Information provided under RCW 48.05.510 through 48.05.535,
12 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
13 through 48.46.625;

14 (6) Information gathered under chapter 19.85 RCW or RCW 34.05.328
15 that can be identified to a particular business;

16 (7) Examination reports and information obtained by the department
17 of financial institutions from banks under RCW 30.04.075, from savings
18 banks under RCW 32.04.220, from savings and loan associations under RCW
19 33.04.110, from credit unions under RCW 31.12.565, from check cashers
20 and sellers under RCW 31.45.030(3), and from securities brokers and
21 investment advisers under RCW 21.20.100, all of which is confidential
22 and privileged information;

23 (8) Information provided to the insurance commissioner under RCW
24 48.110.040(3);

25 (9) Documents, materials, or information obtained by the insurance
26 commissioner under RCW 48.02.065, all of which are confidential and
27 privileged;

28 (10) Confidential proprietary and trade secret information provided
29 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
30 48.31C.070;

31 (11) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
32 7.70.140 that, alone or in combination with any other data, may reveal
33 the identity of a claimant, health care provider, health care facility,
34 insuring entity, or self-insurer involved in a particular claim or a
35 collection of claims. For the purposes of this subsection:

36 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

37 (b) "Health care facility" has the same meaning as in RCW
38 48.140.010(6).

1 (c) "Health care provider" has the same meaning as in RCW
2 48.140.010(7).

3 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

4 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
5 (~~and~~)

6 (12) Documents, materials, or information obtained by the insurance
7 commissioner under RCW 48.135.060; and

8 (13) Documents, materials, or information obtained by the insurance
9 commissioner under section 32 of this act.

10 **Sec. 37.** RCW 48.14.010 and 2005 c 223 s 5 are each amended to read
11 as follows:

12 (1) The commissioner shall collect in advance the following fees:

- 13 (a) **For filing charter documents:**
 - 14 (i) Original charter documents, bylaws
 - 15 or record of organization of
 - 16 insurers, or certified copies thereof,
 - 17 required to be filed \$250.00
 - 18 (ii) Amended charter documents, or
 - 19 certified copy thereof, other than
 - 20 amendments of bylaws \$ 10.00
 - 21 (iii) No additional charge or fee shall be
 - 22 required for filing any of such
 - 23 documents in the office of the
 - 24 secretary of state.
- 25 (b) **Certificate of authority:**
 - 26 (i) Issuance \$ 25.00
 - 27 (ii) Renewal \$ 25.00
- 28 (c) **Annual statement of insurer, filing \$ 20.00**
- 29 (d) **Organization or financing of domestic insurers and**
- 30 **affiliated corporations:**
 - 31 (i) Application for solicitation permit,
 - 32 filing \$100.00
 - 33 (ii) Issuance of solicitation permit . . . \$ 25.00
- 34 (e) (~~Agents~~) **Insurance producer licenses:**

1	(i)	((Agent's qualification licenses	
2		every two years)) <u>License</u>	
3		<u>application</u>	(\$ 50.00)
4			<u>\$ 55.00</u>
5	(ii)	((Filing)) <u>License renewal, every</u>	
6		<u>two years</u>	<u>\$ 55.00</u>
7	(iii)	<u>Initial appointment and renewal of</u>	
8		<u>appointment of each ((such agent))</u>	
9		<u>insurance producer, every two years</u>	<u>\$ 20.00</u>
10	((iii))	Limited ((license issued pursuant	
11	(iv)	to RCW 48.17.190)) <u>insurance</u>	
12		<u>producer license application and</u>	
13		<u>renewal, every two years</u>	<u>\$ 20.00</u>
14	(f)	Reinsurance intermediary licenses:	
15	(i)	Reinsurance intermediary-broker,	
16		each year	<u>\$ 50.00</u>
17	(ii)	Reinsurance intermediary-	
18		manager, each year	<u>\$100.00</u>
19	(g)	((Brokers' licenses:	
20	(i)	Broker's license, every two	
21		years	<u>\$100.00</u>
22	(ii)	Surplus line broker <u>license</u>	
23		<u>application and renewal, every two</u>	
24		<u>years</u>	<u>\$200.00</u>
25	(h)	((Solicitors' license, every two years . . .	<u>\$ 20.00</u>
26	(i)	Adjusters' licenses:	
27	(i)	Independent adjuster, every two	
28		years	<u>\$ 50.00</u>
29	(ii)	Public adjuster, every two	
30		years	<u>\$ 50.00</u>
31	((j))	Resident general agent's license, every	
32		two years	<u>\$ 50.00</u>
33	((k)) (i)	Managing general agent appointment,	
34		every two years	<u>\$200.00</u>
35	((H))		
36	(j)	Examination for license, each examination:	

1 All examinations, except examinations
2 administered by an independent
3 testing service, the fees for which are
4 to be approved by the commissioner
5 and collected directly by and retained
6 by such independent testing service ... \$ 20.00

7 ~~((m))~~

8 **(k) Miscellaneous services:**

- 9 (i) Filing other documents \$ 5.00
10 (ii) Commissioner's certificate under
11 seal \$ 5.00
12 (iii) Copy of documents filed in the
13 commissioner's office, reasonable
14 charge therefor as determined by
15 the commissioner.

16 (2) All fees so collected shall be remitted by the commissioner to
17 the state treasurer not later than the first business day following,
18 and shall be placed to the credit of the general fund.

19 (a) Fees for examinations administered by an independent testing
20 service that are approved by the commissioner under subsection
21 ~~(1)((+l))~~ (j) of this section shall be collected directly by the
22 independent testing service and retained by it.

23 (b) Fees for copies of documents filed in the commissioner's office
24 shall be remitted by the commissioner to the state treasurer not later
25 than the first business day following, and shall be placed to the
26 credit of the insurance commissioner's regulatory account.

27 NEW SECTION. **Sec. 38.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 39.** The following acts or parts of acts are
32 each repealed:

- 33 (1) RCW 48.17.020 ("Broker" defined) and 1947 c 79 s .17.02;
34 (2) RCW 48.17.030 ("Solicitor" defined) and 1947 c 79 s .17.03;
35 (3) RCW 48.17.040 (Service representatives) and 1947 c 79 s .17.04;
36 (4) RCW 48.17.050 ("Adjuster" defined) and 1947 c 79 s .17.05;

1 (5) RCW 48.17.055 ("Insurance education provider" defined) and 1989
2 c 323 s 2;
3 (6) RCW 48.17.070 (General qualifications for license) and 1947 c
4 79 s .17.07;
5 (7) RCW 48.17.100 (One filing of personal data sufficient) and 1947
6 c 79 s .17.10;
7 (8) RCW 48.17.120 (Scope of examinations) and 1989 c 323 s 6, 1981
8 c 111 s 2, 1967 c 150 s 17, 1955 c 303 s 11, & 1947 c 79 s .17.12;
9 (9) RCW 48.17.130 (Examinations--Form, time of, fee) and 1981 c 111
10 s 3, 1967 c 150 s 18, & 1947 c 79 s .17.13;
11 (10) RCW 48.17.190 (Limited licenses) and 1995 c 214 s 2, 1979 c
12 138 s 1, 1967 c 150 s 21, & 1947 c 79 s .17.19;
13 (11) RCW 48.17.200 (One license required by agent) and 1979 ex.s.
14 c 269 s 5, 1955 c 303 s 14, & 1947 c 79 s .17.20;
15 (12) RCW 48.17.210 (Minimum license combinations) and 1947 c 79 s
16 .17.21;
17 (13) RCW 48.17.230 (Agent placing rejected business) and 1988 c 248
18 s 10 & 1947 c 79 s .17.23;
19 (14) RCW 48.17.240 (Scope of broker's license) and 1967 c 150 s 22
20 & 1947 c 79 s .17.24;
21 (15) RCW 48.17.260 (Broker's authority--Commissions) and 1949 c 190
22 s 24 & 1947 c 79 s .17.26;
23 (16) RCW 48.17.280 (Solicitor's qualifications) and 1947 c 79 s
24 .17.28;
25 (17) RCW 48.17.290 (Solicitor's license--Application) and 1947 c 79
26 s .17.29;
27 (18) RCW 48.17.300 (Solicitor's license fee--Custody--Cancellation)
28 and 1947 c 79 s .17.30;
29 (19) RCW 48.17.310 (Limitations upon solicitors) and 1947 c 79 s
30 .17.31;
31 (20) RCW 48.17.320 (Responsibility of employing agent or broker)
32 and 1947 c 79 s .17.32;
33 (21) RCW 48.17.330 (Nonresident agents and brokers--Reciprocity)
34 and 2001 c 56 s 2, 1973 1st ex.s. c 107 s 1, 1955 c 303 s 28, & 1947 c
35 79 s .17.33;
36 (22) RCW 48.17.340 (Service of process against nonresident agent or
37 broker) and 1981 c 339 s 14 & 1947 c 79 s .17.34;

1 (23) RCW 48.17.500 (Expiration and renewal of licenses) and 1979
2 ex.s. c 269 s 6, 1977 ex.s. c 182 s 6, 1965 ex.s. c 70 s 20, 1957 c 193
3 s 9, 1953 c 197 s 7, & 1947 c 79 s .17.50;

4 (24) RCW 48.17.520 (Temporary licenses--Duration--Limitations) and
5 1985 c 264 s 8, 1953 c 197 s 9, & 1947 c 79 s .17.52; and

6 (25) RCW 48.05.310 (General agents, managers--Appointment--Powers--
7 Licensing) and 1995 c 338 s 1, 1982 c 181 s 17, & 1947 c 79 s .05.31.

8 NEW SECTION. **Sec. 40.** This act takes effect July 1, 2009.

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