

## CHAPTER 190.

[ S. B. 104. ]

## INSURANCE CODE.

AN ACT relating to insurance and to the regulation of insurance companies and the insurance business; amending sections .02.09, .03.07, .04.02, .05.09, .06.09, .06.18, .06.20, .09.18, .09.22, .09.23, .09.25, .09.26, .09.33, .09.34, .10.12, .13.12, .13.16, .13.22, .13.34, .13.35, .14.04, .15.16, .17.11, .17.26, .18.43, .18.46, .21.01, .31.03, .32.06, .32.07, .32.35, .32.41, chapter 79, Laws of 1947 (sections 45.02.09, 45.03.07, 45.04.02, 45.05.09, 45.06.09, 45.06.18, 45.06.20, 45.09.18, 45.09.22, 45.09.23, 45.09.25, 45.09.26, 45.09.33, 45.09.34, 45.10.12, 45.13.12, 45.13.16, 45.13.22, 45.13.34, 45.13.35, 45.14.04, 45.15.16, 45.17.11, 45.17.26, 45.18.43, 45.18.46, 45.21.01, 45.31.03, 45.32.06, 45.32.07, 45.32.35, 45.32.41, Rem. Supp. 1947); amending chapter 79, Laws of 1947, by adding thereto three new sections to be known as section .14.08, section .24.08 and section .30.25.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Section .02.09, chapter 79, Laws of 1947 (section 45.02.09, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .02.09 *Deputies, Employees*: 1. The Commissioner may appoint a Chief Deputy Commissioner, who shall have power to perform any act or duty conferred upon the Commissioner. The Chief Deputy Commissioner shall take and subscribe the same oath of office as the Commissioner, which oath shall be endorsed upon the certificate of his appointment and filed in the office of the Secretary of State. Commissioner may appoint a Chief Deputy Commissioner.

2. The Commissioner may appoint additional Deputy Commissioners for such purposes as he may designate. Additional deputies.

3. The Commissioner shall be responsible for the official acts of his deputies, and may revoke at will the appointment of any deputy. Commissioner responsible.

4. The Commissioner may employ examiners, and such actuarial, technical, and administrative as- May appoint assistants and clerks.

sistants and clerks as he may need for proper discharge of his duties.

No interest in insurers.

5. The Commissioner, or any deputy or employee of the Commissioner, shall not be interested, directly or indirectly, in any insurer except as a policyholder; except, that as to such matters wherein a conflict of interests does not exist on the part of any such person, the Commissioner may employ insurance actuaries or other technicians who are independently practicing their professions even though such persons are similiarly employed by insurers.

Exception.

Employees may be bonded.

6. The Commissioner may require any deputy or employee to be bonded as he shall deem proper but not to exceed in amount the sum of twenty-five thousand dollars (\$25,000). The cost of any such bond shall be borne by the state.

Amendment.

SEC. 2. Section .03.07, chapter 79, Laws of 1947 (section 45.03.07, Rem. Supp. 1947), is amended to read as follows:

Depositions, subpoenas, oaths and examinations.

Section .03.07 *Witnesses Subpoenaed*: 1. The Commissioner may take depositions, may subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation.

Effect of subpoena.

2. The subpoena shall have the same force and effect and shall be served in the same manner as if issued from a court of record.

Witness fees and mileage.

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

4. If any individual fails to obey the subpoena, or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of the hearing, the Commissioner shall file his written report thereof and proof of service of his subpoena, in any court of competent jurisdiction in the county where the examination, hearing, or investigation is being conducted. Thereupon the Court shall forthwith cause the individual to be brought before it and shall punish him as if the failure or refusal related to a subpoena from or testimony in that Court.

Failure to appear or testify.

SEC. 3. Section .04.02, chapter 79, Laws of 1947 (section 45.04.02, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .04.02 *Stay of Action*: 1. Such demand for a hearing received by the Commissioner prior to the effective date of action taken or proposed to be taken by him shall stay such action pending the hearing, except as to action taken or proposed

Action stayed automatically.

(1) under an order on hearing, or  
 (2) under an order pursuant to an order on hearing, or  
 (3) under an order to make good an impairment of the assets of an insurer.

Exceptions.

2. In any case where an automatic stay is not provided for, and if the Commissioner after written request therefor fails to grant a stay, the person aggrieved thereby may apply to the Superior Court for Thurston County for a stay of the Commissioner's action.

Court may grant stay.

SEC. 4. Section .05.09, chapter 79, Laws of 1947 (section 45.05.09, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .05.09 *Alien Insurers—United States Assets Required*: 1. An alien insurer shall not be authorized to transact insurance in this state unless it maintains within the United States assets in amount

Assets required in United States for alien insurers.

Amount of assets required.

not less than its outstanding liabilities arising out of its insurance transactions in the United States, nor unless it maintains a trust deposit in an amount not less than the required reserves under its policies resulting from such transactions (after deducting, in the case of a life insurer, the amount of outstanding policy loans on such policies) plus assets equal to the larger of the following sums:

(1) The largest amount of deposit required by this code to be made in this state by any type of domestic insurer transacting like kinds of insurance; or

(2) Two hundred thousand dollars (\$200,000).

Trust deposit.

2. The trust deposit shall be for the security of all policyholders or policyholders and obligees of the insurer in the United States. It shall not be subject to diminution below the amount currently determined in accordance with paragraph one of this section so long as the insurer has outstanding any liabilities arising out of its business transacted in the United States.

Maintenance of trust deposits.

3. The trust deposit shall be maintained with public depositories or trust institutions within the United States approved by the Commissioner.

Amendment.

SEC. 5. Section .06.09, chapter 79, Laws of 1947 (section 45.06.09, Rem. Supp. 1947), is amended to read as follows:

Organization solicitor's permit.

Section .0609 *Organization Solicitor's License*: Solicitation for sale of securities to members of the public under a solicitation permit shall be made only by individuals licensed therefor pursuant to the provisions of the Securities Act.

Amendment.

SEC. 6. Section .06.18, chapter 79, Laws of 1947 (section 45.06.18, Rem. Supp. 1947), is amended to read as follows:

Subsequent financing.

Section .06.18 *Subsequent Financing*: 1. No domestic insurer, or insurance holding corporation, or stock corporation for financing operations of a mu-

tual insurer, or attorney-in-fact corporation of a reciprocal insurer, after

(1) It has received a certificate of authority, if an insurer, or Solicitation permit required.

(2) it has completed its initial organization and financing if a corporation other than an insurer, shall solicit or receive funds in exchange for any new issue of its corporate securities, other than through a stock dividend, until it has applied to the Commissioner for, and has been granted, a solicitation permit.

2. The Commissioner shall issue such a permit unless he finds that: Issuance of permit.

(1) the funds proposed to be secured are excessive in amount for the purpose intended, or Grounds for not issuing.

(2) the proposed securities or the manner of their distribution are inequitable, or

(3) the issuance of the securities would jeopardize the interests of policyholders or the holders of other securities of the insurer or corporation.

3. Any such solicitation permit granted by the Commissioner shall be for such duration, and shall contain such terms and be issued upon such conditions as the Commissioner may reasonably specify or require. Duration and terms of permit.

SEC. 7. Section .06.20, chapter 79, Laws of 1947 (section 45.06.20, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .06.20 *Articles of Incorporation*: 1. This section applies to insurers hereafter incorporated in this state. Section not retroactive.

2. The incorporators shall be individuals who are United States citizens, of whom two-thirds shall be residents of this state. The number of incorporators shall be not less than five (5) if a stock insurer, nor less than ten (10) if a mutual insurer. Incorporators.

3. The incorporators shall execute articles of incorporation in quadruplicate and acknowledge their Execution of articles.

signatures thereunto before an officer authorized to take acknowledgments of deeds.

Filing of articles.

4. After approval of the articles by the Commissioner, one copy shall be filed in the office of the Secretary of State, another in the office of the Commissioner, another in the office of the County Auditor of the county in which the insurer's principal offices are to be located, and the fourth copy shall be retained by the insurer.

Contents of articles.

5. The articles of incorporation shall state:

Incorporators.

First: The names and addresses of the incorporators.

Name.

Second: The name of the insurer. If a mutual insurer the name shall include the word "mutual."

Objects.

Third: (1) The objects for which the insurer is formed;

Stock or mutual company.

(2) whether it is a stock or mutual insurer, and if a mutual property insurer only, whether it will insure on the cash premium or assessment plan;

Kind of insurance.

(3) the kinds of insurance it will issue, according to the designations made in this code.

If stock insurer.

Fourth: If a stock insurer, the amount of its capital, the aggregate number of shares, and the par value of each share, which par value shall be not less than ten dollars (\$10). If a mutual insurer, the maximum contingent liability of its policyholders for the payment of its expenses and losses occurring under its policies.

If mutual insurer.

Duration.

Fifth: The duration of its existence, which may be perpetual.

Directors.

Sixth: The names and addresses of the directors, not less than five (5) in number, who shall constitute the Board of Directors of the insurer for the initial term, not less than two (2) nor more than six (6) months, as designated in the articles of incorporation.

Seventh: The name of the city or town of this state in which the insurer's principal place of business is to be located.

Principal  
place of  
business.

Eighth: Other provisions not inconsistent with law as may be deemed proper by the incorporators.

Other  
provisions.

SEC. 8. Section .09.18, chapter 79, Laws of 1947 (section 45.09.18, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .09.18 *Expenses, Property and Casualty*:

Expenses,  
property and  
casualty.

1. For any calendar year after its first two (2) full calendar years of operation, no domestic mutual insurer on the cash premium plan, other than one issuing nonassessable policies, shall incur any costs or expense in the writing or administration of property, disability, and casualty insurances (other than boiler and machinery or elevator) transacted by it which, exclusive of losses paid, loss adjustment expenses, investment expenses, dividends, and taxes exceeds the sum of

Limitation  
on expenses.

(1) forty per cent (40%) of the net premium income during that year after deducting therefrom net earned reinsurance premiums for such year, plus

(2) all of the reinsurance commissions received on reinsurance ceded by it.

2. The by-laws of every domestic mutual property insurer on the assessment premium plan shall impose a reasonable limitation upon its expenses.

Limitation  
on expenses  
in by-laws.

SEC. 9. Section .09.22, chapter 79, Laws of 1947 (section 45.09.22, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .09.22 *Contingent Liability of Members*:

Contingent  
liability  
of members.

1. Each member of a domestic mutual insurer, except as otherwise provided in this article, shall have a contingent liability, pro rata and not one for another, for the discharge of its obligations. The contingent liability shall be in such maximum amount as is stated in the insurer's articles of incorporation, but

shall be not less than one (1), nor more than five (5), additional premiums for the member's policy at the annual premium rate and for a term of one (1) year.

Policy to contain statement.

2. Every policy issued by the insurer shall contain a statement of the contingent liability.

Liability remains after cancellation of policy.

3. Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion of the obligations of the insurer which accrued while the policy was in force.

Amendment.

SEC. 10. Section .09.23, chapter 79, Laws of 1947 (section 45.09.23, Rem. Supp. 1947), is amended to read as follows:

Accrual of liability.

Section .09.23 *Accrual of Liability*: 1. If at any time the assets of a domestic mutual insurer doing business on the cash premium plan are less than its liabilities and the minimum surplus, if any, required of it by this code as prerequisite for continuance of its certificate of authority, and the deficiency is not cured from other sources, its directors may, if approved by the Commissioner, make an assessment only on its members who at any time within the twelve (12) months immediately preceding the date such assessment was authorized by its directors held policies providing for contingent liability.

Assessment of members.

Amount of assessment.

2. Such an assessment shall be for such an amount of money as is required, in the opinion of the Commissioner, to render the insurer fully solvent, but not to result in surplus in excess of five per centum (5%) of the insurer's liabilities as of the date of the assessment.

Computation of member's proportionate share.

3. A member's proportionate part of any such assessment shall be computed by applying to the premium earned, during the period since the deficiency first appeared, on his contingently liable policy or policies the ratio of the total assessment to the total premium earned during such period on

all contingently liable policies which are subject to the assessment.

4. No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable. No offset for claims.

SEC. 11. Section .09.25, chapter 79, Laws of 1947 (section 45.09.25, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .09.25 *Contingent Liability as Asset*: Any contingent liability of members of a domestic mutual insurer to assessment does not constitute an asset of the insurer in any determination of its financial condition. Contingent liability not an asset of insurer.

SEC. 12. Section .09.26, chapter 79, Laws of 1947 (section 45.09.26, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .09.26 *Lien on Reserves*: As to life insurance, any portion of an assessment of contingent liability upon a policyholder which remains unpaid following notice of such assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the Commissioner, be secured by placing a lien on the reserves held by the insurer to the credit of such policyholder. Lien on reserves.

SEC. 13. Section .09.33, chapter 79, Laws of 1947 (section 45.09.33, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .09.33 *Repayment of Borrowed Capital*: Repayment of borrowed capital.

1. The insurer may repay any loan received pursuant to section .09.32, or any part thereof as approved by the Commissioner, only out of its funds which represent such loan or realized net earned surplus. No repayment shall be made which reduces the insurer's surplus below the minimum surplus required for the kinds of insurance transacted.

2. The insurer shall repay any such loan or the largest possible part thereof when the purposes for When repayable.

which such funds were borrowed have been fulfilled and when the insurer's surplus is adequate to so repay without unreasonable impairment of the insurer's operations.

Commis-  
sioner to  
approve  
repayment.

3. No repayment of such loan shall be made unless approved by the Commissioner. The insurer shall notify the Commissioner in writing not less than sixty (60) days in advance of its intention to repay such loan or any part thereof, and the Commissioner shall forthwith ascertain whether the insurer's financial condition is such that the repayment can properly be made.

Repayment  
upon  
dissolution.

4. Upon dissolution and liquidation of the insurer, after the retirement of all its other outstanding obligations the holders of any such loan agreements then remaining unpaid shall be entitled to payment before any distribution of surplus is made to the insurer's members.

Amendment.

SEC. 14. Section .09.34, chapter 79, Laws of 1947 (section 45.09.34, Rem. Supp. 1947), is amended to read as follows:

Impairment  
of surplus.

Section .09.34 *Impairment of Assets*: 1. If the assets of a domestic mutual insurer on the cash premium plan fall below the amount of its liabilities, plus the amount of any surplus required by this code for the kinds of insurance authorized to be transacted, the Commissioner shall at once ascertain the amount of the deficiency and serve notice upon the insurer to cure the deficiency within ninety (90) days after such service of notice.

When insurer  
deemed  
insolvent.

2. If the deficiency is not made good in cash or in assets eligible under this code for the investment of the insurer's funds, and proof thereof filed with the Commissioner within such ninety-day period, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this code.

No more  
policies  
issued.

3. If the deficiency is not made good the insurer shall not issue or deliver any policy after the expira-

tion of such ninety-day period. Any officer or director who violates or knowingly permits the violating of this provision shall be subject to a fine of from fifty dollars (\$50) to one thousand dollars (\$1,000) for each violation.

Penalty for violation.

SEC. 15. Section .10.12, chapter 79, Laws of 1947 (section 45.10.12, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .10.12 *Power of Attorney*: 1. The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

Power of attorney.

2. The power of attorney must set forth:

Contents.

(1) The powers of the attorney;

Powers.

(2) that the attorney is empowered to accept service of process on behalf of the insurer and to authorize the Commissioner to receive service of process in actions against the insurer upon contracts exchanged;

Service of process.

(3) the services to be performed by the attorney in general;

Services.

(4) the maximum amount to be deducted from advance premiums or deposits to be paid to the attorney;

Deductions for payments.

(5) except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount which amount shall be not less than one (1) nor more than ten (10) times the premium or premium deposit stated in the policy.

Liability of subscribers.

3. The power of attorney may:

Optional provisions.

(1) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

Substitution.

(2) impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

Restrictions.

Exercise rights of subscribers. (3) provide for the exercise of any right reserved to the subscribers directly or through their advisory committee;

Other provisions. (4) contain other lawful provisions deemed advisable.

Shall be reasonable and equitable. 4. The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement or any amendment thereof, shall be used or be effective in this state until approved by the Commissioner.

Amendment. SEC. 16. Section .13.12, chapter 79, Laws of 1947 (section 45.13.12, Rem. Supp. 1947), is amended to read as follows:

Mortgage loan limit by property value. Section .13.12 *Mortgage Loan Limited by Property Value*: 1. No mortgage loan or investment therein upon any one parcel of real property shall exceed in amount at the time of acquisition:

Dwellings. (1) Seventy-five per cent (75%) of the fair value of the property if the property is a dwelling house primarily intended for occupancy by one family and the loan is required to be amortized within not more than twenty (20) years by payment of installments thereon at regular intervals not less frequent than every three (3) months; or

Other cases. (2) sixty-six and two-thirds per cent (66<sup>2</sup>/<sub>3</sub>%) of the fair value of the property in all other cases.

Extent of certain guarantees may be deducted. 2. The extent to which a mortgage loan made under item (3) or (4) of section .13.11 is guaranteed or insured by the Federal Housing Administration or guaranteed by the Administrator of Veterans' Affairs may be deducted before application of the limitations contained in paragraph one of this section.

Amendment. SEC. 17. Section .13.16, chapter 79, Laws of 1947 (section 45.13.16, Rem. Supp. 1947), is amended to read as follows:

Real property owned. Section .13.16 *Real Property Owned*: 1. An insurer may own and invest or have invested in its

home office and branch office buildings any of its funds in aggregate amount not to exceed ten per cent (10%) of its assets unless approved by the Commissioner, or if a mutual or reciprocal insurer not to exceed ten per cent (10%) of its assets nor such amount as would reduce its surplus, exclusive of such investment, below fifty thousand dollars (\$50,000) unless approved by the Commissioner.

Home office building.

2. An insurer may own real property acquired in satisfaction or on account of loans, mortgages, liens, judgments, or other debts previously owing to the insurer in the course of its business, and may invest or have invested in aggregate amount not exceeding three per cent (3%) of its assets in other real property, and in the repair, alteration, furnishing, or improvement thereof, as follows only:

Property acquired in satisfaction of obligations.

(1) Other real property requisite for its accommodation in the convenient transaction of its business if approved by the Commissioner.

Property for transaction of business.

(2) Real property acquired by gift or devise.

Gifts and devises.

(3) Real property acquired in exchange for real property owned by it. If necessary in order to consummate such an exchange, the insurer may put up cash in amount not to exceed twenty per cent (20%) of the fair value of its real property to be so exchanged, in addition to such property.

Exchanges.

(4) Real property acquired through a lawful merger or consolidation with it of another insurer and not required for the purposes specified in paragraph one and in item (1) of paragraph two of this section.

Property acquired by merger.

(5) Upon approval of the Commissioner, in real property and equipment incident to real property, requisite or desirable for the protection or enhancement of the value of other real property owned by the insurer.

Property and equipment held for protection or incidental purposes.

Amendment.

SEC. 18. Section .13.22, chapter 79, Laws of 1947 (section 45.13.22, Rem. Supp. 1947), is amended to read as follows:

Common stocks.

Section .13.22 *Common Stocks*: 1. After satisfying the requirements of section .13.26, an insurer may invest any of its funds in common shares of stock in solvent United States corporations that qualify as a sound investment; except, that as to life insurers such investments shall further not aggregate an amount in excess of fifty per centum (50%) of the insurer's surplus over its minimum required surplus.

United States corporations.

Maximum investment in one corporation.

2. The insurer shall not invest in or loan upon the security of more than ten per cent (10%) of the outstanding common shares of any one such corporation, subject further to amount invested as limited by section .13.03. This limitation shall not apply to investment in the securities of any subsidiary corporation of the insurer which is engaged exclusively in a kind of business properly incidental to the insurance business of the insurer.

Amendment.

SEC. 19. Section .13.34, chapter 79, Laws of 1947 (section 45.13.34, Rem. Supp. 1947), is amended to read as follows:

Authorization of investments by board of directors or committee authorized by insurer.

Section .13.34 *Authorization of Investments*: No investment, loan, sale or exchange thereof shall, except as to the policy loans of a life insurer, be made by any domestic insurer unless authorized or approved by its Board of Directors or by a committee charged by the Board of Directors or the by-laws with the duty of making such investment, loan, sale or exchange. The minutes of any such committee shall be recorded and reports thereof shall be submitted to the Board of Directors for approval or disapproval.

Amendment.

SEC. 20. Section .13.35, chapter 79, Laws of 1947 (section 45.13.35, Rem. Supp. 1947), is amended to read as follows:

Section .13.35 *Record of Investments*: 1. As to each investment or loan of the funds of a domestic insurer a written record in permanent form showing the authorization thereof shall be made and signed by an officer of the insurer or by the chairman of such committee authorizing the investment or loan.

Record of investments to be made in permanent form.

2. As to each such investment or loan the insurer's records shall contain:

Contents of records.

(1) In the case of loans: The name of the borrower; the location and legal description of the property; a physical description, and the appraised value of the security; the amount of the loan, rate of interest and terms of repayment.

Loans.

(2) In the case of securities: The name of the obligor; a description of the security and the record of earnings; the amount invested, the rate of interest or dividend, the maturity and yield based upon the purchase price.

Securities.

(3) In the case of real estate: The location and legal description of the property; a physical description and the appraised value; the purchase price and terms.

Real estate.

(4) In the case of all investments:

All investments.

(a) The amount of expenses and commissions if any incurred on account of any investment or loan and by whom and to whom payable if not covered by contracts with mortgage loan representatives or correspondents which are part of the insurer's records.

Expenses and commissions.

(b) The name of any officer or director of the insurer having any direct, indirect, or contingent interest in the securities or loan representing the investment, or in the assets of the person in whose behalf the investment or loan is made, and the nature of such interest.

Official directly or indirectly interested.

SEC. 21. Section .14.04, chapter 79, Laws of 1947 (section 45.14.04, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Retaliatory provisions.

Section .14.04 *Retaliatory Provision*: 1. If pursuant to the laws of any other state or country, any taxes, fines, penalties, licenses, fees, deposits, or other obligations or prohibitions, in the aggregate, or additional to or at a net rate in excess of any such taxes, fines, penalties, licenses, fees, deposits or other obligations or prohibitions imposed by the laws of this state upon like foreign or alien insurers and their agents and solicitors, are imposed on insurers of this state and their agents doing business in such other state or country, a like rate, obligation or prohibition may be imposed by the Commissioner, as to any item or combination of items involved, upon all insurers of such other state or country and their agents doing business in this state, so long as such laws remain in force or are so applied.

Domicile of alien insurers.

2. For the purposes of this section an alien insurer, may be deemed to be domiciled in the state wherein it has established its principal office or agency in the United States. If no such office or agency has been established, the domicile of the alien insurer shall be deemed to be the country under the laws of which it is formed.

Taxes in this code in lieu of certain other taxes.

Section .14.08 *In Lieu Provision*: As to insurers other than title insurers, the taxes imposed by this code shall be in lieu of all other taxes, except taxes on real and tangible personal property and excise taxes on the sale, purchase or use of such property.

Amendment.

SEC. 22. Section .15.16, chapter 79, Laws of 1947 (section 45.15.16, Rem. Supp. 1947), is amended to read as follows:

Exemptions.

Section .15.16 *Exemptions*: 1. The provisions of this article controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this state:

This article not applicable to reinsurance or certain insurances.

- (1) Ocean marine and foreign trade insurances.
- (2) Insurance on subjects located, resident, or

to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(4) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than Workmen's Compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

2. Agents and brokers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this article. The record shall be preserved for not less than five (5) years from the effective date of the insurance and shall be kept available in this state and open to the examination of the Commissioner. The agent or broker shall furnish to the Commissioner at his request and on forms as designated and furnished by him a report of all such coverages so placed in a designated calendar year.

Agents and brokers to keep and preserve records.

SEC. 23. Section .17.11, chapter 79, Laws of 1947 (section 45.17.11, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .17.11 *Examinations for License*: 1. Each applicant for license as agent, broker, solicitor, or adjuster shall prior to the issuance of any such license, personally take and pass to the satisfaction of the Commissioner an examination given by the Commissioner as a test of his qualifications and competence; but this requirement shall not apply to:

Examinations for license.

When required.

(1) Applicants for limited licenses, as travel insurance agents only, under section .17.19; nor, at the discretion of the Commissioner, to applicants for licenses as disability insurance agents for the purpose

When not required.

of handling limited coverages pertaining to sports and recreation.

(2) Applicants who within the five-year period next preceding date of application have been licensed in this state under a license requiring qualifications similar to qualifications required by the license applied for and who are deemed by the Commissioner to be fully qualified and competent.

(3) Applicants for license as nonresident agent or as nonresident broker who have fulfilled qualification requirements in their state of residence and who are deemed by the Commissioner to be fully qualified and competent.

(4) Applicants for an agent's or solicitor's license covering the same kinds of insurance as an agent's or solicitor's license then held by them.

Application for renewal.

2. Applicants for the renewal of licenses in force on the effective date of this code or issued thereafter shall not be required to take an examination except as provided in paragraph three of this section.

When commissioner may require examination for continuation or renewal.

3. The Commissioner may at any time require any licensed agent, broker, solicitor, or adjuster to take and successfully pass an examination testing his competence and qualifications as a condition to the continuance or renewal of his license, if the licensee has been guilty of violation of this code, or has so conducted his affairs under his license as to cause the Commissioner reasonably to desire further evidence of his qualifications.

Amendment.

SEC. 24. Section .17.26, chapter 79, Laws of 1947 (section 45.17.26, Rem. Supp. 1947), is amended to read as follows:

Broker's authority.

Section .17.26 *Broker's Authority and Commissions*: 1. A broker, as such, is not an agent or other representative of an insurer, and does not have power, by his own acts, to bind the insurer upon

any risk or with reference to any insurance contract.

2. An insurer or agent shall have the right to pay to a broker licensed under this code, or under the laws of any other state or province, and such broker shall have the right to receive from the insurer or agent, the customary commissions upon insurances placed in the insurer by the broker. Commissions.

SEC. 25. Section .18.43, chapter 79, Laws of 1947 (section 45.18.43, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .18.43 *Exemption of Proceeds, Commutation—Annuities*: 1. The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant who paid the consideration for the annuity contract, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except: Exemption of proceeds—annuities.

(1) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the insurance or annuity contract, the person insured or annuitant and the payments sought to be avoided on the ground of fraud. Exceptions.

(2) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time ex- Amounts in excess of \$250 per month.

ceed two hundred and fifty dollars (\$250) per month for the length of time represented by such installments, and that such periodic payment in excess of two hundred and fifty dollars (\$250) per month shall be subject to garnishee execution to the same extent as are wages and salaries.

Powers  
of courts.

(3) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of two hundred and fifty dollars (\$250) per month, then the Court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the Court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

Rights not  
transferable  
or subject  
to commuta-  
tion.

2. The benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

"Annuity  
contract."

3. An annuity contract within the meaning of this section shall be any obligation to pay certain sums at stated times, during life or lives, or for a specified term or terms, issued for a valuable consideration, regardless of whether or not such sums are payable to one (1) or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated times during life or lives, or for a specified term or terms.

Amendment.

SEC. 26. Section .18.46, chapter 79, Laws of 1947 (section 45.18.46, Rem. Supp. 1947), is amended to read as follows:

Section .18.46 *Forms for Proof of Loss Furnished*: An insurer shall furnish, upon written request of any person claiming to have a loss under any insurance contract, forms of proof of loss for completion by such person. But such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

Forms of proof of loss furnished.

SEC. 27. Section .21.01, chapter 79, Laws of 1947 (section 45.21.01, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .21.01 *Group Disability Insurance Defined*: Group disability insurance is that form of disability insurance provided by a master policy issued to an employer, to a trustee appointed by an employer or employers, or to an association of employers formed for purposes other than obtaining such insurance, covering, with or without their dependents, the employees, or specified categories of the employees, of such employers or their subsidiaries or affiliates, or issued to a labor union, or to an association of employees formed for purposes other than obtaining such insurance, covering, with or without their dependents, the members, or specified categories of the members, of the labor union or association, or issued pursuant to section .21.03. Group disability insurance shall also include such other groups as qualify for group life insurance under the provisions of this code.

Group disability insurance defined.

SEC. 28. Section .31.03, chapter 79, Laws of 1947 (section 45.31.03, Rem. Supp. 1947), is amended to read as follows:

Amendment.

Section .31.03 *Grounds for Rehabilitation*: The Commissioner may apply for an order directing him to rehabilitate a domestic insurer upon one or more of the following grounds: That the insurer

Grounds for rehabilitation.

(1) is insolvent; or,

Insolvency.

Refusal to be examined.

(2) has refused to submit its books, records, accounts or affairs to the reasonable examination of the Commissioner; or,

Violation of commissioner's orders.

(3) has failed to comply with the Commissioner's order, made pursuant to law, to make good an impairment of capital (if a stock insurer) or an impairment of assets (if a mutual or reciprocal insurer) within the time prescribed by law; or,

Unauthorized merger.

(4) has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without first having obtained the written approval of the Commissioner; or,

Hazardous condition.

(5) is found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public; or,

Violation of law or charter.

(6) has willfully violated its charter or any law of this state; or,

Refusal of officer or director to testify.

(7) has an officer, director, or manager who has refused to be examined under oath, concerning its affairs, for which purpose the Commissioner is authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States, in which any such officer, director or manager may then presently be, to the full extent permitted by the laws of any such other state or territory, this special authorization considered; or,

Receiver appointed or appointment imminent.

(8) has been the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or of its property, or if a receiver, trustee, custodian, or sequestrator is appointed by a Federal court or if such appointment is imminent; or,

(9) has consented to such an order through a majority of its directors, stockholders, members, or subscribers; or, Has consented to appointment.

(10) has failed to pay a final judgment rendered against it in any state upon any insurance contract issued or assumed by it, within thirty (30) days after the judgment became final or within thirty (30) days after time for taking an appeal has expired, or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later. Failure to pay final judgment.

SEC. 29. Section .32.06, chapter 79, Laws of 1947 (section 45.32.06, Rem. Supp. 1947), is amended to read as follows: Amendment.

Section .32.06 *Beneficiaries*: Each member shall have the right to designate his beneficiary, and, from time to time, have the same changed in accordance with the laws, rules, or regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of the said member: *Provided*, That any society may, by its laws, limit the scope of beneficiaries within designated classes. Beneficiaries.

SEC. 30. Section .32.07, chapter 79, Laws of 1947 (section 45.32.07, Rem. Supp. 1947) is amended to read as follows: Amendment.

Section .32.07 *Qualifications for Membership*: Any society may admit to beneficiary membership any person not less than sixteen (16) and not more than sixty (60) years of age, who has been examined by a legally qualified practicing physician and whose examination has been supervised and approved in accordance with the laws of the society: *Provided*, That any beneficiary member of such society who shall apply for a certificate providing for disability benefits, need not be required to pass an additional medical examination therefor. Qualifications for membership.

Age limitations.

Medical examination.

General  
or social  
members.

ing herein contained shall prevent such society from accepting general or social members, or from admitting any person to beneficiary membership who is not less than sixteen (16) nor more than sixty (60) years of age, without medical examination: *Provided*, That such person so admitted shall have made a declaration of insurability acceptable to the society: *And provided further*, That the amount of the certificate issued to such person admitted without medical examination shall not exceed the sum of five thousand dollars (\$5,000).

Certificate  
amount lim-  
ited if issued  
without  
medical ex-  
amination.

Amendment.

SEC. 31. Section .32.35, chapter 79, Laws of 1947 (section 45.32.35, Rem. Supp. 1947), is amended to read as follows:

Juvenile  
benefits.

Section .32.35 *Juvenile Benefits*: Any fraternal benefit society operating on the lodge system and authorized to transact the business of fraternal insurance in this state, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of one (1) and eighteen (18) years at next birthday. Any such society may at its option organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable, as above provided, shall in no case exceed the amount of three thousand dollars (\$3,000).

Branches  
optional.

Benefits  
limited.

Amendment.

SEC. 32. Section .32.41, chapter 79, Laws of 1947 (section 45.32.41, Rem. Supp. 1947), is amended to read as follows:

Fraternal  
mutual prop-  
erty insurer  
defined.

Section .32.41 *Fraternal Mutual Property insurers*: 1. A domestic mutual property insurer which is affiliated with and is comprised exclusively of members of a specified fraternal society, which society conducts its business and secures its mem-

bership on the lodge system, having ritualistic work and ceremonies, is herein designated as a fraternal mutual insurer.

2. Only fraternal mutual property insurers which were authorized insurers immediately prior to the effective date of this code may hereafter be so authorized.

Limited to those authorized on effective date of code.

3. Such an insurer shall be subject to the applicable provisions of this code governing domestic mutual insurers except only as to the provisions relative to taxes, fees and licenses. The by-laws of such insurer shall be as adopted or amended by majority vote of its members present at a duly held meeting of its members, and a copy thereof shall be filed with the Commissioner. Such an insurer shall pay for its annual license and filing its annual statement, the sum of ten dollars (\$10). Such an insurer shall pay the expense of examinations of it by the Commissioner, upon statement furnished by the Commissioner.

Exemptions.

By-laws.

License fee.

4. Such an insurer may insure corporations, associations, and firms owned by and affiliated with such society and operated for the benefit of its members, and may insure corporations and firms a majority of whose shareholders or members are members of such society.

Whom insurer may insure.

5. Such an insurer doing business on the assessment premium plan:

Assessment premium plan.

(1) Shall be exempt also from the provisions of this code governing financial qualifications.

Exemption.

(2) Shall not be authorized to transact any kind of insurance other than property insurance, nor have authority to accept reinsurance.

Limited on property insurance.

6. Such an insurer doing business on the cash premium plan:

Cash premium plan.

(1) May be authorized to transact additional kinds of insurance, other than life or title insurance, subject to the same requirements as to surplus funds

May be authorized to transact other insurance business.

and reserves as apply to domestic mutual insurers on the cash premium plan.

May accept other business from similar insurers.

(2) May accept reinsurance only of such kinds of insurance as it is authorized to transact direct and only from insurers likewise affiliated with and composed solely of the members of the same designated fraternal society.

Amendment.

SEC. 33. Chapter 79, Laws of 1947, is amended by adding thereto a new section to be known as section .24.08 and to read as follows:

Agent groups.

Section .24.08 *Agent Groups*: The lives of a group of individuals may be insured under a policy issued to a principal, or if such principal is a life insurer, by or to such principal, covering when issued not less than twenty-five (25) agents of such principal, subject to the following requirements:

Agents eligible for insurance.

(1) The agents eligible for insurance under the policy shall be those who are under contract to render personal services for such principal for a commission or other fixed or ascertainable compensation.

Coverage of policy.

(2) The policy must insure either all of the agents or all of any class or classes thereof, determined by conditions pertaining to the services to be rendered by such agents, except that if a policy is intended to insure several such classes it may be issued to insure any such class of which seventy-five per cent (75%) are covered and extended to other classes as seventy-five per cent (75%) thereof express the desire to be covered.

Payment of premium.

(3) The premium on the policy shall be paid by the principal or by the principal and the agents jointly. When the premium is paid by the principal and agents jointly and the benefits of the policy are offered to all eligible agents, the policy, when issued, must insure not less than seventy-five per cent (75%) of such agents.

(4) The amounts of insurance shall be based

upon some plan which will preclude individual selection. Amounts of insurance.

(5) The insurance shall be for the benefit of persons other than the principal. Benefit of insurance.

(6) Such policy shall terminate if, subsequent to issue the number of agents insured falls below twenty-five (25) lives or seventy-five per cent (75%) of the number eligible and the contribution of the agents, if the premiums are on a renewable term insurance basis, exceed one dollar (\$1) per month per one thousand dollars (\$1,000) of insurance coverage plus any additional premium per one thousand dollars (\$1,000) of insurance coverage charged to cover one or more hazardous occupations. Termination of policy.

(7) For the purposes of this section the term "agents" shall be deemed to include agents, sub-agents, solicitors, and salesmen. "Agents" defined.

SEC. 34. Chapter 79, Laws of 1947, is amended by adding thereto a new section to be known as section .30.25 and to read as follows: Amendment.

Section .30.25 *Interlocking Ownership, Management*: 1. Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this code, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create a monopoly therein. Interlocking ownership and management.

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

Violations  
of section.

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

Passed the Senate March 8, 1949.

Passed the House March 5, 1949.

Approved by the Governor March 19, 1949.

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CHAPTER 191.

[ S. B. 156. ]

WASHINGTON STATE APPLE ADVERTISING  
COMMISSION.

AN ACT relating to apples; providing the method of election and the terms of office of members of the Washington State Apple Advertising Commission; and amending section 3, chapter 195, Laws of 1937.

*Be it enacted by the Legislature of the State of Washington:*

Amendment.

SECTION 1. Section 3, chapter 195, Laws of 1937 (sec. 2874-3, Rem. Rev. Stat. Supp.), is amended to read as follows:

Commission  
created.

Section 3. There is hereby created a Washington State Apple Advertising Commission to be thus known and designated. The Commission shall be composed of seven practical apple producers and four practical apple dealers. The Director of Agriculture and Supervisor of Horticulture of the State of Washington shall be ex-officio members of the Commission without vote. The seven producer members shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in growing and producing apples within the State of Washington for a period of five years, and has during that period derived the major portion of his income therefrom, and who is not engaged in business directly or indirectly as a

Members.

Ex-officio  
members.

Qualifica-  
tions of  
members.