

Every person, firm, company or corporation, or the officers, agents or employees thereof, failing or neglecting to pay the fees herein required shall be guilty of a misdemeanor (~~(, and in addition thereto shall be subject to a penalty of twenty-five dollars for each and every day that the fee remains unpaid after it becomes due, said penalty to be collected by the commission in a civil action)~~). All fines and penalties collected under the provisions of this chapter shall be deposited into the public service revolving fund of the state treasury: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Passed the House March 21, 1979.

Passed the Senate May 11, 1979.

Approved by the Governor May 24, 1979.

Filed in Office of Secretary of State May 24, 1979.

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## CHAPTER 199

[Substitute House Bill No. 1121]

### INSURERS—SUBSIDIARIES—SERVICE OF PROCESS—PREMIUM REFUNDS—POLICY CANCELLATION, RENEWAL—AGENTS' SERVICE CHARGE

AN ACT Relating to insurance; amending section .01.05, chapter 79, Laws of 1947 as amended by section 1, chapter 13, Laws of 1975-'76 2nd ex. sess. and RCW 48.01.050; amending section .13.21, chapter 79, Laws of 1947 and RCW 48.13.210; amending section .15.15, chapter 79, Laws of 1947 as last amended by section 16, chapter 195, Laws of 1963 and RCW 48.15.150; amending section 2, chapter 265, Laws of 1971 ex. sess. as amended by section 2, chapter 109, Laws of 1975-'76 2nd ex. sess. and RCW 48.32.020; amending section .18.29, chapter 79, Laws of 1947 as amended by section 2, chapter 119, Laws of 1975-'76 2nd ex. sess. and RCW 48.18.290; amending section 19, chapter 241, Laws of 1969 ex. sess. and RCW 48.18.291; amending section 20, chapter 241, Laws of 1969 ex. sess. as amended by section 3, chapter 152, Laws of 1973 1st ex. sess. and RCW 48.18.292; amending section .18.30, chapter 79, Laws of 1947 amended by section 16, chapter 303, Laws of 1955 and RCW 48.18.300; amending section .24.16, chapter 79, Laws of 1947 as amended by section 23, chapter 303, Laws of 1955 and RCW 48.24.160; and adding a new section to chapter 48.30 RCW.

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

**\*Section 1. Section .01.05, chapter 79, Laws of 1947 as amended by section 1, chapter 13, Laws of 1975-'76 2nd ex. sess. and RCW 48.01.050 are each amended to read as follows:**

**"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals, as defined in RCW 70.39.020(3), which join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical**

liability, through a contributing trust fund shall not be deemed an "insurer" under this code.

An association or other entity composed of five hundred or more health care professionals or attorneys licensed pursuant to chapters 18.71 or 18.88 RCW, or chapter 2.48 RCW, or an association or other entity composed of at least one-third of the health care professionals licensed pursuant to any of the following chapters: 18.22, 18.25, 18.32, or 18.57 RCW, and, if composed of more than five hundred members, meeting capital and surplus requirements set forth in RCW 48.05.340(1), or, if composed of less than five hundred members, meeting one-half of the capital and surplus requirements set forth in RCW 48.10.070(1), after a written determination by the insurance commissioner that insurance for professional malpractice claims including those brought under chapter 7.70 RCW is either unavailable or cost-prohibitive from an authorized insurance carrier, may join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against professional malpractice claims including those brought under chapter 7.70 RCW through a contributing trust fund and shall not be deemed an "insurer" under this code: PROVIDED, That each such professional mutual corporation shall submit a financial and operational report annually to the legislative budget committee and the insurance commissioner.

\*Section 1. was vetoed, see message at end of chapter.

\*Sec. 2. Section 2, chapter 265, Laws of 1971 ex. sess. as amended by section 2, chapter 109, Laws of 1975-'76 2nd ex. sess. and RCW 48.32.020 are each amended to read as follows:

This chapter shall apply to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage, guaranty, workmen's compensation ((and)), ocean marine insurance, and an insurance fund or captive insurer, whether or not holding a certificate of authority, controlled by one or more professional organizations and engaged exclusively in providing professional liability coverage for their members.

\*Sec. 2. was vetoed, see message at end of chapter.

Sec. 3. Section .13.21, chapter 79, Laws of 1947 and RCW 48.13.210 are each amended to read as follows:

(1) An insurer other than a life insurer may invest a portion of its surplus funds in an aggregate amount not exceeding fifty percent of its surplus over its capital stock and other liabilities, or thirty-five percent of its capital funds, whichever is greater, in the stocks of other insurers organized and existing under the laws of states of the United States. Indirect or proportionate interests in insurance stocks held by an insurer through any intermediate subsidiary or subsidiaries shall be included in applying the limitations provided in subsections (1), (2), and (3) of this section.

(2) A life insurer may invest in such insurance stocks in an aggregate amount not exceeding the smaller of the following amounts: Five percent of its assets; or twenty-five percent of its surplus over its capital stock and

other liabilities, or of surplus over its required minimum surplus if a mutual life insurer.

(3) An insurer shall not purchase or hold as an investment more than five percent of the voting stock of any one other insurer, and subject further to the investment limits of RCW 48.13.030. This limitation shall not apply if such other insurer is the subsidiary of, and substantially all its shares having voting powers are owned by, ~~((an))~~ the insurer ~~((other than a life insurer))~~.

(4) No such insurance stock shall be eligible as an investment unless it meets the qualifications for stocks of other corporations as set forth in RCW 48.13.220.

(5) The limitations on investment in insurance stocks set forth in this chapter shall not apply to stocks acquired under a plan for merger of the insurers which has been approved by the commissioner or to shares received as stock dividends upon shares already owned.

Sec. 4. Section .15.15, chapter 79, Laws of 1947 as last amended by section 16, chapter 195, Laws of 1963 and RCW 48.15.150 are each amended to read as follows:

(1) An unauthorized insurer shall be sued, upon any cause of action arising in this state under any contract issued by it as a surplus line contract, pursuant to this chapter, in the superior court of the county in which the cause of action arose.

(2) Service of legal process against the insurer may be made in any such action by service upon the commissioner of duplicate copies of such legal process either by a person competent to serve a summons~~((;))~~ or by registered mail or certified mail with return receipt requested. At the time of such service the plaintiff shall pay to the commissioner ~~((two))~~ ten dollars, taxable as costs in the action. The commissioner shall forthwith mail the documents of process served, or a true copy thereof, to the insurer at its principal place of business last known to the commissioner, or to the person designated by the insurer ~~((in the policy for the))~~ for that purpose in the most recent document filed with the commissioner, on forms prescribed by the commissioner, by prepaid registered or certified mail with return receipt requested. The insurer shall have forty days from the date of service upon the commissioner within which to plead, answer, or otherwise defend the action. Upon service of process upon the commissioner in accordance with this provision, the court shall be deemed to have jurisdiction in personam of the insurer.

(3) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision ~~((stating the substance of this section, and))~~ designating the ~~((person to whom the))~~ commissioner ~~((shall mail process as provided in subsection (2) of this section))~~ as the person upon whom service of process may be made.

Sec. 5. Section .18.29, chapter 79, Laws of 1947 as amended by section 2, chapter 119, Laws of 1975-'76 2nd ex. sess. and RCW 48.18.290 are each amended to read as follows:

(1) Cancellation by the insurer of any policy which by its terms is cancellable at the option of the insurer, or of any binder based on such policy, may be effected as to any interest only upon compliance with either or both of the following:

(a) Written notice of such cancellation must be actually delivered or mailed to the insured or to his representative in charge of the subject of the insurance not less than twenty days prior to the effective date of the cancellation except for cancellation of insurance policies for nonpayment of premiums, which notice shall be not less than ten days prior to such date;

(b) Like notice must also be so delivered or mailed to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder.

(2) The mailing of any such notice shall be effected by depositing it in a sealed envelope, directed to the addressee at his last address as known to the insurer or as shown by the insurer's records, with proper prepaid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person as soon as ~~((practicable following such cancellation))~~ possible but no later than thirty days after the date of notice of cancellation to the insured. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid.

Sec. 6. Section 19, chapter 241, Laws of 1969 ex. sess. and RCW 48.18.291 are each amended to read as follows:

(1) No contract of insurance predicated upon the use of a private passenger automobile shall be terminated by cancellation by the insurer until at least twenty days after mailing written notice of cancellation to the named insured at the latest address filed with the insurer by or on behalf of the named insured, accompanied by the reason therefor: PROVIDED, That where cancellation is for nonpayment of premium, or is within the first

thirty days after the contract has been in effect, at least ten days notice of cancellation, accompanied by the reason therefor, shall be given; PROVIDED HOWEVER, That in case of a contract evidenced by a written binder which has been delivered to the insured, if such binder contains a clearly stated expiration date, no additional notice of cancellation or nonrenewal shall be required.

(2) (a) No notice of cancellation by the insurer as to a contract of insurance to which subsection (1) applies shall be valid if sent more than sixty days after the ~~((policy))~~ contract has been in effect unless:

(i) The named insured fails to discharge when due any of his obligations in connection with the payment of premium for the policy or any installment thereof, whether payable directly to the insurer or to its agent or indirectly under any premium finance plan or extension of credit.

(ii) The driver's license of the named insured, or of any other operator who customarily operates an automobile insured under the policy, has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty days immediately preceding the effective date of the renewal policy.

(b) Modification by the insurer of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars shall not be deemed a cancellation of the coverage or of the policy.

(3) The substance of subsections (1) and (2)(a) of this section must be set forth in each contract of insurance subject to the provisions of subsection (1) above, and may be in the form of an attached endorsement.

(4) No notice of cancellation of a policy which can be canceled only pursuant to subsection (2) shall be effective unless the reason therefor accompanies or is included in the notice of cancellation ~~((, or unless the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than five days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation))~~.

Sec. 7. Section 20, chapter 241, Laws of 1969 ex. sess. as amended by section 3, chapter 152, Laws of 1973 1st ex. sess. and RCW 48.18.292 are each amended to read as follows:

(1) Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.291 unless one of the following situations exists:

(a) The insurer gives the named insured at least twenty days' notice in writing as provided for in RCW 48.18.291(1), that it proposes to refuse to renew the insurance contract upon its expiration date; and sets forth therein the actual reason for refusing to renew; or

(b) At least twenty days prior to its expiration date, the insurer has communicated its willingness to renew in writing to the named insured, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy and the date

by which such payment must be made, and the insured fails to discharge when due his obligation in connection with the payment of such premium or portion thereof; or

(c) The insured's agent or broker has procured other coverage acceptable to the insured (~~at least twenty days~~) prior to the expiration of the policy period.

(2) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(3) "Renewal" or "to renew" means the issuance and delivery by an insurer of a ~~((policy))~~ contract of insurance replacing at the end of the ~~((policy))~~ contract period a ~~((policy))~~ contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a ~~((policy))~~ contract beyond its policy period or term: PROVIDED, HOWEVER, That any ~~((policy))~~ contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.291 through 48.18.297 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.291 through 48.18.297, be considered as if written for successive policy periods or terms of one year.

(4) On and after January 1, 1980, no policy of insurance subject to RCW 48.18.291 shall be issued for a policy period or term of less than six months.

(5) No insurer shall refuse to renew the liability and/or collision coverage of an automobile insurance policy on the basis that an insured covered by the policy of the insurer has submitted one or more claims under the comprehensive, road service, or towing coverage of the policy. Nothing in this subsection shall prohibit the nonrenewal of comprehensive, road service, or towing coverage on the basis of one or more claims submitted by an insured.

Sec. 8. Section .18.30, chapter 79, Laws of 1947 amended by section 16, chapter 303, Laws of 1955 and RCW 48.18.300 are each amended to read as follows:

(1) Cancellation by the insured of any policy which by its terms is cancellable at the insured's option or of any binder based on such policy may be effected by written notice thereof to the insurer or surrender of the policy or binder for cancellation prior to or on the effective date of such cancellation. In event the policy or binder has been lost or destroyed and cannot be so surrendered, the insurer may in lieu of such surrender accept and in good faith rely upon the insured's written statement setting forth the fact of such loss or destruction.

(2) As soon as (~~(practicable following such cancellation)~~) possible, but no later than thirty days after the receipt of the notice of cancellation from the policyholder, the insurer shall pay to the insured or to the person entitled thereto as shown by the insurer's records, any unearned portion of any premium paid on the policy as computed on the customary short rate or as otherwise specified in the policy: PROVIDED, That the refund of any unearned portion of any premium paid on a contract of dwelling fire insurance, homeowners' insurance, or insurance predicated upon the use of a private passenger automobile (as defined in RCW 48.18.297 and excluding contracts of insurance and policies enumerated in RCW 48.18.296) shall be computed on a pro rata basis and the insurer shall refund not less than ninety percent of any unearned portion not exceeding one hundred dollars, plus ninety-five percent of any unearned portion over one hundred dollars but not exceeding five hundred dollars, and not less than ninety-seven percent of the amount of any unearned portion in excess of five hundred dollars. If the amount of any refund is less than two dollars, no refund need be made. If no premium has been paid on the policy, the insured shall be liable to the insurer for premium for the period during which the policy was in force.

(3) The surrender of a policy to the insurer for any cause by any person named therein as having an interest insured thereunder shall create a presumption that such surrender is concurred in by all persons so named.

(4) This section shall not apply to life insurance policies or to annuity contracts.

Sec. 9. Section .24.16, chapter 79, Laws of 1947 as amended by section 23, chapter 303, Laws of 1955 and RCW 48.24.160 are each amended to read as follows:

There shall be a provision that any sum becoming due by reason of the death of the individual insured shall be payable to the beneficiary designated by such individual, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the individual insured and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding (~~(five hundred)~~) one thousand dollars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the individual insured.

NEW SECTION. Sec. 10. There is added to chapter 48.30 RCW a new section to read as follows:

Notwithstanding the provisions of RCW 48.30.140, 48.30.150, and 48.30.155, the commissioner may permit an agent or broker to enter into reasonable arrangements with insureds and prospective insureds in situations where services are provided beyond the scope of services customarily provided in connection with the solicitation and procurement of insurance, so

that an overall charge to an insured or prospective insured is reasonable taking into account receipt of commissions and fees and their relation, proportionally, to the value of the total work performed.

Such arrangements, when prior authorization from the commissioner is obtained, shall not constitute violations subject to RCW 48.30.160.

Passed the House May 11, 1979.

Passed the Senate May 3, 1979.

Approved by the Governor May 24, 1979, with the exception of Sections 1 and 2, which are vetoed.

Filed in Office of Secretary of State May 24, 1979.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to two sections Substitute House Bill No. 1121 entitled:

"AN ACT Relating to insurance."

Sections 1 and 2 of this bill would allow the members of six occupations — attorneys, medical doctors, osteopaths, chiropractors, podiatrists, and dentists — to form mutual corporations under certain circumstances for the purpose of insuring against professional malpractice claims.

Although these sections specify some rather stringent limitations on the formation of such corporations, they do not provide the full protection of the public which the insurance laws are designed to provide. If these professional groups desire to establish such corporations this can be done under existing statutes and be subject to the normal procedures of the insurance commissioner which protect the public welfare.

With the exception of Sections 1 and 2, which I have vetoed, the remainder of Substitute House Bill No. 1121 is approved."

## CHAPTER 200

[Second Substitute House Bill No. 1239]

### EMERGENCY MEDICAL SERVICE—EXCESS LEVIES—DISTRICT CREATION

AN ACT Relating to local government; adding a new section to chapter 36.32 RCW; and adding a new section to chapter 84.52 RCW.

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

NEW SECTION. Section 1. There is added to chapter 84.52 RCW a new section to read as follows:

(1) As used in this section, "taxing district" means a county, emergency medical service district, city or town, public hospital district, or fire protection district.

(2) A taxing district may impose an additional regular property tax levy in an amount equal to twenty-five cents or less per thousand dollars of the assessed value of property in the taxing district in each year for six consecutive years. This six-year levy must be approved by a majority of at least three-fifths of the electors thereof voting on the proposition, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in