

NEW SECTION. Sec. 12. Sections 1 through 11 of this act shall constitute a new chapter in Title 18 RCW.

Passed the Senate February 22, 1980.

Passed the House February 18, 1980.

Approved by the Governor March 10, 1980.

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CHAPTER 102

[Senate Bill No. 3318]

INSURANCE LICENSURE—FINES, BONDS, COVERAGE, ARSON REPORTING IMMUNITY

AN ACT Relating to insurance; amending section 3, chapter 70, Laws of 1965 ex. sess. as amended by section 3, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.05.185; amending section .15.02, chapter 79, Laws of 1947 and RCW 48.15.020; amending section .15.07, chapter 79, Laws of 1947 as last amended by section 3, chapter 130, Laws of 1979 ex. sess. and RCW 48.15.070; amending section .15.09, chapter 79, Laws of 1947 as last amended by section 6, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.15.090; amending section .15.13, chapter 79, Laws of 1947 and RCW 48.15.130; amending section .15.14, chapter 79, Laws of 1947 and RCW 48.15.140; amending section .18.29, chapter 79, Laws of 1947 as last amended by section 5, chapter 199, Laws of 1979 ex. sess. and RCW 48.18.290; amending section .18.30, chapter 79, Laws of 1947 as last amended by section 8, chapter 199, Laws of 1979 ex. sess. and RCW 48.18.300; amending section 7, chapter 80, Laws of 1979 ex. sess. and RCW 48.50.070; and amending section 1, chapter 268, Laws of 1947 as last amended by section 1, chapter 87, Laws of 1965 and RCW 48.44.010.

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

Section 1. Section 3, chapter 70, Laws of 1965 ex. sess. as amended by section 3, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.05.185 are each amended to read as follows:

After hearing or with the consent of the insurer and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of authority the commissioner may levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than ~~((five))~~ ten thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of such order. Upon failure to pay any such fine when due the commissioner shall revoke the certificate of authority of the insurer if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

Sec. 2. Section .15.02, chapter 79, Laws of 1947 and RCW 48.15.020 are each amended to read as follows:

(1) An insurer not thereunto authorized by the commissioner shall not solicit insurance business in this state, nor transact insurance business in this state except as provided in this chapter.

(2) No person shall, in this state, represent an unauthorized insurer except as provided in this chapter. This provision shall not apply to any adjuster or attorney at law representing such an insurer from time to time in this state in his professional capacity.

(3) Each violation of this section shall constitute a separate offense punishable by a fine of not less than ~~((fifty))~~ two hundred fifty dollars nor more than ~~((one))~~ ten thousand dollars.

Sec. 3. Section 48.15.07, chapter 79, Laws of 1947 as last amended by section 3, chapter 130, Laws of 1979 ex. sess. and RCW 48.15.070 are each amended to read as follows:

Any person deemed by the commissioner to be competent and trustworthy and while maintaining an office at a designated location in this state may be licensed as a surplus line broker, as follows:

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

(2) The license fee shall be one hundred dollars for each license year during any part of which the license is in force. The annual renewal date shall be determined by the commissioner. The commissioner shall adopt a rule providing for the proration, on a quarterly basis, of the license fee. The proration shall be applicable only: (a) To applicants who apply for a license after the expiration of the first quarter of any license year, or (b) to licensees whose licenses would exist for less than nine months as a result of the adoption of the annual renewal date.

(3) Prior to issuance of license the applicant shall file with the commissioner ~~((and thereafter for as long as the license remains in effect he shall keep in force))~~ a bond in favor of the state of Washington in the penal sum of twenty thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned that he will conduct business under the license in accordance with the provisions of this chapter and that he will promptly remit the taxes provided by RCW 48.15.120. ~~((No such bond shall be terminated unless not less than thirty days prior written notice thereof is filed with the commissioner.))~~ The licensee shall maintain such bond in force for as long as the license remains in effect.

(4) Every applicant for a surplus line broker's license or for the renewal of a surplus line broker's license shall file with the application or request for renewal a bond in favor of the people of the state of Washington, executed by an authorized corporate surety approved by the commissioner, in the amount of fifty thousand dollars and shall be the bonding requirement for new licensees. The licensee shall maintain such bond in force while so licensed. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the amount stated in the bond. The bond shall be contingent on the accounting by the surplus line broker to any person requesting such broker to obtain insurance, for moneys or premiums collected in connection therewith. A bond issued in accordance with RCW

48.17.250 or with this subsection will satisfy the requirements of both RCW 48.17.250 and this subsection if the limit of liability is not less than the greater of the requirement of RCW 48.17.250 or the requirement of this subsection.

(5) Any bond issued pursuant to subsection (3) or (4) of this section shall remain in force until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to such cancellation, the surety may cancel the bond upon thirty days' advance notice in writing filed with the commissioner.

Sec. 4. Section .15.09, chapter 79, Laws of 1947 as last amended by section 6, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.15.090 are each amended to read as follows:

(1) A surplus line broker shall not knowingly place surplus line insurance with insurers unsound financially. The broker shall ascertain the financial condition of the unauthorized insurer, and maintain written evidence thereof, before placing insurance therewith. The broker shall not so insure with any insurer having less capital and surplus or combined capital funds than the minimum amounts required for an admitted multiple line insurer in accordance with RCW 48.05.340 as now or hereafter amended, ~~((unless))~~ and in the case of an alien insurer, there ~~((is))~~ must be on file with the commissioner a copy of a trust agreement, certified by the trustee, evidencing a subsisting trust deposit of not less than one-half of a like amount by such insurer with a bank or trust company in the United States, and which deposit is held for the protection of United States policyholders. Such trust account shall consist of cash or other assets acceptable to the commissioner and shall have an expiration date which at no time shall be less than five years hence. The commissioner may, by rule and regulation, prescribe the terms under which the foregoing financial requirements may be waived in circumstances where insurance cannot be otherwise procured on risks located in this state.

(2) For any violation of this section the broker ~~((shall))~~ may be fined not less than ~~((twenty-five))~~ one hundred dollars or more than ~~((two hundred and fifty))~~ five thousand dollars, his surplus line broker's license ~~((shall))~~ may be revoked, ~~((and the broker may not again be so licensed within a period of two years thereafter))~~ suspended, or nonrenewed.

Sec. 5. Section .15.13, chapter 79, Laws of 1947 and RCW 48.15.130 are each amended to read as follows:

If any surplus line broker fails to file his annual statement, or fails to remit the tax provided by RCW 48.15.120, prior to the first day of April after the tax is due, he shall be liable for a fine of ~~((twenty-five))~~ one hundred dollars for each day of delinquency commencing with the first day of

April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner shall be paid to the state treasurer and credited to the general fund.

Sec. 6. Section .15.14, chapter 79, Laws of 1947 and RCW 48.15.140 are each amended to read as follows:

(1) The commissioner (~~shall~~) may revoke, suspend, or refuse to renew any surplus line broker's license:

(a) If the surplus line broker fails to file his annual statement or to remit the tax as required by this chapter; or

(b) If the surplus line broker fails to maintain an office in this state, or to keep the records, or to allow the commissioner to examine his records as required by this chapter; or

(c) For any of the causes for which a (~~general~~) broker's license may be revoked under chapter 48.17 RCW.

(2) The commissioner may suspend or revoke any such license whenever he deems suspension or revocation to be for the best interests of the people of this state.

(3) The procedures provided by this code for the suspension or revocation of general brokers' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(4) No broker whose license has been so revoked (~~or suspended~~) shall again be so licensed within one year thereafter, nor until any fines or delinquent taxes owing by him have been paid.

Sec. 7. Section .18.29, chapter 79, Laws of 1947 as last amended by section 5, chapter 199, Laws of 1979 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 possible (~~but~~), and no later than thirty days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. 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. 8. Section .18.30, chapter 79, Laws of 1947 as last amended by section 8, chapter 199, Laws of 1979 ex. sess. 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 possible, (~~but~~) and no later than thirty days after the receipt of the notice of cancellation from the policyholder for homeowners', dwelling fire, and private passenger auto insurance, 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 7, chapter 80, Laws of 1979 ex. sess. and RCW 48.50.-070 are each amended to read as follows: -

Any licensed insurance agent, any licensed insurance broker, or any insurer or person acting in ((its)) the insurer's behalf or any authorized agency which releases information, whether oral or written, under RCW 48.50.030, 48.50.040, 48.50.050, or 48.50.060 shall be immune from liability in any civil or criminal action, suit, or prosecution arising from the release of the information, unless actual malice on the part of the agent, broker, insurer, or authorized agency against the insured is shown.

Sec. 10. Section 1, chapter 268, Laws of 1947 as last amended by section 1, chapter 87, Laws of 1965 and RCW 48.44.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, hospital and other therapeutic services. Ambulance services licensed in this state, the services of an optometrist licensed by the state of Washington, and the services of a pharmacist registered by the state of Washington are also declared to be health care services for the purposes of this chapter.

(2) "Doctor" means any person lawfully licensed or authorized to render any health care services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which corporation, cooperative group, or association is sponsored by or otherwise intimately connected with a group of doctors licensed by the state of Washington or by a group of hospitals licensed by the state of Washington; or doctor licensed by the state of Washington; or group of doctors licensed by the state of Washington, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services. The term also includes any corporation, cooperative group, or association, sponsored by or otherwise intimately connected with a group of pharmacists registered by the state of Washington; or any pharmacist, or group of pharmacists, registered by the state of Washington; who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services.

(4) "Participant" means a doctor, hospital, or licensed pharmacy, drug store or dispensary, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid such contractor for such services.

Passed the Senate February 22, 1980.

Passed the House February 15, 1980.

Approved by the Governor March 10, 1980.

Filed in Office of Secretary of State March 10, 1980.

CHAPTER 103

[Substitute Senate Bill No. 3330]

UNIVERSITY HOSPITAL PURCHASING AUTHORITY

AN ACT Relating to university hospital purchasing authority; amending section 3, chapter 32, Laws of 1969 as last amended by section 1, chapter 88, Laws of 1979 and RCW 43.19.190; and amending section 43.19.1906, chapter 8, Laws of 1965 as last amended by section 1, chapter 14, Laws of 1979 ex. sess. and RCW 43.19.1906.

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

Section 1. Section 3, chapter 32, Laws of 1969 as last amended by section 1, chapter 88, Laws of 1979 and RCW 43.19.190 are each amended to read as follows:

The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: **PROVIDED**, That the provisions of (~~this act shall~~) RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by said legislature: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: **PROVIDED FURTHER**, That universities operating hospitals may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for