

## **Chapter 48.12 RCW Assets and liabilities**

### **RCW Sections**

48.12.154 Rules.

48.12.156 Qualified United States financial institution--Definition.

48.12.158 Insolvency of non-United States insurer or reinsurer -- Maintenance of assets --  
Claims.

### **48.12.154 Rules.**

The commissioner may adopt rules to implement and administer chapter 379, Laws of 1997.

[1997 c 379 § 9.]

### **Notes:**

**Purpose -- Intent -- 1997 c 379:** See note following RCW 48.12.156.

### **48.12.156 Qualified United States financial institution — Definition.**

For purposes of chapter 379, Laws of 1997, a "qualified United States financial institution" means an institution that complies with all of the following:

- (1) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;
- (2) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies;
- (3) Has been determined by the commissioner, or, in the discretion of the commissioner, the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner; and

(4) Is not affiliated with the assuming company.

[1997 c 379 § 2.]

**Notes:**

**Purpose -- Intent -- 1997 c 379:** "(1) The purpose of this act is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally.

(2) It is the intent of the legislature to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations.

(3) It is also the intent of the legislature to declare that the matters contained in this act are fundamental to the business of insurance and to exercise its powers and privileges under 15 U.S.C. Secs. 1011 and 1012." [1997 c 379 § 1.]

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**48.12.158 Insolvency of non-United States insurer or reinsurer — Maintenance of assets — Claims.**

Upon insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with chapter 379, Laws of 1997, the assets representing the security must be maintained in the United States and claims must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies.

[1997 c 379 § 3.]

**Notes:**

**Purpose -- Intent -- 1997 c 379:** See note following RCW 48.12.156.

## **Chapter 48.14 RCW**

### **Fees and taxes**

#### RCW Sections

48.14.060 Failure to pay tax -- Penalty.

48.14.070 Refunds.

48.14.080 Premium tax in lieu of other forms -- Exceptions -- Definition.

48.14.090 Determining amount of direct premium taxable in this state.

#### **48.14.060 Failure to pay tax — Penalty.**

(1) Any insurer or taxpayer, as defined in RCW 48.14.0201, failing to file its tax statement and to pay the specified tax or prepayment of tax on premiums and prepayments for health care services by the last day of the month in which the tax becomes due shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not paid within forty-five days after the due date, the insurer will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not paid within sixty days of the due date, the insurer will be assessed a total penalty of twenty percent of the amount of the tax. The tax may be collected by distraint, and the penalty recovered by any action instituted by the commissioner in any court of competent jurisdiction. The amount of any penalty collected must be paid to the state treasurer and credited to the general fund.

(2) In addition to the penalties set forth in subsection (1) of this section, interest will accrue on the amount of the unpaid tax or prepayment at the maximum legal rate of interest permitted under RCW 19.52.020 commencing sixty-one days after the tax is due until paid. This interest will not accrue on taxes imposed under RCW 48.15.120.

(3) The commissioner may revoke the certificate of authority or registration of any delinquent insurer or taxpayer, and the certificate of authority or registration will not be reissued until all taxes, prepayments of tax, interest, and penalties have been fully paid and the insurer or taxpayer has otherwise qualified for the certificate of authority or registration.

[2003 c 341 § 1; 1981 c 6 § 2; 1947 c 79 § .14.06; Rem. Supp. 1947 § 45.14.06.]

#### **48.14.070 Refunds.**

In event any person has paid to the commissioner any tax, license fee or other charge in error or in excess of that which he or she is lawfully obligated to pay, the commissioner shall upon written request made to him or her make a refund thereof. A person may only request a refund of taxes

within six years from the date the taxes were paid. A person may only request a refund of fees or charges other than taxes within thirteen months of the date the fees or charges were paid. Refunds may be made either by crediting the amount toward payment of charges due or to become due from such person, or by making a cash refund. To facilitate such cash refunds the commissioner may establish a revolving fund out of funds appropriated by the legislature for his use.

[2009 c 549 § 7056; 1979 ex.s. c 130 § 2; 1947 c 79 § .14.07; Rem. Supp. 1947 § 45.14.07.]

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#### **48.14.080 Premium tax in lieu of other forms — Exceptions — Definition.**

(1) As to insurers, other than title insurers and taxpayers under RCW 48.14.0201, the taxes imposed by this title are in lieu of all other taxes, except as otherwise provided in this section.

(2) Subsection (1) of this section does not apply with respect to:

(a) Taxes on real and tangible personal property;

(b) Excise taxes on the sale, purchase, use, or possession of (i) real property; (ii) tangible personal property; (iii) extended warranties; (iv) services, including digital automated services as defined in RCW 82.04.192; and (v) digital goods and digital codes as those terms are defined in RCW 82.04.192; and

(c) The tax imposed in \*RCW 82.04.260(9), regarding public and nonprofit hospitals.

(3) For the purposes of this section, the term "taxes" includes taxes imposed by the state or any county, city, town, municipal corporation, quasi-municipal corporation, or other political subdivision.

[2010 1st sp.s. c 23 § 520; 2009 c 535 § 1102; 2006 c 278 § 2; 1998 c 312 § 1; 1993 sp.s. c 25 § 602; 1993 c 492 § 302; 1949 c 190 § 21, part; Rem. Supp. 1949 § 45.14.08.]

#### **Notes:**

**\*Reviser's note:** RCW 82.04.260 was amended by 2011 c 2 § 203 (Initiative Measure No. 1107), changing subsection (9) to subsection (10).

**Effective date -- 2010 1st sp.s. c 23:** See note following RCW 82.32.655.

**Findings -- Intent -- 2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Intent -- Construction -- 2009 c 535:** See notes following RCW 82.04.192.

**Findings -- Intent -- 2006 c 278:** "The legislature finds that the insurance premiums tax is intended to be in lieu of any other tax imposed on insurers. However, insurers are not exempt from taxes on real and tangible personal property, or excise taxes on the sale, purchase, or use of such property. These provisions, enacted in 1949, have not been reviewed or altered in light of significant expansion of sales and use taxes to include taxation of many service activities. Some insurers have interpreted their obligation to pay retail sales and use taxes to be limited to those taxes imposed on the sale or use of tangible personal property. These insurers claim exemption from retail sales tax, use tax, or any other excise tax on the purchase or sale of services, such as

telephone service, credit bureau services, construction services, landscape services, and repair services. Other insurers have consistently paid excise taxes imposed on these services.

The legislature further finds exempting insurers from excise taxes on the purchase or sale of services is inequitable and results from the inadvertent failure to revise insurance premiums tax statutes to be consistent with other excise tax statutes. The legislature declares its intent to require insurers to pay retail sales and use taxes on purchases of both tangible personal property or services, on the same terms as other taxpayers. This act is intended to apply both prospectively and retrospectively." [2006 c 278 § 1.]

**Application -- 2006 c 278:** "This act applies both prospectively and retroactively." [2006 c 278 § 3.]

**Effective date -- 2006 c 278:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2006]." [2006 c 278 § 4.]

**Effective date -- Savings -- 1998 c 312:** See notes following RCW 82.04.332.

**Severability -- Effective dates -- Part headings, captions not law -- 1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Findings -- Intent -- 1993 c 492:** See notes following RCW 43.20.050.

**Short title -- Severability -- Savings -- Captions not law -- Reservation of legislative power -- Effective dates -- 1993 c 492:** See RCW 43.72.910 through 43.72.915.

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#### **48.14.090 Determining amount of direct premium taxable in this state.**

In determining the amount of direct premium taxable in this state, all such premiums written, procured, or received in this state shall be deemed written upon risks or property resident, situated, or to be performed in this state except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement.

[2009 c 161 § 4; 1963 c 195 § 14.]

## **Chapter 48.18 RCW**

### **The insurance contract**

#### RCW Sections

- 48.18.170 "Premium" defined.
- 48.18.180 Stated premium must include all charges.
- 48.18.190 Policy must contain entire contract.
- 48.18.200 Limiting actions, jurisdiction.
- 48.18.230 Binders -- Duration -- Premium.

#### **48.18.170**

##### **"Premium" defined.**

"Premium" as used in this code means all sums charged, received, or deposited as consideration for an insurance contract or the continuance thereof. "Premium" does not include a regulatory surcharge imposed by RCW 48.02.190, except as otherwise provided in this section. Any assessment, or any "membership," "policy," "survey," "inspection," "service" or similar fee or charge made by the insurer in consideration for an insurance contract is deemed part of the premium.

[2007 c 153 § 1; 1947 c 79 § .18.17; Rem. Supp. 1947 § 45.18.17.]

#### **48.18.180 Stated premium must include all charges.**

(1) The premium stated in the policy shall be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or for the procurement thereof.

(2) No insurer or its officer, employee, appointed insurance producer, or other representative shall charge or receive any fee, compensation, or consideration for insurance which is not included in the premium specified in the policy.

(3) Each violation of this section is a gross misdemeanor.

(4) This section does not apply to:

- (a) A fee paid to an insurance producer by an insured as provided in RCW 48.17.270; or
- (b) A regulatory surcharge imposed by RCW 48.02.190.

[2008 c 217 § 13; 2007 c 153 § 2; 1994 c 203 § 2; 1947 c 79 § .18.18; Rem. Supp. 1947 § 45.18.18.]

**Notes:**

**Severability -- Effective date -- 2008 c 217:** See notes following RCW 48.03.020.

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**48.18.190 Policy must contain entire contract.**

No agreement in conflict with, modifying, or extending any contract of insurance shall be valid unless in writing and made a part of the policy.

[1947 c 79 § .18.19; Rem. Supp. 1947 § 45.18.19.]

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**48.18.200 Limiting actions, jurisdiction.**

(1) No insurance contract delivered or issued for delivery in this state and covering subjects located, resident, or to be performed in this state, shall contain any condition, stipulation, or agreement

(a) requiring it to be construed according to the laws of any other state or country except as necessary to meet the requirements of the motor vehicle financial responsibility laws of such other state or country; or

(b) depriving the courts of this state of the jurisdiction of action against the insurer; or

(c) limiting right of action against the insurer to a period of less than one year from the time when the cause of action accrues in connection with all insurances other than property and marine and transportation insurances. In contracts of property insurance, or of marine and transportation insurance, such limitation shall not be to a period of less than one year from the date of the loss.

(2) Any such condition, stipulation, or agreement in violation of this section shall be void, but such voiding shall not affect the validity of the other provisions of the contract.

[1947 c 79 § .18.20; Rem. Supp. 1947 § 45.18.20.]

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**48.18.230 Binders — Duration — Premium.**

(1) A "binder" is used to bind insurance temporarily pending the issuance of the policy. No binder shall be valid beyond the issuance of the policy as to which it was given, or beyond ninety days from its effective date, whichever period is the shorter.

(2) If the policy has not been issued a binder may be extended or renewed beyond such ninety days upon the commissioner's written approval, or in accordance with such rules and regulations relative thereto as the commissioner may promulgate.

(3) Where the premium used in the binder differs from the actual policy premium by less than ten dollars, the insurer shall not be required to notify the insured and may use the actual policy premium.

## **Chapter 48.17 RCW**

### **Insurance producers, title insurance agents, and adjusters (formerly agents, brokers, solicitors, and adjusters)**

#### **RCW Sections**

**48.17.530** Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license.

**48.17.535** License or certificate suspension -- Noncompliance with support order -- Reissuance.

**48.17.540** Procedure to suspend, revoke, or refuse -- Effect of conviction of felony.

**48.17.550** Duration of suspension.

**48.17.560** Fines may be imposed.

**48.17.270** Insurance producer as insurer's agent — Compensation — Disclosure

#### **48.17.270 Insurance producer as insurer's agent — Compensation — Disclosure.**

(1) The sole relationship between an insurance producer and an insurer as to which the insurance producer is appointed as an agent shall, as to transactions arising during the existence of such agency appointment, be that of insurer and agent.

(2) Unless the agency-insurer agreement provides to the contrary, an insurance producer may receive the following compensation:

(a) A commission paid by the insurer;

(b) A fee paid by the insured; or

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

(3) If the compensation received by an insurance producer who is dealing directly with the insured includes a fee, for each policy, the insurance producer must disclose in writing to the insured:

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

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



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

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

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

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

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

(4) Written disclosure of compensation as required by subsection (3) of this section shall be provided by the insurance producer to the insured prior to the sale of the policy.

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

[2009 c 162 § 22; 2007 c 117 § 17; 1994 c 203 § 1; 1993 c 455 § 1; 1981 c 339 § 13; 1947 c 79 § 17.27; Rem. Supp. 1947 § 45.17.27.]

#### Notes:

**Effective date -- 2009 c 162:** See note following RCW 48.03.020.

#### 48.17.530

**Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license.**

(1) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an adjuster's license, an insurance producer's license, a title insurance agent's license, or any surplus line broker's license, or may levy a civil penalty in accordance with RCW 48.17.560 or any combination of actions, for any one or more of the following causes:

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

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

- (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
  - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;
  - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
  - (f) Having been convicted of a felony;
  - (g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
  - (h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere;
  - (i) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
  - (j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
  - (k) Improperly using notes or any other reference material to complete an examination for an insurance license;
  - (l) Knowingly accepting insurance business from a person who is required to be licensed under this title and is not so licensed, other than orders for issuance of title insurance on property located in this state placed by a nonresident title insurance agent authorized to act as a title insurance agent in the title insurance agent's home state; or
  - (m) Obtaining a loan from an insurance client that is not a financial institution and who is not related to the insurance producer by birth, marriage, or adoption, except the commissioner may, by rule, define and permit reasonable arrangements.
- (2) The license of a business entity may be suspended, revoked, or refused if the commissioner finds that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation, and the violation was neither reported to the commissioner nor corrective action taken.
- (3) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and this title against any person who is under investigation for or charged with a violation of this chapter or this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.
- (4) The holder of any license which has been revoked or suspended shall surrender the license certificate to the commissioner at the commissioner's request.
- (5) The commissioner may probate a suspension or revocation of a license under reasonable terms determined by the commissioner. In addition, the commissioner may require a licensee who is placed on probation to:
- (a) Report regularly to the commissioner on matters that are the basis of the probation;
  - (b) Limit practice to an area prescribed by the commissioner; or

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

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

(a) Rescind the probation and enforce the commissioner's original order; and

(b) Impose any disciplinary action permitted under this section in addition to or in lieu of enforcing the original order.

[2007 c 117 § 29; 1973 1st ex.s. c 152 § 2; 1969 ex.s. c 241 § 11; 1967 c 150 § 23; 1947 c 79 § .17.53; Rem. Supp. 1947 §45.17.53 .]

**Notes:**

**Severability -- 1973 1st ex.s. c 152:** See note following RCW 48.05.140.

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**48.17.535**

**License or certificate suspension — Noncompliance with support order — Reissuance.**

The commissioner shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a \*residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the commissioner's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 58 § 857.]

**Notes:**

**\*Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

**Short title -- Part headings, captions, table of contents not law -- Exemptions and waivers from federal law -- Conflict with federal requirements -- Severability -- 1997 c 58:** See RCW 74.08A.900 through 74.08A.904.

**Effective dates -- Intent -- 1997 c 58:** See notes following RCW 74.20A.320.

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**48.17.540****Procedure to suspend, revoke, or refuse — Effect of conviction of felony.**

(1) The commissioner may revoke or refuse to renew any license issued under this chapter, or any surplus line broker's license, immediately and without hearing, upon sentencing of the licensee for conviction of a felony by final judgment of any court of competent jurisdiction, if the facts giving rise to such conviction demonstrate the licensee to be untrustworthy to maintain any such license.

(2) The commissioner may suspend, revoke, or refuse to renew any such license:

(a) By an order served by mail or personal service upon the licensee not less than fifteen days prior to the effective date thereof, subject to the right of the licensee to have a hearing as provided in RCW 48.04.010; or

(b) By an order on hearing made as provided in chapter 34.05 RCW, the Administrative Procedure Act, effective not less than ten days after the date of the service of the order, subject to the right of the licensee to appeal to the superior court.

(3) The commissioner may temporarily suspend such license by an order served by mail or by personal service upon the licensee not less than three days prior to the effective date thereof, provided the order contains a notice of revocation and includes a finding that the public safety or welfare imperatively requires emergency action. Such suspension shall continue only until proceedings for revocation are concluded. The commissioner also may temporarily suspend such license in cases where proceedings for revocation are pending if he or she finds that the public safety or welfare imperatively requires emergency action.

(4) Service by mail under this section shall mean posting in the United States mail, addressed to the licensee at the most recent address shown in the commissioner's licensing records for the licensee. Service by mail is complete upon deposit in the United States mail.

[1990 1st ex.s. c 3 § 6; 1989 c 175 § 113; 1988 c 248 § 14; 1982 c 181 § 8; 1973 1st ex.s. c 107 § 2; 1967 c 150 § 24; 1947 c 79 § .17.54; Rem. Supp. 1947 § 45.17.54.]

**Notes:**

**Effective date -- 1989 c 175:** See note following RCW 34.05.010.

**Severability -- 1982 c 181:** See note following RCW 48.03.010.

**Severability -- 1973 1st ex.s. c 107:** "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 107 § 5.]

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**48.17.550****Duration of suspension.**

Every order suspending any such license shall specify the period during which suspension will be effective, and which period shall in no event exceed twelve months.

[1947 c 79 § .17.55; Rem. Supp. 1947 § 45.17.55.]

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**48.17.560****Fines may be imposed.**

After hearing or upon stipulation by the licensee or insurance education provider, and in addition to or in lieu of the suspension, revocation, or refusal to renew any such license or insurance education provider approval, the commissioner may levy a fine upon the licensee or insurance education provider. (1) For each offense the fine shall be an amount not more than one thousand dollars. (2) The order levying such fine shall specify that the fine shall be fully paid not less than fifteen nor more than thirty days from the date of the order. (3) Upon failure to pay any such fine when due, the commissioner shall revoke the licenses of the licensee or the approval(s) of the insurance education provider, if not already revoked. The fine shall be recovered in a civil action brought on 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.

[1989 c 323 § 3; 1975 1st ex.s. c 266 § 8; 1967 c 150 § 25; 1947 c 79 § .17.56; Rem. Supp. 1947 § 45.17.56.]

**Notes:**

**Effective date -- 1989 c 323:** See note following RCW 48.17.125.

**Severability -- 1975 1st ex.s. c 266:** See note following RCW 48.01.010.