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2 Blue font indicates a deviation from NAIC Investments of Insurers Model Act #283.
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12 AN ACT Relating to adopting the investments of insurers model act; reenacting and
13 amending RCW 42.56.400; adding new sections to chapter 48.13 RCW; repealing RCW 48.13.010,
14 48.13.020, 48.13.030, 48.13.040, 48.13.050, 48.13.060, 48.13.070, 48.13.080, 48.13.090, 48.13.100,
15 48.13.110, 48.13.120, 48.13.125, 48.13.1300, 48.13.140, 48.13.150, 48.13.160, 48.13.170, 48.13.180,
16 48.13.190, 48.13.200, 48.13.210, 48.13.218, 48.13.220, 48.13.230, 48.13.240, 48.13.250, 48.13.260,
17 48.13.265, 48.13.270, 48.13.273, 48.13.275, 48.13.280, 48.13.285, 48.13.290, and 48.13.340; and
18 prescribing penalties.

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
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25 NEW SECTION. Sec. 1. PURPOSE AND SCOPE. (1)The purpose of this Act is to protect and to
26 further the interests of insureds, creditors and the general public by providing, with minimum
27 interference with management initiative and judgment, prudent standards for the development and
28 administration of insurer investment programs.

29 (2)This Act and the(~~regulations~~) rules adopted to interpret and implement it apply to
30 domestic insurers, (~~and~~)U. S. branches of alien insurers entered through this state(~~, except for~~
31 ~~insurers organized pursuant to [cite statutes applicable to exempted insurers])alien insurers
32 admitted and using this state as their port-of-entry, domestic fraternal benefit societies formed
33 pursuant to chapter 48.36A RCW, domestic health care service contractors formed pursuant to
34 chapter 48.44 RCW, domestic health maintenance organizations formed pursuant to chapter 48.46
35 RCW, and domestic self-funded multiple employer welfare arrangements formed pursuant to chapter
36 48.125 RCW.~~

37 (3)Separate accounts established in accordance with (~~[cite statutes allowing the creation~~
38 ~~and maintenance of separate accounts]-) RCW 48.18A.020 shall be evaluated separately pursuant to
39 that section.~~

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2 NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout Title 48
3 RCW unless the context clearly requires otherwise.

4 (1)“Derivative instrument” means an item appropriately reported in schedule DB (derivative
5 instruments) or schedule DC (insurance futures and insurance futures options) of an insurer’s
6 statutory financial statement (or successor schedules), pursuant to applicable annual statement
7 instructions or statutory accounting guidelines.

8 (2)“Derivative transaction” means a transaction involving the use of one or more derivative
9 instruments.

10 (3)“Income generation” means a derivative transaction involving the writing of covered
11 options, caps or floors that is intended to generate income or enhance return.

12 (4) “Leverage means the relationship of insurance and investment risks to capital and
13 surplus as defined by the National Association of Insurance Commissioners Insurance Regulatory
14 Information System and its other financial analysis solvency tools and reports.

15 ~~(4-5)~~“Lower grade investment” means a rated credit instrument or debt-like preferred stock
16 rated 4, 5 or 6 by the Securities Valuation Office of the National Association of Insurance
17 Commissioners (NAIC) or any successor office.

18 ~~(5-6)~~“Medium grade investment” means a rated credit instrument or debt-like preferred stock
19 rated 3 by the Securities Valuation Office of the NAIC or any successor office.

20 ~~(6-7)~~“Minimum asset requirement” is the sum of an insurer’s liabilities and its minimum
21 financial security benchmark.

22 ~~(7-8)~~“Minimum financial security benchmark” is the amount an insurer is required to have
23 under Section 3.

24 (9) “Mutual fund” means a mutual fund or exchange traded fund registered with the
25 Securities and Exchange Commission of the United States under the Investment Company Act of
26 1940.

27 (10) “Rated by the SVO” means any security that is directly rated by the Securities Valuation
28 Office or that is given an equivalent Filing Exempt rating as prescribed in the “Purposes and
29 Procedures Manual” of the NAIC Securities Valuation Office.

30 ~~(8-11)~~“Replication” means a derivative transaction involving one or more derivative
31 instruments being used to modify the cash flow characteristics of one or more investments held by an
32 insurer in a manner so that the aggregate cash flows of the derivative instruments and investments
33 reproduce the cash flows of another investment having a higher risk-based capital charge than the
34 risk-based capital charge of the original ~~((investments))~~ instruments or investments.

35 (12) “Surplus”, as used in this chapter, means the excess of admitted assets over all
36 liabilities.

37 ~~(9-13)~~“SVO listed mutual fund” means a money market mutual fund or short-term bond fund
38 that is registered with the United States Securities and Exchange Commission under the Investment

1 Company Act of 1940, and that has been determined by the NAIC's Securities Valuation Office to be
2 eligible for special reserve and reporting treatment (other than as common stock).

3 (14) "U. S. Government securities" means any security defined in the Purposes and
4 Procedures Manual of the NAIC Securities Valuation Office as a U. S. Government security.

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6 NEW SECTION. Sec. 3. MINIMUM FINANCIAL SECURITY BENCHMARK. (1)Minimum
7 Financial Security Benchmark.

8 (a)Unless otherwise established in accordance with ~~((Paragraphs (2) and (3) of this~~
9 ~~subsection)) subsections 1(b) and 1(c) of this section~~, the amount of the minimum financial security
10 benchmark for an insurer shall be the greater of:

11 (i)The authorized control level risk-based capital applicable to the insurer as set forth by
12 ~~((insert reference to the risk-based capital law)) RCW 48.05.450 ((less the asset valuation reserve~~
13 ~~and voluntary investment reserves as defined under [insert reference to the risk-based capital law]~~
14 ~~)); or~~

15 (ii)The minimum capital or minimum surplus required by statute or rule for maintenance of
16 an insurer's certificate of authority, certificate of registration, or other form of authorization to
17 transact business pursuant to Title 48 RCW.

18 (b)The commissioner may, in accordance with the factors in Subsection 2(b) of this section,
19 establish by order a minimum financial security benchmark to apply to a specific insurer provided it
20 is not less than the amount determined by ~~((Paragraph (1) of this)) subsection 1(a), in the event the~~
21 ~~insurer falls below three and one-half times the authorized control level risk-based capital applicable~~
22 ~~to the insurer as set forth by RCW 48.05.450 or 48.43.320.~~

23 (c)~~((Except as provided in [cite applicable state laws consistent with drafting note following~~
24 ~~Section 1B],)) The commissioner may establish by ~~((regulation)) rule~~ a minimum financial security
25 benchmark that is a multiple of authorized control level risk-based capital to apply to any class of
26 insurers provided the amount established by the ~~((regulation)) rule~~ is not less than the amount
27 determined in ~~((Paragraph (1) of this)) subsection 1(a).~~~~

28 (2)The commissioner shall determine the amount of surplus that shall constitute an insurer's
29 minimum financial security benchmark, as an amount that will provide reasonable security against
30 contingencies affecting the insurer's financial position that are not fully covered by reserves or by
31 reinsurance.

32 (a)Types of contingencies. The commissioner shall consider the risks of:

33 (i)Increases in the frequency or severity of losses beyond the levels contemplated by the rates
34 charged;

35 (ii)Increases in expenses beyond those contemplated by the rates charged;

36 (iii)Decreases in the value of or the return on invested assets below those planned on;

37 (iv)Changes in economic conditions that would make liquidity more important than
38 contemplated and would force untimely sale of assets or prevent timely investments;

1 (v)Currency devaluation to which the insurer may be subject;

2 (vi) Diminished prospects for performance of reinsurers' or other counter parties' obligations;

3 and

4 (vii)Any other contingencies the commissioner can identify that may affect the insurer's
5 operations.

6 (b)Controlling factors. In making the determination under this subsection, the commissioner
7 shall take into account the following factors:

8 (i)The most reliable information available as to the magnitude of the various risks under
9 ((Paragraph (1) of this)) subsection 2a;

10 (ii)The extent to which the risks in ((Paragraph (1) of this)) subsection 2(a) are independent
11 of each other or are related, and whether any dependency is direct or inverse;

12 (iii)The insurer's recent history of profits or losses;

13 (iv)The extent to which the insurer has provided protection against the contingencies in other
14 ways than the establishment of surplus; including redundancy of premiums, adjustability of
15 contracts under their terms, investment valuation reserves whether voluntary or mandatory,
16 appropriate reinsurance, the use of conservative actuarial assumptions to provide a margin of
17 security, reserve adjustments in recognition of previous rate inadequacies, contingency or
18 catastrophe reserves, diversification of assets and underwriting risks;

19 (v)Independent judgments of the soundness of the insurer's operations, as evidenced by the
20 ratings of reliable professional financial reporting services; and

21 (vi)Any other relevant factors.

22
23 NEW SECTION. Sec. 4. AUTHORIZED INVESTMENTS. (1)Subject to the provisions of this Act,
24 an insurer may loan or invest its funds, and may buy, sell, hold title to, possess, occupy, pledge,
25 convey, manage, protect, insure and deal with its investments, property and other assets to the same
26 extent as any other person or corporation under the laws of this state and of the United States.

27 (2)With respect to all of the insurer's investments, the board of directors of an insurer shall
28 exercise the judgment and care, under the circumstances then prevailing, that persons of reasonable
29 prudence, discretion and intelligence exercise in the management of a like enterprise, not in regard
30 to speculating but in regard to the permanent disposition of their funds, considering the probable
31 income as well as the probable safety of their capital. Investments shall be of sufficient value,
32 liquidity and diversity to assure the insurer's ability to meet its outstanding obligations based on
33 reasonable assumptions as to new business production for current lines of business. As part of its
34 exercise of judgment and care, the board of directors shall take into account the prudence evaluation
35 criteria of Section 5 of this Act.

36 (3)The insurer shall establish and implement internal controls and procedures to assure
37 compliance with investment policies and procedures to assure that:

38 (a)The insurer's investment staff and any consultants used are reputable and capable;

1 (b) A periodic evaluation and monitoring process occurs for assessing the effectiveness of
2 investment policy and strategies;

3 (c) Management's performance is assessed in meeting the stated objectives within the
4 investment policy; and

5 (d) Appropriate analyses are undertaken of the degree to which asset cash flows are adequate
6 to meet liability cash flows under different economic environments. These analyses shall be
7 conducted at least annually and make specific reference to economic conditions.

8
9 NEW SECTION. Sec. 5. PRUDENCE EVALUATION CRITERIA. The following factors shall be
10 evaluated by the insurer and considered along with its business in determining whether an
11 investment portfolio or investment policy is prudent; the commissioner shall consider the following
12 factors prior to making a determination that an insurer's investment portfolio or investment policy is
13 not prudent:

- 14 (1) General economic conditions;
- 15 (2) The possible effect of inflation or deflation;
- 16 (3) The expected tax consequences of investment decisions or strategies;
- 17 (4) The fairness and reasonableness of the terms of an investment considering its probable
18 risk and reward characteristics and relationship to the investment portfolio as a whole;
- 19 (5) The extent of the diversification of the insurer's investments among:
- 20 (a) Individual investments;
- 21 (b) Classes of investments;
- 22 (c) Industry concentrations;
- 23 (d) Dates of maturity; and
- 24 (e) Geographic areas;
- 25 (6) The quality and liquidity of investments in affiliates;
- 26 (7) The investment exposure to the following risks, quantified in a manner consistent with the
27 insurer's acceptable risk level identified in Section 6(8):
- 28 (a) Liquidity;
- 29 (b) Credit and default;
- 30 (c) Systemic (market);
- 31 (d) Interest rate;
- 32 (e) Call, prepayment and extension;
- 33 (f) Currency; ~~((and))~~
- 34 (g) Foreign sovereign; and
- 35 (h) Leverage.
- 36 (8) The amount of the insurer's assets, capital and surplus, premium writings, insurance in
37 force, and other appropriate characteristics;
- 38 (9) The amount and adequacy of the insurer's reported liabilities;

1 (10)The relationship of the expected cash flows of the insurer’s assets and liabilities, and the
2 risk of adverse changes in the insurer’s assets and liabilities;

3 (11)The adequacy of the insurer’s capital and surplus to secure the risks and liabilities of the
4 insurer; and

5 (12)Any other factors relevant to whether an investment is prudent.
6

7 **NEW SECTION. Sec. 6. INSURER INVESTMENT POLICY.** In acquiring, investing, exchanging,
8 holding, selling and managing investments, an insurer shall establish and follow a written
9 investment policy that shall be reviewed and approved by the insurer’s board of directors at least
10 annually. The content and format of an insurer’s investment policy are at the insurer’s discretion,
11 but shall include written guidelines appropriate to the insurer’s business as to the following:

12 (1)The ~~((general investment policy of the insurer containing))~~ delegation and monitoring of
13 policies, procedures and controls covering all aspects of the investing function;

14 (2)Quantified goals and objectives regarding the composition of classes of investments,
15 including maximum internal limits;

16 (3)Periodic evaluation of the investment portfolio as to its risk and reward characteristics.
17 This subsection shall not preclude an insurer from the use of “modern portfolio theory” to manage its
18 investments;

19 (4)Professional standards for the individuals making day-to-day investment decisions to
20 assure that investments are managed in an ethical and capable manner;

21 (5)The types of investments to be made and those to be avoided, based on their risk and
22 reward characteristics and the insurer’s level of experience with the investments;

23 (6)The relationship of classes of investments to the insurer’s insurance products and
24 liabilities;

25 (7)The manner in which the insurer intends to implement Section 5; and

26 (8)The level of risk (based on quantitative measures) appropriate for the insurer given the
27 level of capitalization and expertise available to the insurer.
28

29 **NEW SECTION. Sec. 7. AUTHORIZED CLASSES OF INVESTMENTS.** The following classes of
30 investments may be counted for the purposes specified in Section 11 , whether they are made directly
31 or as a participant in a partnership, joint venture or limited liability company investments in
32 partnerships, joint ventures, and limited liability companies are authorized investments only
33 pursuant to sec. 7(12) of this act):

34 (1)Cash in the direct possession of the insurer or on deposit with a financial institution
35 regulated by any federal or state agency of the United States;

36 (2)Bonds, debt-like preferred stock and other evidences of indebtedness of governmental
37 units in the United States or Canada , or the instrumentalities of the governmental units, or private

1 business entities domiciled in the United States or Canada, including asset-backed securities and
2 SVO listed mutual funds;

3 (3)Loans secured by first mortgages, first trust deeds, or other first security interests in real
4 property located in the United States or Canada or secured by insurance against default issued by a
5 government insurance corporation of the United States or Canada or by an insurer authorized to do
6 business in this state;

7 (4)Common stock or equity-like preferred stock or equity interests in any United States or
8 Canadian business entity, or shares of mutual funds registered with the Securities and Exchange
9 Commission of the United States under the Investment Company Act of 1940, other than SVO listed
10 mutual funds, and, subsidiaries (as defined in RCW 48.31B.005 or 48.31C.010) engaged exclusively
11 in the following businesses:

12 (a) Acting as an insurance producer, surplus line broker, or title insurance agent for its
13 parent or for any of its parent's insurer subsidiaries or affiliates;

14 (b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for
15 its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

16 (c) Rendering management, sales, or other related services to any investment company
17 subject to the Federal Investment Company Act of 1940, as amended;

18 (d) Rendering investment advice;

19 (e) Rendering services related to the functions involved in the operation of an insurance
20 business including, but not limited to, actuarial, loss prevention, safety engineering, data processing,
21 accounting, claims appraisal, and collection services;

22 (f) Acting as administrator of employee welfare benefit and pension plans for governments,
23 government agencies, corporations, or other organizations or groups;

24 (g) Ownership and management of assets which the parent could itself own and manage;
25 PROVIDED, that the aggregate investment by the insurer and its subsidiaries acquired pursuant to
26 this paragraph shall not exceed the limitations otherwise applicable to such investments by the
27 parent;

28 (h) Acting as administrative agent for a government instrumentality which is performing an
29 insurance function or is responsible for a health or welfare program;

30 (i) Financing of insurance premiums;

31 (j) Any other business activity reasonably ancillary to an insurance business;

32 (k) Owning one or more subsidiary

33 (i) insurers, health care service contractors, or health maintenance organizations to the
34 extent permitted by this chapter, or

35 (ii) businesses specified in paragraphs (a) through (k) of this subsection inclusive, or

36 (iii) any combination of such insurers and businesses.

37 (5)Real property necessary for the convenient transaction of the insurer's business;

1 (6)Real property, together with the fixtures, furniture, furnishings and equipment pertaining
2 thereto in the United States or Canada, which produces or after suitable improvement can
3 reasonably be expected to produce ~~((substantial))~~ income;

4 (7)Loans, securities, or other investments of the types described in subsections 1 to 6 of this
5 section in NAIC SVO 1 debt rated countries other than the United States and Canada;

6 (8)Bonds or other evidences of indebtedness of international development organizations of
7 which the United States is a member;

8 (9)Loans upon the security of the insurer's own policies in amounts that are adequately
9 secured by the policies and that in no case exceed the surrender values of the policies;

10 (10)Tangible personal property under contract of sale or lease under which contractual
11 payments may reasonably be expected to return the principal of and provide earnings on the
12 investment within its anticipated useful life;

13 (11)Other investments the commissioner authorizes by ~~((regulation))~~ rule; and

14 (12)Investments not otherwise permitted by this section, and not specifically prohibited by
15 statute, to the extent of not more than five percent (5%) of the first \$500,000,000 of the insurer's
16 admitted assets plus ten percent (10%) of the insurer's admitted assets exceeding \$500,000,000.

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19 **NEW SECTION. Sec. 8. LIMITATIONS GENERALLY APPLICABLE.** (1)Class Limitations. For
20 the purposes of Section 11, the following limitations on classes of investments apply:

21 (a)Investments authorized by Section 7(2), and investments authorized by Section 7(7) that
22 are of the types described in Section 7(2);

23 (i)The aggregate amount of medium and lower grade investments, twenty percent (20%) of its
24 admitted assets;

25 (ii)The aggregate amount of lower grade investments, ten percent (10%) of its admitted
26 assets;

27 (iii)The aggregate amount of investments rated 5 or 6 by the SVO, five percent (5%) of its
28 admitted assets;

29 (iv)The aggregate amount of investments rated 6 by the SVO, one percent (1%) of its
30 admitted assets; or

31 (v)The aggregate amount of medium and lower grade investments that receive as cash
32 income less than the equivalent yield for Treasury issues with a comparative average life, one
33 percent (1%) of its admitted assets.

34 (b)Investments authorized by Section 7(3), forty-five percent (45%) of admitted assets in the
35 case of life insurers and twenty-five percent (25%) of admitted assets in the case of non-life insurers;

36 (c)Investments authorized by Section 7(4) other than subsidiaries of the types authorized
37 under ~~((finite applicable provisions of holding company law))~~ Section 7(4)(a-k) of this Act twenty

1 percent (20%) of admitted assets in the case of life insurers and twenty-five percent (25%) of
2 admitted assets in the case of non-life insurers;

3 (i) Individual investments authorized by Section 7(4) of this Act, except for subsidiaries, shall
4 not exceed be limited to 10% of the voting interest in any one entity.

5 (ii) Investments authorized in Section 7(4) of this Act in one or more subsidiaries shall not
6 exceed be limited to the lesser of 10% of admitted assets or 50% of surplus.

7 (d) Investments authorized by Section 7(5), ten percent (10%) of admitted assets;

8 (e) Investments authorized by Section 7(6), twenty percent (20%) of admitted assets in the
9 case of life insurers, and ten percent (10%) of admitted assets in the case of non-life insurers;

10 (f) Investments authorized by Section 7(7), twenty percent (20%) of admitted assets;

11 (g) Investments authorized by Section 7(8), two percent (2%) of admitted assets; and

12 (h) Investments authorized by Section 7(10), two percent (2%) of admitted assets.

13 (2) Individual limitations. For purposes of determining compliance with Section 11, securities
14 of a single issuer and its affiliates, other than ~~((the government of the United States and~~
15 ~~subsidiaries)) U. S. government securities~~ authorized ~~((under [cite applicable provisions of holding~~
16 ~~company law])) by Section 7(4) of this Act,~~ shall not exceed three percent (3%) of admitted assets in
17 the case of life insurers, and five percent (5%) in the case of non-life insurers. Investments in the
18 voting securities of a depository institution, or any company that controls a depository institution,
19 shall not exceed five percent (5%) of the insurer's admitted assets.

20 (3) Investment subsidiaries. For purpose of determining compliance with the limitations of
21 this section, the admitted portion of assets of subsidiaries ~~((under [cite applicable provisions of~~
22 ~~holding company law])) authorized by Section 7(4) of this Act~~ shall be deemed to be owned directly
23 by the insurer and any other investors in proportion to the market value or if there is no market, the
24 reasonable value, of their interest in the subsidiaries.

25 (4) Effect of quantity limitations. To the extent that investments exceed the limitations
26 specified in Subsections 1 and 2, the excess may be assigned to the investment class authorized in
27 Section 7(12), until that limit is exhausted.

28 (5) Special rule for mutual funds, pooled investment vehicles and other investment
29 companies, excluding mutual funds listed on the SVO's U. S. Direct Obligations/Full Faith and
30 Credit Exempt List, Class 1 List, and/or Bond Fund List (SVO listed mutual funds). ~~((If the~~
31 ~~commissioner considers it desirable in order to get a proper evaluation of the investment portfolio of~~
32 ~~an insurer))~~ At the discretion of the commissioner, as may be deemed necessary in order to
33 determine compliance with this Act in relation to limitations of particular classes of investments, the
34 commissioner may require that investments in mutual funds, pooled investment vehicles or other
35 investment companies be treated for purposes of this Act as if the investor owned directly its
36 proportional share of the assets owned by the mutual fund, pooled investment vehicle or investment
37 company to the extent such individual non-SVO listed mutual funds, pooled investment vehicles, and
38 other investment companies exceed 2% of admitted assets or, in aggregate, 10% of admitted assets.

1 (6)Unless otherwise specified, an investment limitation computed on the basis of an insurer's
2 admitted assets or capital and surplus shall relate to the amount required to be shown on the
3 statutory balance sheet of the insurer most recently required to be filed with the commissioner.

4 (7) Investments authorized by Section 7(3) of this Act shall not exceed 80% of the fair value of
5 the particular property at the time of the investment, unless guaranteed or insured.

6 (a) The fair value shall be determined by a competent appraiser at the time of the
7 investment.

8 (b) Buildings and other improvements shall be kept insured for the benefit of the mortgagee.

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11 NEW SECTION. Sec. 9. PROTECTION AGAINST CURRENCY FLUCTUATIONS. An insurer
12 doing business that requires it to make payment in different currencies shall have investments in
13 securities in each of these currencies in an amount that independently of all other investments meets
14 the requirements of this Act as applied separately to the insurer's obligations in each currency. The
15 commissioner may by order exempt an insurer, or by ((regulation)) rule a class of insurers, from this
16 requirement if the obligations in other currencies are small enough that no significant problem for
17 financial ((solidity)) stability would be created by substantial fluctuations in relative currency
18 values.

19
20 NEW SECTION. Sec. 10. PROHIBITED INVESTMENTS. (1)(A) An insurer shall not invest in
21 investments that are prohibited for an insurer by statutes or rules of this state.

22 (b)The use of a derivative instrument for replication, speculative, or for any purposes other
23 than hedging or income generation, is prohibited.

24 (c) Investment in real property for speculative, ranching, farming, mining, gaming,
25 amusement, oil, gas, or mineral exploration, or club purposes, is prohibited.

26 (d) Investment in issued shares of its own capital stock, held directly or indirectly, except for
27 the purpose of mutualization in accordance with RCW 48.08.080, is prohibited.

28 (e) investment in securities issued by any corporation if a majority of its stock having voting
29 power is owned directly or indirectly by or for the benefit of any one or more of the insurer's officers
30 and directors, is prohibited.

31 (f) Investment in securities issued by any insolvent corporation, is prohibited.

32 (g) Investment in any instrument or security which is found by the commissioner to be
33 designed to evade any limitation or prohibition of this code, is prohibited.

34 (2)A reasonable time, not in excess of 5 years, shall be allowed for disposal of a prohibited
35 investment in hardship cases if the investment is demonstrated by the insurer to have been legal
36 when made, or the result of a mistake made in good faith, or if the commissioner deems that the sale
37 of the asset would be contrary to the interests of insureds, creditors, or the general public.

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2 NEW SECTION. Sec. 11. EFFECT OF INVESTMENT RESTRICTIONS. (1) Invested assets may
3 be counted toward satisfaction of the minimum asset requirement only so far as they are invested in
4 compliance with this Act and applicable (~~regulations~~) rules promulgated and orders issued by the
5 commissioner pursuant to this Act. Assets other than invested assets may be counted toward
6 satisfaction of the minimum asset requirement at admitted annual statement value.

7 (2) An investment held as an admitted asset by an insurer on the effective date of this Act
8 which qualified under (~~insert reference to state's prior code provisions on insurer investments~~)
9 chapter 48.13 RCW shall remain qualified as an admitted asset under this Act.

10 (3) Assets acquired in the bona fide enforcement of creditors' rights or in bona fide workouts
11 or settlements of disputed claims may be counted for the purposes of Subsection 1 for five (5) years
12 after acquisition if real property and three (3) years if not real property, even if they could not
13 otherwise be counted under this Act. The commissioner may allow reasonable extensions of these
14 periods if replacement of the assets within the periods would not be possible without substantial loss.

15 (4) If an insurer does not own, or is unable to apply toward compliance with this Act, an
16 amount of assets equal to its minimum asset requirement, the commissioner may deem it to be
17 financially hazardous under (~~insert reference to statute providing the lawful grounds for~~
18 liquidation and rehabilitation) chapters 48.31.

19
20 NEW SECTION. Sec. 12. REPORTS AND REPLIES (1) The commissioner may require any of the
21 following from a person subject to regulation under this Act:

22 (a) Statements, reports, answers to questionnaires and other information, and evidence
23 thereof, in whatever reasonable form the commissioner designates, and at such reasonable intervals
24 as the commissioner chooses.

25 (b) Full explanation of the programming of any data storage or communication system in use.

26 (c) That information from any books, records, electronic data processing systems, computers
27 or any other information storage system be made available to the commissioner at a reasonable time
28 and in a reasonable manner.

29 (2) The commissioner may prescribe forms for the reports under Subsection 1 and specify who
30 shall execute or certify the reports. The forms for the reports required under Subsection 1 shall be
31 consistent, so far as practicable, with those prescribed by other jurisdictions.

32 (3) The commissioner may prescribe reasonable minimum standards and techniques of
33 accounting and data handling to ensure that timely and reliable information will exist and will be
34 available to the commissioner.

35 (4) Any officer, manager or general agent of an insurer subject to this Act, any person
36 controlling or having a contract under which the person has a right to control the insurer, whether
37 exclusively or otherwise, or a person with executive authority over or in charge of any segment of the
38 insurer's affairs, shall reply promptly in writing or in other reasonably designated form, to a written

1 inquiry from the commissioner requesting a reply. A timely response is one that is received by the
2 commissioner within fifteen business days from receipt of the inquiry. Failure to make a timely
3 response constitutes a violation of this section.

4 (5)The commissioner may require that any communication made to the commissioner under
5 this section be verified.

6 (6)A communication to the commissioner, or to an expert or consultant retained by the
7 commissioner, required by the provisions of this Act shall not subject the person making it to an
8 action for damages for the communication in the absence of actual malice.

9 (7)Notwithstanding the provisions of Subsection 6, the commissioner may bring suit against
10 any person providing information required under this Act that is not truthful and accurate.

11
12 **NEW SECTION. Sec. 13. RETENTION OF EXPERTS.** The commissioner may retain at the
13 insurer's expense attorneys, actuaries, accountants and other experts not otherwise a part of the
14 commissioner's staff as may be reasonably necessary to assist in reviewing the insurer's investments.
15 Persons so retained shall be under the direction and control of the commissioner and shall act in a
16 purely advisory capacity.

17
18 **NEW SECTION. Sec. 14. COMMISSIONER'S ORDERS.** (1)If the commissioner determines that
19 an insurer's investment practices do not meet the provisions of this Act, the commissioner may, after
20 notification to the insurer of the commissioner's findings, order the insurer to make changes
21 necessary to comply with the provisions of this Act.

22 (2)If the commissioner determines that by reason of the financial condition, current
23 investment practice, or current investment plan of an insurer, the interests of insureds, creditors or
24 the general public are or may be endangered, the commissioner may impose reasonable additional
25 restrictions upon the admissibility or valuation of investments or may impose restrictions on the
26 investment practices of an insurer, including prohibition or divestment.

27 (3)The commissioner may count toward satisfaction of the minimum asset requirement any
28 assets in which an insurer is required to invest under the laws of a country other than the United
29 States as a condition for doing business in that country if the commissioner finds that counting them
30 does not endanger the interests of insureds, creditors or the general public.

31 (4)If the commissioner is satisfied by evidence of the financial ((solidity-)) stability of an
32 insurer and the competence of management and its investment advisors, the commissioner, after a
33 hearing, may by order adjust the class limitations in Section 8, for that insurer, to the extent that the
34 commissioner is satisfied that the interests of insureds, creditors and the public of this state are
35 sufficiently protected in other ways. Adjustments granted with respect to Section 8, in aggregate, are
36 limited to an amount equal to ten percent (10%) of the insurer's liabilities.

1 NEW SECTION. Sec. 15. ADMINISTRATIVE HEARINGS. (1)An insurer aggrieved by an order or
2 any other act or failure to act of the commissioner regarding compliance with this Act or rules
3 promulgated under this Act may request a hearing by following the procedures of ~~((insert citation to~~
4 ~~statutes on requesting hearings before the commissioner))~~ chapters 48.04 and 34.05 RCW.

5 ~~((2)The commissioner shall hold hearings under this section privately unless the insurer~~
6 ~~requests a public hearing, in which case the hearing shall be public.))~~

7
8
9 NEW SECTION. Sec. 16. CONFIDENTIALITY OF INFORMATION. The investment
10 policy, or information related to the investment policy provided to the commissioner for review under
11 this Act shall be considered confidential and shall not be a public record or subject to subpoena. ~~((~~
12 ~~except as [insert citations to statutes on filing financial statements with the commissioner, statutes~~
13 ~~on examinations, and statutes on rehabilitation and liquidation] may permit disclosure.))~~

14
15
16 NEW SECTION. Sec. 17. CONFLICT OF LAWS AND OTHER STANDARDS. (1)This Act shall
17 prevail over any other statute ~~((except [cite state holding company law]))~~ purporting to authorize an
18 insurer to make a particular investment if the other statute was enacted before ~~((fill in effective~~
19 ~~date))~~ January 1, 2012, and shall prevail over any statute enacted thereafter unless the latter
20 negates the application of this section or of particular provisions in this Act by specifically
21 designating them by number.

22 (2)An insurer shall value its assets in accordance with the valuation standards of the NAIC
23 to the extent those standards are consistent with the statutes of this state or ~~((regulations))~~ rules or
24 orders of the commissioner.

25
26
27 NEW SECTION. Sec. 18. ((REGULATIONS))RULES. (1)The commissioner may, in
28 accordance with ~~((insert citation to administrative procedures act or other statutes concerning~~
29 ~~promulgation of regulations))~~ chapter 34.05 RCW, promulgate ~~((regulations))~~ rules interpreting
30 and implementing the provisions of this Act.

31 (2)The commissioner may, in accordance with ~~((insert citation to administrative procedures,~~
32 ~~act, or other statutes concerning promulgation of regulations))~~ chapter 34.05 RCW, promulgate
33 special investment restrictions as follows:

34 (a)The commissioner may by ~~((regulation))~~ rule prescribe for defined classes of insurers
35 special procedural requirements including special reports, prior approval or subsequent disapproval
36 of investments.

37 (b)The commissioner may by ~~((regulation))~~ rule prescribe substantive restrictions on
38 investments of defined classes of insurers, including:

1 (i) Specification of classes of assets that may not be counted toward satisfaction of the
2 minimum asset requirement even though they may be counted for unrestricted insurers;

3 (ii) Specification of maximum amounts of assets that may be invested in a single investment,
4 or an issue, a class or a group of classes of investments, expressed as percentages of total assets,
5 capital, surplus, legal reserves or other variables;

6 (iii) Prescription of qualitative tests for investments and conditions under which investments
7 may be made, including requirements of specified ratings from investment advisory services, listing
8 on specified stock exchanges, collateral, marketability, currency matching and the financial and legal
9 status of the issuer and its earnings capacity.

10 (3) If the commissioner is satisfied by evidence of the financial ((solidity)) stability of an
11 insurer and the competence of management and its investment advisors, the commissioner, after a
12 hearing, may by order grant an exemption to that insurer from any restriction under Subsection 2 of
13 this section to the extent that the commissioner is satisfied that the interests of insureds, creditors
14 and the general public of this state are protected in other ways.

15
16 **Sec. 19.** RCW 48.13.350 and 2009 c 549s 7055 are each reenacted and amended to read as
17 follows:

18 (1) ~~((As to each investment or loan of the funds of a domestic insurer a written record in
19 permanent form showing the authorization thereof shall be made and signed by an officer of the
20 insurer or by the chair of such committee authorizing the investment or loan.~~

21
22 ~~—(2) As to each such investment or loan the insurer's records))~~ A written record of each investment
23 or loan of the funds of a domestic insurer shall contain:

24
25 (a) In the case of loans: The name of the borrower; the location and legal description of the
26 property; a physical description, and the appraised value of the security; the amount of the loan, rate
27 of interest and terms of repayment.

28
29 (b) In the case of securities: The name of the obligor; a description of the security and the record of
30 earnings; the amount invested, the rate of interest or dividend, the maturity and yield based upon
31 the purchase price.

32
33 (c) In the case of real estate: The location and legal description of the property; a physical
34 description and the appraised value; the purchase price and terms.

35
36 (d) In the case of all investments:

37
38 (i) The amount of expenses and commissions if any incurred on account of any investment or loan

1 and by whom and to whom payable if not covered by contracts with mortgage loan representatives or
2 correspondents which are part of the insurer's records.

3
4 (ii) The name of any officer or director of the insurer having any direct, indirect, or contingent
5 interest in the securities or loan representing the investment, or in the assets of the person in whose
6 behalf the investment or loan is made, and the nature of such interest.

7
8 **Sec. 20** RCW 42.56.400 and 2009 c 104 s 23 are each reenacted and amended to read as
9 follows:

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

12
13 (1) Records maintained by the board of industrial insurance appeals that are related to appeals of
14 crime victims' compensation claims filed with the board under RCW 7.68.110;

15
16 (2) Information obtained and exempted or withheld from public inspection by the health care
17 authority under RCW 41.05.026, whether retained by the authority, transferred to another state
18 purchased health care program by the authority, or transferred by the authority to a technical
19 review committee created to facilitate the development, acquisition, or implementation of state
20 purchased health care under chapter 41.05 RCW;

21
22 (3) The names and individual identification data of either all owners or all insureds, or both,
23 received by the insurance commissioner under chapter 48.102 RCW;

24
25 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

26
27 (5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225,
28 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

29
30 (6) Examination reports and information obtained by the department of financial institutions
31 from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan
32 associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and
33 sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW
34 21.20.100, all of which is confidential and privileged information;

35
36 (7) Information provided to the insurance commissioner under RCW 48.110.040(3);

37
38 (8) Documents, materials, or information obtained by the insurance commissioner under RCW
39 48.02.065, all of which are confidential and privileged;

40
41 (9) Confidential proprietary and trade secret information provided to the commissioner under
42 RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

43
44 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in
45 combination with any other data, may reveal the identity of a claimant, health care provider, health
46 care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims.
47 For the purposes of this subsection:

48
49 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

50
51 (b) "Health care facility" has the same meaning as in RCW 48.140.010(6).
52

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

2
3 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

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

6
7 (11) Documents, materials, or information obtained by the insurance commissioner under RCW
8 48.135.060;

9
10 (12) Documents, materials, or information obtained by the insurance commissioner under RCW
11 48.37.060;

12
13 (13) Confidential and privileged documents obtained or produced by the insurance commissioner
14 and identified in RCW 48.37.080;

15
16 (14) Documents, materials, or information obtained by the insurance commissioner under RCW
17 48.37.140;

18
19 (15) Documents, materials, or information obtained by the insurance commissioner under RCW
20 48.17.595; and

21
22 (16) Documents, materials, or information obtained by the insurance commissioner under RCW
23 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii).

24 (17) Documents, materials, or information obtained by the insurance commissioner under
25 Sec. 16 of [reference to this act].

26
27 NEW SECTION. Sec. 21. Captions used in this act are not any part of the law.

28
29 NEW SECTION. Sec. 22. Sections 1 through 18 of this act are each added to Chapter 48.13 RCW.

30
31 NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

32 (1) RCW 48.13.010 (Scope of chapter – Eligible investments.) and 1973 c 151 s2.

33 (2) RCW 48.13.020 (General qualifications.) and 1983 1st.ex.s. c 32 s 2.

34 (3) RCW 48.13.030 (Limitation on securities of one entity or a depository institution.)
35 and 2001 c 21 s 1.

36 (4) RCW 48.13.040 (Public obligations.) and 1947 c 79 s .13.04.

37 (5) RCW 48.13.050 (Corporate obligations.) and 1993 c 92 s 2.

38 (6) RCW 48.13.060 (Terms defined.) and 1993 c 92 s 3.

39 (7) RCW 48.13.070 (Securities of merged or reorganized institutions.) and 1947 c 79 s
40 .13.07.

41 (8) RCW 48.13.080 (Preferred or guaranteed stocks.) and 1947 c 79 s .13.08.

42 (9) RCW 48.13.090 (Trustees' or receivers' obligations.) and 1947 c 79 s .13.09.

43 (10) RCW 48.13.100 (Equipment trust certificates.) and 1947 c 79 s .13.10.

44 (11) RCW 48.13.110 (Mortgages, deeds of trust, mortgage bonds, notes, contracts.) and
45 1975 1st ex.s. c 154 s 1.

46 (12) RCW 48.13.120 (Investments limited by property value.) and 2007 c 80 s 6.

- 1 [\(13\)RCW 48.13.125 \(Mortgage loans on one family dwellings – Limitation on](#)
2 [amortization.\) and 1969 ex.s. c 241 s 6.](#)
- 3 [\(14\)RCW 48.13.130\("Encumbrance" defined.\) and 1955 c 303 s 2.](#)
- 4 [\(15\)RCW 48.13.140 \(Appraisal of property – Insurance – Limit of loan.\) and 1967 ex.s. c](#)
5 [95 s12.](#)
- 6 [\(16\)RCW 48.13.150 \(Auxiliary chattel mortgages.\) and 1947 c 79 s .13.15.](#)
- 7 [\(17\)RCW 48.13.160 \(Real property owned – Home office building.\) and 1981 c 339 s 6.](#)
- 8 [\(18\)RCW 48.13.170 \(Disposal of real property – Time limit.\) and 1967 ex.s. c 95 s 14.](#)
- 9 [\(19\)RCW 48.13.180 \(Foreign securities.\) and 2003 c 251 s 1.](#)
- 10 [\(20\)RCW 48.13.190 \(Policy loans.\) and 1947 c 79 s .13.19.](#)
- 11 [\(21\)RCW 48.13.200 \(Savings and share accounts.\) and 1947 c 79 s .13.20.](#)
- 12 [\(22\)RCW 48.13.210 \(Insurance stocks.\) and 1979 ex.s. c 199 s 3.](#)
- 13 [\(23\)RCW 48.13.218 \(Limitation on insurer loans or investments.\) and 2001 c 90 s 1.](#)
- 14 [\(24\)RCW 48.13.220 \(Common stocks – Investment – Acquisition – Engaging in certain](#)
15 [businesses.\) and 2008 c 217 s 5.](#)
- 16 [\(25\)RCW 48.13.230 \(Collateral loans.\) and 1947 c 79 s .13.23.](#)
- 17 [\(26\)RCW 48.13.240 \(Miscellaneous investments.\) and 2004 c 88 s 1.](#)
- 18 [\(27\)RCW 48.13.250 \(Special consent investments.\) and 1947 c 79 s .13.25.](#)
- 19 [\(28\)RCW 48.13.260 \(Required investments for capital and reserves.\) and 1971 ex.s. c 13](#)
20 [s 16.](#)
- 21 [\(29\)RCW 48.13.265 \(Investments secured by real estate – Amount restricted.\) and 2007](#)
22 [c 80 s 7.](#)
- 23 [\(30\) RCW 48.13.270 \(Prohibited Investments\) and 1995 c 84 s1.](#)
- 24 [\(31\)RCW 48.13.273 \(Acquisition of medium and lower grade obligations – Definitions –](#)
25 [Limitations – Rules.\) and 1993 c 92 s 5.](#)
- 26 [\(32\)RCW 48.13.275 \(Obligations rated by the securities valuation office.\) and 2007 c 80](#)
27 [s 8.](#)
- 28 [\(33\)RCW 48.13.280 \(Securities underwriting, agreements to withhold or repurchase,](#)
29 [prohibited.\) and 1947 c 79 s .13.28.](#)
- 30 [\(34\)RCW 48.13.285 \(Derivative transactions – Restrictions – Definitions – Rules.\) and](#)
31 [1997 c 317 s 1.](#)
- 32 [\(35\)RCW 48.13.290 \(Disposal of ineligible property or securities.\) and 1982 c 218 s 6.](#)
- 33 [\(36\) RCW 48.13.340 \(Authorization of investments.\) and 1949 c 190 s 19.](#)

34
35
36 NEW SECTION. **Sec. 24.** EFFECTIVE DATE. This Act shall be effective [January 1, 2012.](#)