



# PROPOSED RULE MAKING

**CR-102 (October 2017)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: October 19, 2020

TIME: 11:18 AM

**WSR 20-21-079**

**Agency:** Office of the Insurance Commissioner

- Original Notice**
- Supplemental Notice to WSR**
- Continuance of WSR** \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 16-18-065 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) Insurance Commissioner Matter No. R 2016-23 Service Contract Providers and Protection Product Guarantee Providers

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
November 30, 2020	10:00 AM	Remote access information for public testimony will be available here: <a href="https://www.insurance.wa.gov/service-contract-providers-and-protection-product-guarantee-providers-solvency-and-filings">https://www.insurance.wa.gov/service-contract-providers-and-protection-product-guarantee-providers-solvency-and-filings</a>	Due to the COVID-19 public health emergency, this hearing will be held via Zoom.

**Date of intended adoption:** December 1, 2020 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Bode Makinde  
Address: PO Box 40258 Olympia WA 98504  
Email: rulescoordinator@oic.wa.gov  
Fax: 360-725-7038  
Other:  
By (date) November 30, 2020

**Assistance for persons with disabilities:**

Contact Melanie Watness  
Phone: 360-725-7013  
Fax: 360-586-2023  
TTY: 360-586-0241 or 360-725-7087  
Email: MelanieW@oic.wa.gov  
Other:  
By (date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This supplemental filing will consider clarifying language to ensure consistency with statutory requirement. The proposed rules will consider clarifying solvency and financial requirements of service contract providers and protection product guarantee providers, forms of a parental guarantee, the filings these entities submit to the Commissioner, and the correction of outdated statutory citations.

**Reasons supporting proposal:** Since the original enactment of chapter 48.110 RCW there have been several amendments to that chapter, including the 2016 legislative session. In addition over the years there have been issues that have arisen regarding the requirements for solvency and filings required to be made by service contract providers and protection product guarantee providers to the OIC.

**Statutory authority for adoption:** 48.02.060 and RCW 48.110.150

**Statute being implemented:** Chapter 48.110 RCW

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Mike Kreidler, Insurance Commissioner

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Bode Makinde	PO Box 40260, Olympia, WA 98504-0260	360-725-7038
Implementation:	Ron Pastuch	PO Box 40255, Olympia, WA 98504-0255	360-725-7211
Enforcement:	Melanie, Anderson	PO Box 40255, Olympia, WA 98504-0255	360-725-7214

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Bode Makinde  
Address: PO Box 40260, Olympia, WA 98504-0260  
Phone: 360-725-7038  
Fax: 360-586-3109  
TTY: 360-586-0241 or 360-725-7087  
Email: rulescoordinator@oic.wa.gov  
Other:

No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- |   |   |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)   |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language)    | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 34.05.310 (4)(e): WAC 284-110.

Explanation of exemptions, if necessary:

The stakeholders that are affected by this rule are not small businesses as defined in RCW 19.85.020(3).

The domestic insurers that are affected by this rule are large, interstate insurers and are not small businesses as defined in RCW 19.85.020(3). The OIC applied a default cost of compliance (**\$100**) when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). Below are calculations for minor cost thresholds across all impacted industries based on the best analogous NAICS types. For these reasons, the proposed rules do not impose more than minor costs on businesses as defined by RCW 19.85.020(2).

2017 Industry NAICS Code	NAICS Code Title	Minor Cost Estimate	Average annual employment	1% of Avg Annual Payroll	0.3% of Avg Annual Gross Business Income
524126	Direct Property and Casualty Insurance Carriers	33951.09	6,393	\$33,951.09 2018 Dataset pulled from USBLS	\$2,571.20 2018 Dataset pulled from DOR
524128	Other Direct Insurance (except Life; Health; and Medical) Carriers	6357.56	118	\$6,357.56 2018 Dataset pulled from ESD	\$5,264.55 2018 Dataset pulled from DOR
524210	Insurance Agencies and Brokerages	4879.47	15,498	\$4,879.47 2018 Dataset pulled from USBLS	\$2,407.22 2018 Dataset pulled from DOR
524298	All Other Insurance Related Activities	10871.62	1,243	\$10,871.62 2018 Dataset pulled from USBLS	\$4,340.77 2018 Dataset pulled from DOR

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** October 19, 2020

**Name:** Mike Kreidler

**Title:** Insurance Commissioner

**Signature:**



**Chapter 284-110 WAC**  
**SERVICE CONTRACTS AND PROTECTION PRODUCT GUARANTEES**

NEW SECTION

**WAC 284-110-010 Definitions.** The definitions in this section apply throughout this chapter.

(1) "Most recent financial statements" means a partial fiscal year financial statement to include year-end totals, if available. For start-up applicants, formed less than one fiscal year, partial fiscal year financial statements shall include the months from formation to current.

(2) "Statutory accounting principles" means the current year accounting practices and procedures manual as adopted by the national association of insurance commissioners. Service contract providers and protection product guarantee providers must follow all statement of statutory accounting principles with a type of issue of "common area" and "property and casualty." Any permitted accounting practices from a domiciliary state regulator shall not be used in determining minimum net worth. Only service contract providers relying on RCW 48.110.050 (2)(a) or 48.110.075 (2)(a) may elect to use statutory accounting principles.

(3) "Material changes or additions" as referred to in RCW 48.110.030(6) and 48.110.055(7) means the following:

(a) Any financial condition where the registrant, or its parent company if applicable, fails to maintain the net worth requirements under RCW 48.110.030 (2)(c)(i) and (ii) and 48.110.055 (3)(e).

(b) The information referred to in RCW 48.110.030 (2)(a) and (b).

(c) Change of financial responsibility or faithful performance requirements under RCW 48.110.050 (2)(a) through (c).

(d) The information referred to in RCW 48.110.055 (2)(b) through (3)(d).

NEW SECTION

**WAC 284-110-020 Certified financial statement.** (1) RCW 48.110.030 and 48.110.055 permit service contract providers and protection product guarantee providers to submit financial statements certified as accurate by two or more officers of the service contract provider or protection product guarantee provider in lieu of audited financial statements in certain circumstances. Certified financial statements must include all the financial statements, notes, and information that accurately present the financial position of the provider at the report date. Management is responsible for the preparation and fair presentation of these financial statements in conformity with the accounting practices prescribed or permitted under chapter 48.110 RCW and this chapter.

(2) Only service contract providers and protection product guarantee providers filing certified financial statements must use the

prescribed certification of financial statements form that is available on the commissioner's website.

NEW SECTION

**WAC 284-110-030 Parental guarantee.** Service contract providers relying on RCW 48.110.050 (2)(c) to demonstrate financial responsibility or assure faithful performance must use the prescribed parental guarantee form that is available on the commissioner's website.

**WAC 284-20C-005 Definitions that apply to this chapter.** The definitions in this section apply throughout this chapter:

(1) "Complete filing" means a package of information containing motor vehicle service contracts, supporting information, documents and exhibits.

(2) "Contract" means a service contract covering motor vehicles, as described in chapter 48.110 RCW. Under this definition:

(a) "Motor vehicle" means the same as in RCW 48.110.020(7), and only includes vehicles that are self-propelled by a motor; and

(b) "Service contract" means the same as in RCW 48.110.020(~~(17)~~) (18).

(3) "Date filed" means the date a complete motor vehicle service contract filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files motor vehicle service contracts with the commissioner.

(5) "Objection letter" means correspondence sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a motor vehicle service contract under RCW 48.110.073.

(6) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows filers to create and submit rate, rule and form filings electronically to the commissioner.

(7) "Service contract provider" or "provider" means the same as in RCW 48.110.020(~~(19)~~) (20).

(8) "Type of insurance" means a specific type of insurance listed in the *Uniform Property and Casualty Product Coding Matrix* published by the NAIC and available at [www.naic.org](http://www.naic.org).