

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1266

Chapter 25, Laws of 2023

68th Legislature
2023 Regular Session

INSURANCE COMMISSIONER—USE OF EMAIL

EFFECTIVE DATE: July 1, 2023

Passed by the House February 28, 2023
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 22, 2023
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Approved April 6, 2023 9:22 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1266** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 6, 2023

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1266

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Consumer Protection & Business (originally sponsored by Representatives Santos, Corry, and Reeves)

READ FIRST TIME 02/03/23.

1 AN ACT Relating to the use of email by the office of the
2 insurance commissioner when communicating with licensees; amending
3 RCW 48.17.170, 48.17.450, 48.17.475, and 48.15.103; adding a new
4 section to chapter 48.02 RCW; providing an effective date; and
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 48.17.170 and 2012 c 154 s 5 are each amended to
8 read as follows:

9 (1) Unless denied licensure under RCW 48.17.530, persons who have
10 met the requirements of RCW 48.17.090 and 48.17.110 shall be issued
11 an insurance producer license. An insurance producer may receive a
12 license in one or more of the following lines of authority:

13 (a) "Life," which is insurance coverage on human lives, including
14 benefits of endowment and annuities, and may include benefits in the
15 event of death or dismemberment by accident and benefits for
16 disability income;

17 (b) "Disability," which is insurance coverage for accident,
18 health, and disability or sickness, bodily injury, or accidental
19 death, and may include benefits for disability income;

20 (c) "Property," which is insurance coverage for the direct or
21 consequential loss or damage to property of every kind;

1 (d) "Casualty," which is insurance coverage against legal
2 liability, including that for death, injury, or disability or damage
3 to real or personal property;

4 (e) "Variable life and variable annuity products," which is
5 insurance coverage provided under variable life insurance contracts,
6 variable annuities, or any other life insurance or annuity product
7 that reflects the investment experience of a separate account;

8 (f) "Personal lines," which is property and casualty insurance
9 coverage sold to individuals and families for primarily noncommercial
10 purposes;

11 (g) Limited lines:

12 (i) Surety;

13 (ii) Limited line credit insurance;

14 (iii) Travel;

15 (h) Specialty lines:

16 (i) Portable electronics;

17 (ii) Rental car;

18 (iii) Self-service storage; or

19 (i) Any other line of insurance permitted under state laws or
20 rules.

21 (2) Unless denied licensure under RCW 48.17.530, persons who have
22 met the requirements of RCW 48.17.090(4) shall be issued a title
23 insurance agent license.

24 (3) All insurance producers', title insurance agents', and
25 adjusters' licenses issued by the commissioner shall be valid for the
26 time period established by the commissioner unless suspended or
27 revoked at an earlier date.

28 (4) Subject to the right of the commissioner to suspend, revoke,
29 or refuse to renew any insurance producer's, title insurance agent's,
30 or adjuster's license as provided in this title, the license may be
31 renewed into another like period by filing with the commissioner by
32 any means acceptable to the commissioner on or before the expiration
33 date a request, by or on behalf of the licensee, for such renewal
34 accompanied by payment of the renewal fee as specified in RCW
35 48.14.010.

36 (5) If the request and fee for renewal of an insurance
37 producer's, title insurance agent's, or adjuster's license are filed
38 with the commissioner prior to expiration of the existing license,
39 the licensee may continue to act under such license, unless sooner
40 revoked or suspended, until the issuance of a renewal license, or

1 until the expiration of (~~fifteen~~) 15 days after the commissioner
2 has refused to renew the license and has mailed notification of such
3 refusal to the licensee. If the request and fee for the license
4 renewal are not received by the expiration date, the authority
5 conferred by the license ends on the expiration date.

6 (6) If the request for renewal of an insurance producer's, title
7 insurance agent's, or adjuster's license and payment of the fee are
8 not received by the commissioner prior to the expiration date, the
9 applicant for renewal shall pay to the commissioner, in addition to
10 the renewal fee, a surcharge as follows:

11 (a) For the first (~~thirty~~) 30 days or part thereof of
12 delinquency, the surcharge is (~~fifty~~) 50 percent of the renewal
13 fee;

14 (b) For the next (~~thirty~~) 30 days or part thereof of
15 delinquency, the surcharge is (~~one hundred~~) 100 percent of the
16 renewal fee.

17 (7) If the request for renewal of an insurance producer's, title
18 insurance agent's, or adjuster's license and fee for the renewal are
19 received by the commissioner after (~~sixty~~) 60 days but prior to
20 (~~twelve~~) 12 months after the expiration date, the application is
21 for reinstatement of the license and the applicant for reinstatement
22 must pay to the commissioner the license fee and a surcharge of (~~two~~
23 ~~hundred~~) 200 percent of the license fee.

24 (8) Subsections (6) and (7) of this section do not exempt any
25 person from any penalty provided by law for transacting business
26 without a valid and subsisting license or appointment.

27 (9) An individual insurance producer, title insurance agent, or
28 adjuster who allows his or her license to lapse may, within
29 (~~twelve~~) 12 months after the expiration date, reinstate the same
30 license without the necessity of passing a written examination.

31 (10) A licensed insurance producer who is unable to comply with
32 license renewal procedures due to military service or some other
33 extenuating circumstance such as a long-term medical disability, may
34 request a waiver of those procedures. The producer may also request a
35 waiver of any examination requirement or any other fine or sanction
36 imposed for failure to comply with renewal procedures.

37 (11) The license shall contain the licensee's name, address,
38 personal identification number, and the date of issuance, lines of
39 authority, expiration date, and any other information the
40 commissioner deems necessary.

1 (12) Licensees shall inform the commissioner by any means
2 acceptable to the commissioner of a change of address and email
3 address within (~~thirty~~) 30 days of the change. Failure to timely
4 inform the commissioner of a change in legal name (~~(or)~~), address, or
5 email address, may result in a penalty under either RCW 48.17.530 or
6 48.17.560, or both.

7 **Sec. 2.** RCW 48.17.450 and 2007 c 117 s 22 are each amended to
8 read as follows:

9 (1) Every licensed insurance producer, title insurance agent, and
10 adjuster, other than an insurance producer licensed for life or
11 disability insurances only, shall have and maintain in this state,
12 or, if a nonresident insurance producer or title insurance agent, in
13 this state or in the state of the licensee's domicile, a place of
14 business accessible to the public. Such place of business shall be
15 that wherein the insurance producer or title insurance agent
16 principally conducts transactions under that person's licenses. A
17 licensee maintaining more than one place of business in this state
18 shall obtain a duplicate license or licenses for each additional such
19 place, and shall pay the full fee therefor.

20 (2) Any notice, order, or written communication, including any
21 notification of investigation; notification of audit and findings
22 resulting from such audit; or written communication from the
23 commissioner under RCW 48.17.475(2)(c)(ii), from the commissioner to
24 a person licensed under this chapter which directly affects the
25 person's license shall be sent by mail to the person's last address
26 of record with the commissioner.

27 (3) Every insurance producer, title insurance agent, adjuster,
28 and other person licensed under this chapter shall provide the
29 commissioner with a current email address. The commissioner may send
30 a written communication by email to a licensee's last email address
31 of record with the commissioner if:

32 (a) The communication is not required to be sent to the person's
33 mailing address pursuant to subsection (2) of this section;

34 (b) The person has affirmatively consented to receive
35 communications from the commissioner by email; and

36 (c)(i) The email from the commissioner does not require a
37 response; or

38 (ii) If a response is required, the requirements under RCW
39 48.17.475(2)(b) are met prior to the commissioner sending the email.

1 (4) Email communication sent to an applicant prior to the
2 issuance of a license, and auto-generated system emails regarding a
3 license application or license renewal processes, are excluded from
4 the requirements of subsection (3) of this section.

5 **Sec. 3.** RCW 48.17.475 and 2007 c 117 s 25 are each amended to
6 read as follows:

7 (1) Every insurance producer, title insurance agent, adjuster, or
8 other person licensed under this chapter shall ((promptly reply))
9 timely respond in writing to an inquiry of the commissioner sent to a
10 person's mailing address relative to the business of insurance. A
11 timely response is one that is received by the commissioner within
12 ((fifteen)) 15 business days from receipt of the inquiry. Failure to
13 make a timely response constitutes a violation of this section and
14 may result in a penalty under either RCW 48.17.530 or 48.17.560, or
15 both.

16 (2)(a) Every insurance producer, title insurance agent, adjuster,
17 and other person licensed under this chapter shall timely respond in
18 writing to an inquiry of the commissioner sent to a person's email
19 address relative to the business of insurance. A timely response is
20 one that is received by the commissioner within 15 business days from
21 receipt of the inquiry. Failure to make a timely response constitutes
22 a violation of this subsection if the requirements under (c) of this
23 subsection are met.

24 (b)(i) When an email from the commissioner requires a response,
25 the commissioner shall:

26 (A) Send no fewer than two separate emails with a subject line
27 stating "Response Required"; and

28 (B) Prominently display in large font type in the body of each
29 email the following: "FAILURE TO TIMELY RESPOND TO THIS EMAIL IS A
30 VIOLATION OF RCW 48.17.475 AND IS SUBJECT TO PENALTIES UNDER RCW
31 48.17.530 AND 48.17.560 INCLUDING FINES AND LICENSE REVOCATION. A
32 TIMELY RESPONSE IS ONE RECEIVED BY THE COMMISSIONER WITHIN 15
33 BUSINESS DAYS OF YOUR RECEIPT OF THIS INQUIRY."

34 (ii) If the commissioner sends an inquiry by email and is
35 notified that the email is undeliverable, the commissioner shall
36 resend the notice once by mail to the person's last known address on
37 record with the commissioner.

38 (c) A person is in violation of this subsection only if: (i) The
39 commissioner complies with the requirements under (b) of this

1 subsection; (ii) the commissioner sends a third and final written
2 inquiry by certified mail to the person's last mailing address
3 registered with the commissioner that follows the requirements of
4 (b)(i)(B) of this subsection; and (iii) the commissioner fails to
5 receive a response within 15 business days of the licensee's receipt
6 of the inquiry.

7 **Sec. 4.** RCW 48.15.103 and 2009 c 162 s 6 are each amended to
8 read as follows:

9 (1) A surplus line broker doing business under any name other
10 than the surplus line broker's legal name is required to register the
11 name in accordance with chapter 19.80 RCW and notify the commissioner
12 before using the assumed name.

13 (2) Every licensed surplus line broker shall have and maintain in
14 this state, or, if a nonresident surplus line broker, in this state
15 or in the state of the licensee's domicile, a place of business
16 accessible to the public. The place of business is where the surplus
17 line broker principally conducts transactions under that person's
18 license. A licensee maintaining more than one place of business in
19 this state shall obtain a duplicate license or licenses for each
20 additional place, and shall pay the full fee therefor.

21 (3) Every licensed surplus line broker and other person licensed
22 under this chapter shall provide the commissioner with a current
23 email address and update the commissioner within 30 days of any
24 change in email address. The commissioner may send a written
25 communication by email to a licensee's last email address of record
26 with the commissioner if:

27 (a) The communication is not required to be sent to the person's
28 mailing address pursuant to subsection (4) of this section;

29 (b) The person has affirmatively consented to receive
30 communications from the commissioner by email; and

31 (c) (i) The email from the commissioner does not require a
32 response; or

33 (ii) If a response is required, the requirements under subsection
34 (8)(b) of this section are met prior to the commissioner sending the
35 email.

36 (4) Any notice, order, or written communication, including any
37 notification of investigation; notification of audit and findings
38 resulting from such audit; or written communication from the
39 commissioner under subsection (8)(c)(ii) of this section, from the

1 commissioner to a person licensed under this chapter which directly
2 affects the person's license shall be sent by mail to the person's
3 last address of record with the commissioner.

4 ~~((4))~~ (5) The license or licenses of each surplus line broker
5 shall be displayed in a conspicuous place in that part of the place
6 of business which is customarily open to the public.

7 ~~((5))~~ (6) If a surplus line broker is dealing directly with the
8 insured in any capacity, the surplus line broker must comply with the
9 disclosure requirements contained in RCW 48.17.270.

10 ~~((6))~~ (7) Every surplus line broker or other person licensed
11 under this chapter shall ~~((promptly reply))~~ timely respond in writing
12 to an inquiry of the commissioner sent to the person's mailing
13 address relative to the business of insurance. A timely response is
14 one that is received by the commissioner within ~~((fifteen))~~ 15
15 business days from receipt of the inquiry. Failure to make a timely
16 response constitutes a violation of this section and may result in a
17 penalty under RCW 48.17.530 or 48.17.560.

18 ~~((7))~~ (8)(a) A surplus line broker or other person licensed
19 under this chapter shall timely respond in writing to an inquiry of
20 the commissioner sent to the person's email address relative to the
21 business of insurance. A timely response is one that is received by
22 the commissioner within 15 business days from receipt of the inquiry.
23 Failure to make a timely response constitutes a violation of this
24 subsection if the requirements of (c) of this subsection are met.

25 (b)(i) When an email from the commissioner requires a response in
26 accordance with this subsection, the commissioner shall:

27 (A) Send no fewer than two separate emails with a subject line
28 stating "Response Required"; and

29 (B) Prominently display in large font type in the body of each
30 email the following: "FAILURE TO TIMELY RESPOND TO THIS EMAIL IS A
31 VIOLATION OF RCW 48.15.103 AND IS SUBJECT TO PENALTIES UNDER RCW
32 48.15.140 AND 48.17.560 INCLUDING FINES AND LICENSE REVOCATION. A
33 TIMELY RESPONSE IS ONE RECEIVED BY THE COMMISSIONER WITHIN 15
34 BUSINESS DAYS OF YOUR RECEIPT OF THIS INQUIRY."

35 (ii) If the commissioner sends an inquiry by email and is
36 notified that the email is undeliverable, the commissioner shall
37 resend the notice once by mail to the person's last known address on
38 record with the commissioner.

39 (c) A person is only in violation of this section if: (i) The
40 commissioner complies with the requirements in (b) of this

1 subsection; (ii) the commissioner sends a third and final written
2 inquiry by certified mail to the person's last mailing address
3 registered with the commissioner that follows the requirements of
4 (b)(i)(B) of this subsection; and (iii) the commissioner fails to
5 receive a response within 15 business days of the licensee's receipt
6 of the inquiry.

7 (9) Email communication sent to an applicant prior to the
8 issuance of a license, and auto-generated system emails regarding a
9 license application or license renewal processes, are excluded from
10 the requirements of subsection (8) of this section.

11 (10) A surplus line broker shall report to the commissioner any
12 administrative action taken against the surplus line broker in
13 another jurisdiction or by another governmental agency in this state
14 within (~~thirty~~) 30 days of the final disposition of the matter.
15 This report must include a copy of the order, consent to order, or
16 other relevant legal documents.

17 (~~(8)~~) (11) Within (~~thirty~~) 30 days of the initial pretrial
18 hearing date, a surplus line broker shall report to the commissioner
19 any criminal prosecution of the surplus line broker taken in any
20 jurisdiction. The report must include a copy of the initial complaint
21 filed, the order resulting from the hearing, and any other relevant
22 legal documents.

23 NEW SECTION. Sec. 5. A new section is added to chapter 48.02
24 RCW to read as follows:

25 (1) The commissioner shall develop and implement a process for an
26 affected licensee to petition the commissioner for the removal of any
27 disciplinary investigations and orders on the affected licensee's
28 public disciplinary record related solely to an email-based violation
29 of RCW 48.15.103 or 48.17.475 as those sections existed prior to July
30 1, 2023. An affected licensee who petitions the commissioner shall
31 provide documentation demonstrating that the disciplinary
32 investigations and orders on the affected licensee's record were
33 solely the result of an email-based violation of RCW 48.15.103 or
34 48.17.475 as those sections existed prior to July 1, 2023. Upon
35 receipt of a petition with appropriate documentation, the
36 commissioner shall immediately:

37 (a) Remove any related disciplinary investigations and orders
38 from the affected licensee's public disciplinary record;

1 (b) Send a notice to the national insurance producer registry
2 that the commissioner erroneously took administrative action against
3 the affected licensee and request that the national insurance
4 producer registry expunge any related record of the administrative
5 action from the affected licensee's history; and

6 (c) Send to the affected licensee, by certified mail, a copy of
7 the commissioner's notice to the national insurance producer
8 registry.

9 (2) The commissioner shall identify the amount of money collected
10 as fines from each affected licensee solely for email-based
11 violations of RCW 48.15.103 or 48.17.475 as those sections existed
12 prior to July 1, 2023, and, as soon as practicable, refund such money
13 to each affected licensee from the existing operating budget for the
14 commissioner's office.

15 (3) As used in this section:

16 (a) "Affected licensee" means any licensee regulated by the
17 commissioner who was penalized by the commissioner solely for an
18 email-based violation of RCW 48.15.103 or 48.17.475 as those sections
19 existed prior to July 1, 2023.

20 (b) "Email-based violation" means a violation solely of RCW
21 48.15.103 or 48.17.475, as those sections existed prior to July 1,
22 2023, resulting from an affected licensee's failure to provide a
23 timely response to an inquiry of the commissioner where such inquiry
24 was only sent to the affected licensee by email. A violation of RCW
25 48.17.475 or 48.15.103 that is connected to a different violation of
26 any insurance laws or rules is not an email-based violation subject
27 to this section.

28 NEW SECTION. **Sec. 6.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of
34 the state government and its existing public institutions, and takes
35 effect July 1, 2023.

Passed by the House February 28, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

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