

Service-contract providers and protection-product-guarantee providers: Solvency and filings requirements (R 2016-23)

**Stakeholder draft | June 18, 2020**

**Comments due to OIC by July 3, 2020**

## **New Chapter 284-110 WAC**

### **SERVICE CONTRACTS AND PROTECTION PRODUCT GUARANTEES**

~~WAC 284-110-010 Solvency defined. (1) RCW 48.110.030 (service contract providers) and RCW 48.110.055 (protection product guarantee providers) require that a service contract provider and protection product guarantee provider be solvent on a stand-alone basis in order to be registered and continue to issue contracts in this state.~~

~~(2) For the purposes of chapter 48.110 RCW and this chapter "solvent" means:~~

~~(a) Having a minimum net worth of two hundred thousand dollars, with assets exceeding liabilities by this amount. In determining its net worth, the service contract provider or protection product guarantee provider:~~

~~(i) May only include those unencumbered assets which it owns directly in its own name;~~

~~(ii) Must include as a liability:~~

~~(A) An amount equal in the aggregate to provide for all unearned service contract or protection product guarantee fees;~~

~~(B) An amount for payment of all expected claims and claims which have been incurred, whether reported or unreported, which are unpaid and for which the service contract provider or protection product guarantee provider is or may be liable, which amount must be held in a reserve account(s) legally owned by the service contract~~

~~provider or protection product guarantee provider which has unencumbered access to the funds at all times; and~~

~~(b) The service contract provider or protection product guarantee provider is able to pay its debts as the debts become due.~~

**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. If Statutory accounting is elected, 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 RCW 48.110.055(7) means any and all changes pertaining to the operations and/or financial condition of the registrant that has changed from the information initially provided to the Office of the Insurance Commissioner at the time of application for registration. This includes, but is not limited to, the information referred to in RCW 48.110.030(2)(a) through (2)(c)(ii) and RCW 48.110.055(2)(b) through (3)(e).

**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.

**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.

#### AMENDATORY SECTION

**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).