



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: July 19, 2023

TIME: 8:18 AM

WSR 23-15-109

**Agency:** Office of the Insurance Commissioner

**Title of rule and other identifying information:** (describe subject) Removing language referencing commercial property insurers and the commissioner's authority to increase the value of mitigation goods and services.

Insurance Commissioner Matter R 2023-03

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Recent passage of SSB 5720 (2023) amends RCW 48.18.558 and 48.19.530 to no longer excluded commercial property insurers from providing goods and services intended to reduce the probability of loss as part of an insurance policy. Additionally, SSB 5720 amends RCW 48.18.559 to remove the commissioner's rulemaking authority to increase the value of risk mitigation goods and services.

The purpose of this rule is to align existing rule language including WAC 284-33-005, 284-33-010 and 284-33-030 with newly amended RCW 48.18.558, 48.18.559 and 48.19.530.

Updating existing rule language will clarify that commercial property insurers can provide up to \$7,500.00, or 10 percent of the annual policy premium, whichever is greater, per 12-month period in certain goods and services to reduce the probability of loss.

There are no anticipated effects due to the changes to existing rules.

**Reasons supporting proposal:** Currently, WAC 284-33-005, 284-33-010 and 284-33-030 are not aligned with newly amended RCW 48.18.558, 48.18.559 and 48.19.530. Washington state insurance statutes allow for commercial property insurers to provide risk mitigation goods and services as part of property insurance policies while Washington state regulations do not. This rule proposal will clarify that commercial property insurers can provide risk mitigation good and services as part of a property insurance policy.

**Statutory authority for adoption:** RCW 48.02.060, 48.18.559)

**Statute being implemented:** RCW 48.18.558, 48.18.559 and 48.19.530

**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:

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

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Andrew Davis	Insurance Building (Capitol Campus)	(360) 725-7170

Implementation:	Ned Gaines	5000 Building (Tumwater)	(360) 725-7117
Enforcement:	Charles Malone	5000 Building (Tumwater)	(360) 725-7050
<b>Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:</b> N/A			

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

Relates only to internal governmental operations that are not subject to violation by a person;

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

Content is explicitly and specifically dictated by statute;

Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

The rule is no longer necessary because of changed circumstances; or

Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** Expedited adoption of WAC 284-33-005, 284-33-010 and 284-33-030 is appropriate because the content of the rule is explicitly and specifically dictated by statute.

RCW 48.18.558 and 48.19.530 both provide that all property insurers are permitted to provide risk mitigation goods and services as part of property insurance policies because there is no longer an explicit exclusion for commercial property insurers. Additionally, RCW 48.18.559 describes in detail when the commissioner has rulemaking authority necessary to implement RCW 48.18.588 and 48.19.530. The commissioner no longer has authority to increase the value of goods and services because prior language referencing this authority has been removed from RCW 48.18.559.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

Name: Andrew Davis  
Agency: Office of the Insurance Commissioner  
Address: 302 Sid Snyder Ave., SW Olympia, WA 98504  
Phone: (360) 725-7036  
Fax: (360) 586-3109  
Email: rulescoordinator@oic.wa.gov  
Other: www.insurance.wa.gov

**AND RECEIVED BY** (date) October 2, 2023

<b>Date:</b> July 19, 2023	<b>Signature:</b> 
<b>Name:</b> Mike Kreidler	
<b>Title:</b> Insurance Commissioner	

AMENDATORY SECTION (Amending WSR 18-24-084, filed 12/3/18, effective 1/3/19)

**WAC 284-33-005 Definition((s)).** The definition((s)) in this section apply throughout this chapter unless the context clearly requires otherwise:

~~((1))~~ A "risk reduction program" means a program by a property insurance company to reduce either the probability of loss or extent of loss, or both, from a covered event as described in RCW 48.18.558(1) by supplying its named insured with either goods or services, or both, as described in WAC 284-33-030(1).

~~((2) "Commercial property insurance" means insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity for the line of property insurance as defined in RCW 48.11.040.)~~

AMENDATORY SECTION (Amending WSR 18-24-084, filed 12/3/18, effective 1/3/19)

**WAC 284-33-010 Purpose and scope.** The purpose of this chapter is to implement RCW 48.18.558, 48.18.559, and 48.19.530 for property insurance by establishing rules:

(1) For property insurers' risk reduction programs for covered events ~~((, except commercial property insurance));~~

(2) For property insurers' pilot risk reduction programs for covered events ~~((, except commercial property insurance));~~ and

(3) To identify which property insurers' disaster or emergency response activities for covered events are exempt from RCW 48.18.558, 48.19.530, 48.30.140, and 48.30.150.

AMENDATORY SECTION (Amending WSR 20-23-004, filed 11/5/20, effective 1/1/21)

**WAC 284-33-030 Goods and services.** (1) All goods or services, or both, that are approved by the commissioner to be included within a property insurer's risk reduction program, or pilot risk reduction program, or both, must be implemented by the insurer to reduce either the probability of damage or extent of damage, or both, by a peril covered under the property policy, and may include:

- (a) Smoke alarms;
- (b) Fire extinguishers;
- (c) Natural gas detectors;
- (d) Brush and other wildfire fuel source removal services;
- (e) Water monitors;
- (f) Water shut off systems;
- (g) Earthquake strapping;
- (h) Locking mechanisms to secure property;
- (i) Lightning protection devices;
- (j) Security lighting;
- (k) Security camera systems;

(l) Home safety monitoring systems; and  
(m) Other goods or services, or both, the commissioner may approve through a form filing.

(2) A voucher provided from the insurer to the insured for either goods or services, or both, is only permissible for those items as described in subsection (1) of this section and must fully redeem either the goods or services, or both, being used in the risk reduction program.

~~((3) Under RCW 48.18.559, the commissioner may increase the value of goods and services permitted under RCW 48.18.558. The limit to the value of goods and services to be provided is increased to seven thousand five hundred dollars in value in aggregate in any twelve-month period if the insurer:~~

~~(a) Submits a rate filing with the information required by RCW 48.19.530; and~~

~~(b) Includes an explanation and exhibit in the filing showing that the present value of the expected reduction in claims costs arising from the goods and services, over the service life of the goods and services, is greater than, or equal to, the total cost to the insurer of the goods and services.))~~