

RCW 48.09.235 Issuing a capital call—Notice—Insurer's duties—

Rules. (1) In addition to authority granted by RCW 48.09.220 and 48.09.230, a domestic mutual insurer meeting all the requirements of this section may increase its surplus by issuing a capital call. A capital call requires policyholders or applicants for insurance to pay a sum, in addition to premium, to be eligible to renew a policy or be issued a new policy. A policyholder that does not pay the amount of a call cannot be canceled or denied the benefits of an existing policy.

(2) Prior to issuing a capital call, the insurer must have:

(a) Adopted articles of incorporation or other organizational documents authorizing capital calls; and

(b) For any capital call issued on or after January 1, 2006, included information concerning the insurer's authority to issue a capital call in the policy of every policyholder. This information must be provided at least one full policy renewal cycle prior to a capital call.

(3) The insurer must notify the commissioner of its intent to issue a capital call at least ninety days prior to the capital call. The notice to the commissioner must include:

(a) A statement of each of the following:

(i) The specific purpose or purposes of the capital call;

(ii) The total amount intended to be raised by issuance of the capital call;

(iii) The amount intended to be raised for each stated purpose;

(iv) The grounds relied upon by the insurer in deciding that the capital call is the best option available to the insurer for raising capital; and

(v) Each of the alternative methods of raising capital the insurer considered and the reasons the insurer rejected each alternative in favor of the capital call;

(b) For the ten years immediately preceding the filing of the notice, a year by year accounting of:

(i) All rate filings and actions;

(ii) The total of all underwriting losses; and

(iii) The total amount of dividends paid to policyholders; and

(c) A complete application for a solicitation permit as required in RCW 48.06.030.

(4) Before an insurer may issue a capital call, the insurer must:

(a) Notify the commissioner and provide information as required in subsection (3) of this section;

(b) Provide any and all additional information that the commissioner may determine is useful or necessary in evaluating the merits of the proposed capital call;

(c) Receive approval of the policy or insuring instrument from the commissioner; and

(d) Receive approval of the commissioner for the capital call and the solicitation permit.

The commissioner may disapprove a capital call if he or she does not believe it is in the best interest of the insurer, the policyholders, or the citizens of the state of Washington. In making this determination, the commissioner may consider the financial health of the insurer, the impact on the marketplace, the possible use of other means to raise capital, the frequency of previous capital calls by the insurer, the effect of raising premiums instead of a capital call, the impact on state revenue, or any other factor the commissioner deems proper.

(5) The funds raised by an approved capital call are not premiums for the purposes of RCW 48.14.020.

(6) The commissioner may adopt rules to implement this section. [2004 c 89 s 2.]

Effective date—2004 c 89 s 2: "Section 2 of this act takes effect January 1, 2006." [2004 c 89 s 4.]

Effective date—2004 c 89: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2004]." [2004 c 89 s 5.]