



# Washington State Liquor and Cannabis Board

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**Topic:** Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Insurance Requirements (WAC 314-55-082)  
**Date:** December 18, 2024  
**Presented by:** Daniel Jacobs, Acting Policy & Rules Manager

**DISCLAIMER:** This response to a petition for adoption, repeal or amendment of a state administrative rule is drafted pursuant to [RCW 34.05.330](#) and [chapter 82.05 WAC](#). This is for general information purposes only and should not be construed as legal advice or individual advice for specific problems.

## **Background**

On October 31, 2024, Chris Payne, on behalf of CLIC Risk Retention Group, Inc. submitted a petition for rulemaking to the Washington State Liquor and Cannabis Board (Board) requesting the Board initiate rulemaking to amend [WAC 314-55-082](#) on insurance requirements to address whether captive insurers can be used to satisfy the insurance requirements for cannabis licensees.

The petition asks to provide clarity on an alleged ambiguity in WAC 314-55-082(2) and proposes to resolve this ambiguity through rulemaking that would expressly permit the use of captive insurers, or a declaratory statement that the use of captive insurers does not violate WAC 314-55-082.

## **Issue**

Whether the Board should accept the petition to initiate the rulemaking process to consider amending WAC 314-55-082 on insurance requirements.

## **Statutes & Regulations**

### ***Statutes***

[RCW 48.15.160](#) states that the provisions of this chapter [48.15 RCW] controlling the placing of insurance with unauthorized insurers shall not apply to insurance issued by a registered eligible captive insurer under chapter 48.201 RCW.

[RCW 48.201.010](#) states that the legislature does not intend to make Washington a captive domicile state, but instead to create a framework for registration by captive insurers that insured Washington-based entities and are licensed by the jurisdictions in which they are domiciled.

[RCW 48.201.020\(2\)](#) defines a captive owner as one of the following:

- (a) An entity that is organized under Title [23B](#), [24](#), or [25](#) RCW, or analogous provisions of the law of another state or territory; or

(b) A public institution of higher education.

[RCW 48.201.020\(5\)](#) defines an eligible captive insurer as “an insurance company with the following characteristics:

- (a) It is wholly or partially owned by a captive owner;
- (b) It insures risks of the captive owner, the captive owner's other affiliates, or both;
- (c) One or more of its insureds have their principal place of business in Washington;
- (d) It has assets that exceed its liabilities by at least \$1,000,000 and has the ability to pay its debts as they come due, both as verified by audited financial statements prepared by an independent certified accountant; and
- (e) It is licensed as a captive insurer by the jurisdiction in which it is domiciled.

[RCW 69.50.331\(1\)\(b\)](#) states that no cannabis licensee can be issued to a person doing business as a sole proprietor who has not lawfully resided in [Washington] for at least six months prior to applying to receive a license, or a partnership, employee cooperative, association, nonprofit corporation, or corporation unless all members meet that same residency requirement.

[RCW 69.50.342](#) identifies the rulemaking authority over cannabis licensees.

### ***Regulations***

[WAC 284-201-120](#) states that this chapter [284-201 WAC] applies to eligible captive insurers as defined in chapter 48.201 RCW except for risk retention groups that must register pursuant to chapter 48.92 RCW and captive insurers that solely place insurance through surplus line broker pursuant to chapter 48.15 RCW.

[WAC 314-55-035](#) identifies the true party of interest rules for cannabis licensees and states that a cannabis license must be issued in the name(s) of the true party(ies) of interest.

[WAC 314-55-082](#) states that [c]annabis licensees must obtain insurance coverage. Insurance is required to protect the consumer if any claims, suits, actions, costs, damages or expenses arise from any negligent or intentional act or omission of the cannabis licensees. Cannabis licensees will provide the board with a certificate of insurance demonstrating that the following types and minimum amounts of insurance have been obtained:

(1) Commercial general liability insurance: The licensee must carry and maintain commercial general liability insurance or commercial umbrella insurance for bodily injury and property damage arising out of licensed activities at all times. The limits of liability insurance will not be less than \$1,000,000. Upon board request, a licensee must provide proof of insurance.

(a) This insurance must cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants.

(b) The insurance must also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section must be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters [48.15](#) RCW and [284-15](#) WAC.

## **Analysis**

[WAC 314-55-082\(2\)](#) has not been changed since it was first created following the passage of [Initiative 502](#). See [WSR 13-14-124](#) (CR 102), [WSR 13-21-104](#) (CR 103). WAC 314-55-082 identifies the mandatory insurance coverage for cannabis licensees.

In January 2021, the Office of the Insurance Commissioner (OIC) completed a [study](#) on the use of captive insurers in Washington state.

A captive insurer (or insurance company) is an insurance company that is wholly owned by the entity that it insures (parent). The insurance provided by a captive insurer ordinarily covers the parent and the parent's subsidiaries. See [Captive Insurance Company Study, pg. 26](#).

During the 2021 legislative session, the Washington state legislature passed [Second Substitute Senate Bill 5315 \(chapter 281, Laws of 2021\)](#) creating a statutory framework for regulating captive insurers in Washington state. See [Chapter 48.201 RCW](#). Rulemaking on the topic was completed in November 2021, effective December 2021. See [WSR 21-23-078, chapter 284-201 WAC](#).

There are many relevant differences between captive insurers and traditional admitted or authorized insurers for purposes of the Insurance code and its regulations, and properly understanding the differences and relevant features would require a high level of coordination with OIC.

A captive insurer is an insurance company that is “wholly or partially owned by the insured,” and in this case, the “insured” would be a cannabis licensee. [RCW 48.201.020\(5\)\(a\)](#). However, the Legislature made clear in creating RCW 48.201 that it did not intend to have captive insurers domiciled in Washington. See [RCW 48.201.010](#).

This could be a problem because [RCW 69.50.331\(1\)\(b\)](#) requires all members of an entity that has a cannabis licensee to be Washington residents, and thus, a cannabis licensee with a subsidiary captive insurer would need to be both domiciled in another jurisdiction and licensed as a captive insurer in that jurisdiction, and simultaneously satisfy Washington residency requirements. It is not immediately apparent how both could be satisfied, and accepting a rulemaking petition to examine this would require intense inter-agency collaboration on a highly complex rule project.

The Petition starts with a narrow ask before proceeding to its broader request to address the use of captive insurers. According to the petitioner, this request is allegedly based on the sentence structure of WAC 314-55-082(2). In the petitioner’s view, the requirements regarding the *Best’s Reports* rating do not clearly and unambiguously apply to insurers not admitted in the state of Washington.

“Best’s Reports” refers to AM Best, which is one of at least nine rating agencies. While conversations with OIC staff revealed that many smaller insurance companies are not able to obtain a rating from AM Best for a variety of factors, Licensing staff have not received complaints or heard concerns from licensees in recent years of being unable to obtain the required insurance.

Additionally, the Rules & Policy unit is very busy with rulemaking currently. A long legislative session is scheduled to [start](#) on January 13, 2025. Governor Inslee recently issued a [directive](#) implementing a hiring freeze and requesting executive and small cabinet agencies to freeze other purchases in light of the latest revenue forecasts. The Rules & Policy unit has six petitions for rulemaking that have been accepted in the past fourteen months that are in the queue for beginning the formal rulemaking process.

If this petition were to be accepted, it would face substantial delay in commencing for at least twelve months, and likely longer. Additionally, denying the petition for rulemaking does not preclude the Board from later examining this topic or amending the language of WAC 314-55-082 if warranted.

Whether or not captive insurers should be allowed to insure cannabis licensees in Washington is a complex topic that may be worthy of discussion through the formal rulemaking process at some point in the future. However, it is not clear that now is that time. There does not appear to be an urgent need to address this topic, which would require complex interagency coordination, and would face lengthy delays in coordination.

### ***Divisional Coordination***

Licensing – The current licensing process requires an applicant to submit a certificate of coverage before the application is approved. The policy must be issued in the name of the applicant entity, list the address of the licensed location, list the state and its employees, agents and volunteers, and be primary over any other valid and collectable insurance. In addition to commercial general liability coverage, product liability coverage is required. If the agency were to accept the petition and make rule changes allowing the use of captive insurers, the Licensing Division would have to ensure insurers comply with current rules regarding residency.

Enforcement & Education – The Enforcement & Education Division is concerned that allowing captive insurers to insure risks for cannabis licensees may raise issues regarding undue influence, especially if a cannabis licensee was able to insure themselves or a competitor. This scenario could also potentially violate WAC 314-55-035 as it may raise questions as to who exercises control over the business operations, which is further defined as the power to independently order, or direct the management, managers, or policies of a licensed business.

Finance – No impact identified.

IT – No impact identified.

Public Health – No impact identified.

### ***Interagency Coordination***

Office of the Insurance Commissioner – while coordination with the Office of the Insurance Commissioner (OIC) is not something typically at issue for agency rulemaking, due to the unique nature of this request, extensive coordination with the OIC would be necessary if this petition were accepted. Especially considering the new statutory and regulatory framework for captive insurers that was not in place when the language in WAC 314-55-082(2) was last changed.

### ***Sovereign to Sovereign Consultations***

No unique impact has been identified to Tribal nations that would be different than the impact on other cannabis licensees.

### **Recommendation**


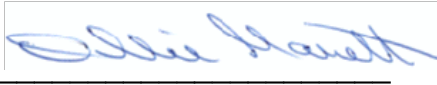
The Director's Office recommends the Board deny the petition to amend WAC 314-55-082 to address whether captive insurers can be used to satisfy the insurance requirements for cannabis licensees, for the following reasons:

- The use of captive insurance in Washington state is itself a complicated area of regulation, and its intersection with cannabis laws and regulations is even more complex.

- Rulemaking would require intense collaboration with the OIC.
- The Board has not heard of public concern regarding the availability of insurance in recent years to insure cannabis licensees.
- There are current ongoing resource constraints, both related to staffing and finances.
- The legislative session is about to start.
- There are several petitions for rulemaking that were accepted that are awaiting formal rulemaking.
- Denying the petition for rulemaking at this time does not preclude the Board from examining this topic in the future.

**Board Action**

After considering the recommendation of Director’s Office staff, the Board accepts/denies the petition for rulemaking submitted by Chris Payne on October 31, 2024.

_____ Accept <input checked="" type="checkbox"/> _____ Deny	 _____ Jim Vollendroff, Acting Board Chair	_____ 12/18/2024 _____ Date
_____ Accept <input checked="" type="checkbox"/> _____ Deny	 _____ Ollie Garrett, Board Member	_____ 12/18/2024 _____ Date

- Attachments:
- 1) Petition email from Petitioner
  - 2) Petitioner letter
  - 3) Laws and Rules on Captive Insurance

**From:** [Chris Payne](#)  
**To:** [LCB DL Rules](#)  
**Cc:** [Thomas Schellenberg](#)  
**Subject:** Petition for Rule Amendment  
**Date:** Thursday, October 31, 2024 10:42:03 AM  
**Attachments:** [image001.png](#)  
[Petition CLIC RRG WAC 284-55-082.pdf](#)  
[CLIC RRG WSLCB Letter 10\\_31\\_24.pdf](#)

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External Email

Greetings.

This email is intended for the LCB and is a request for an amendment to the rules regarding insurance for cannabis licensees (WAC 284-55-082).

Attached is a completed Petition form, and an accompanying letter that sets out the reasons for the requested amendment. I will be very happy to provide any further explanation or supporting information you may need. If there is anything, please contact me at this email address.

I look forward to hearing from you and would be grateful if you can tell me when our request will be scheduled for consideration.

Yours,

Chris Payne

**Chris Payne**

Treasurer/Board Member  
CLIC Risk Retention Group, Inc.

Phone: 858.260.9000

Email: [chris@clicrrg.com](mailto:chris@clicrrg.com)

Web: <https://clicmanagementnvlc.com>



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October 31, 2024

Mr. Will Lukela  
Director  
Washington State Liquor and Cannabis Board  
1058 Capitol Way South  
Olympia, WA 98501

Dear Director Lukela,

CLIC Risk Retention Group, Inc. (“CLIC RRG”) is a captive Risk Retention Group that is approved to offer cannabis liability insurance policies within the state of Washington. The Washington State Liquor and Cannabis Board (“LCB”) regulates cannabis licensing and operations, and requires cannabis licensees to maintain certain insurance coverages. CLIC RRG seeks to strictly comply with the LCB’s regulations.

The LCB’s regulation - Washington Administrative Code (“WAC”) 314-55-082(2) - contains an ambiguity as to whether a non-admitted insurer must hold an AM Best’s rating of A- Class VII or better in order to offer General Liability insurance coverage to cannabis licensees within the state.

CLIC RRG requests inclusion on LCB’s upcoming Board Meeting agenda<sup>1</sup> to discuss:

- a) the role of authorized captive insurance companies in the cannabis industry;
- b) CLIC RRG’s goal of issuing General Liability insurance policies to cannabis licensees in the State of Washington;
- c) the issue raised by WAC 314-55-082’s ambiguity, and;
- d) CLIC RRG’s proposed solutions.

CLIC RRG requests that LCB should:

- a) amend WAC 314-55-082(2) to account for captive insurers;

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<sup>1</sup> According to the LCB’s website, Board Meetings provide the public an opportunity address members of the Board, either during a scheduled Public Hearing, or during the General Public Comments, which occur at the conclusion of each Board meeting. <https://lcb.wa.gov/laws/rulemaking-overview>.



- b) amend WAC 314-55-082(2) to include other federally approved rating agencies in the code section, and/or;
- c) issue a decision allowing CLIC RRG to issue insurance policies within the state.

By bringing this issue to the attention of LCB, CLIC RRG advocates for regulatory progress specifically as it applies to insurance coverage options for cannabis licensees in Washington.

## 1. CAPTIVE INSURANCE, CLIC RRG, AND RISK RETENTION GROUPS

A small number of companies dominate the market for cannabis insurance. The insurance companies are not specialists committed to the cannabis industry and none is owned by the policyholders. Their estimated underwriting margin is between 40% to 60%, depending on the line of business. The wholesale agents that control access to these insurance companies charge commissions of 10% or more. These exceptional costs are due, in part, to regulations that prevent captive insurance companies from offering coverage.

Captive insurance companies serve as a correcting mechanism for failures in the insurance market and are formed when insurance is unavailable, policy terms are inadequate or premiums are higher than justified by the exposure. There are over 3,100 captive insurance companies domiciled in the United States, providing insurance to businesses in every area of the economy. Companies in Washington that own captives include Costco, Microsoft, Alaska Airlines and Starbucks. Captives provide benefits that include access to policy coverage, increased risk management support, reduced legal defense costs and direct access to reinsurance markets. Their owners retain the underwriting profits for the benefit of policyholders and build reserves for emerging exposures.

A Risk Retention Group (RRG) is a type of captive insurance company, created under the terms of the 1986 Federal Liability Risk Retention Act, that allows individuals and businesses in the same trade or profession to pool their liability risks.

The advantages of RRGs include:

1. *Customized Coverage*: RRGs allow members to design their insurance coverage to their specific needs.
2. *Profits*: Profits generated are returned to the members as dividends or used to reduce future premiums.
3. *Cost Savings*: Being member-owned, RRGs tend to operate at a lower overhead cost.
4. *Risk Management*: RRGs share best practices among members with similar risks. This reduces the number of injuries, and consequent claim payments.

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5. *Fair Claims Handling*: Members of an RRG know the best practices of their industry, leading to quicker settlement of meritorious claims, and vigorous defense of good conduct.
6. *Stability*: RRGs provide stability and continuity of coverage, which is particularly advantageous for businesses with hard-to-insure risks such as cannabis.

CLIC RRG is registered with the Insurance Commissioner for the State of Washington and is authorized to offer General Liability and Product Liability coverages to the cannabis industry. It estimates that its premium costs are 15% to 20% lower than the current market.

## 2. LCB REGULATIONS AND THE AMBIGUITY AT ISSUE

CLIC RRG is committed to being a good member of the insurance industry, and prioritizes compliance with the regulations promulgated by the LCB. We therefore seek to clarify an ambiguity that exists within WAC 314-55-082, and specifically its subsection (2), as discussed below.

### A. The Rating Requirement within WAC 314-55-082(2) is Ambiguous as to its Applicability to Non-Admitted Insurers.

WAC 314-55-082 sets forth requirements for cannabis insurance, and states:

Insurance requirements. Cannabis licensees must obtain insurance coverage. Insurance is required to protect the consumer if any claims, suits, actions, costs, damages or expenses arise from any negligent or intentional act or omission of the cannabis licensees. Cannabis licensees will provide the board with a certificate of insurance demonstrating that the following types and minimum amounts of insurance have been obtained:

(1) Commercial general liability insurance: The licensee must carry and maintain commercial general liability and property damage arising out of licensed activities at all times. The limits of liability insurance will not be less than \$1,000,000. Upon board request, a licensee must provide proof of insurance.

(a) This insurance must cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury.

**(2) Insurance carrier rating: The insurance required in subsection (1) of this section must be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or**



**better in the most recently published edition of Best's Reports. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.**

(3) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on insurance policies required under this section. All policies shall be primary over any other valid and collectable insurance.

(4) Failure to maintain or provide proof of insurance as required may result in license cancellation.

As written, subsection (2) is ambiguous as to whether a non-admitted insurer must have the stated rating if the insurance policies and procedures for issuing the insurance policies comply with chapters 48.15 RCW and 284-15 WAC.

In analyzing the text, the first consideration is that the insurance “must be issued by an insurance company *authorized to do business in the state of Washington.*” This requirement is clear. CLIC RRG is registered with the Insurance Commissioner for the State of Washington and has been authorized to write General Liability and Product Liability policies. Thus, CLIC RRG is authorized to do business in the state of Washington.

Additionally, the rule set forth in the subsection’s third sentence also appears clear to CLIC RRG. The third sentence is directed to non-admitted insurers and states in relevant part that “all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.”

Because CLIC RRG is a non-admitted insurer, its policies and procedures for issuing policies must comply with chapters 48.15 RCW and 284-15 WAC.

RCW 48.15 and WAC 284-15 concern what is known as “excess and surplus lines” business. The Liability Risk Retention Act 1985 exempts CLIC RRG from such regulation, and RCW 48.15.160 explicitly exempts insurance “issued by a registered eligible captive insurer under 48.201 RCW.” CLIC RRG is a registered captive insurer. As such, CLIC RRG meets this standard.

The second sentence of the subsection, however, appears ambiguous when read together with the rest of the subsection. The second sentence states, “**Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of Best's Reports.**” When read in tandem with the third sentence, it is unclear whether the rating requirement is moot in the context of non-admitted insurance. In other words, must a non-



admitted insurer have a rating of A- Class VII or better in the most recent edition of AM Best's Reports, even if the insurer meets all the other requirements for non-admitted insurers?

A reasonable interpretation of the rating requirement is that it does **not** survive the accepted use of non-admitted insurance. RCW 48.201.020 and RCW 48.201.030 define eligible captive insurers and their registration in the state, and CLIC RRG meets these standards. Additionally, RCW 48.15 and WAC 284-15 do not contain a rating requirement. (These are the sections identified by WAC 314-55-082(2) applicable to non-admitted insurers.)

Although CLIC RRG believes that a non-admitted insurer acting in compliance with 48.15 RCW and 284-15 WAC satisfies the subsection, it asks the LCB to clarify that intent, or applicability of this WAC subsection.

### **3. CLIC RRG'S PROPOSED SOLUTIONS**

The LCB's website indicates that "We may decide to start rulemaking based on changes in federal or state law, when we learn of changes in technology or the environment, or when we receive requests from our partners or the public. The rulemaking process is used to create, change, or delete a rule."<sup>2</sup> The website further clarifies that the Administrative Procedure Act requires the LCB to engage the public in rule development, and the Regulatory Fairness Act requires it to consider the impact of its rules on small businesses.<sup>3</sup>

The cannabis industry has fueled sweeping changes in federal and state laws, and CLIC RRG's request to be heard by the LCB on this matter serves as a request from the public to engage in the rulemaking process regarding an issue that impacts businesses of all sizes within the state's cannabis industry.

Accordingly, CLIC RRG respectfully proposes the following solutions in light of the identified ambiguity and the implications for captive insurers and the cannabis industry.

#### **1. Rewrite WAC 314-55-082**

First, we propose that the LCB rewrite WAC 314-55-082. It does not appear that the regulation was written with captives in mind and it does not provide adequate direction for captive insurers. It moreover refers non-admitted insurers to a code section that explicitly excludes Risk Retention Groups from its rules. Rewriting this section would allow for better clarity and broader regulation to include captive insurers, which benefits cannabis licensees within the state.

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<sup>2</sup> <https://lcb.wa.gov/laws/rulemaking-overview>

<sup>3</sup> *Id.*



## **2. Amend the Relevant Portion of Subsection WAC 314-55-082(2)**

As a second option, the LCB should amend subsection (2) of WAC 314-55-082 with respect to the rating requirement to include other federally approved rating agencies.

A requirement that allows only for an AM Best rating is discriminatory against all other Nationally Recognized Statistical Rating Organizations currently registered with the SEC. There are 10 such agencies that offer ratings to insurance companies (including Fitch, S&P, Kroll, Demotech, and Moody's), and the LCB's current regulation inadvertently grants AM Best a monopoly of this function that is harmful to the interests of cannabis licensees.

Expanding the list of federally approved rating agencies broadens the pool of eligible insurers, especially captive groups, capable of insuring cannabis licensees within the state. As it stands, the AM Best rating requirement is extremely narrow and discriminates against captive insurance companies that choose to be rated by other rating agencies approved by the federal government.

## **3. Issue a Decision Allowing CLIC RRG to Issue Cannabis Insurance Policies in Washington**

If the LCB opts not to rewrite the regulation or amend any part of it, it is still within the LCB's purview to decide whether CLIC RRG complies with its regulations. The LCB should therefore issue a decision clarifying that CLIC RRG satisfies the applicable regulations and has permission to issue cannabis insurance policies within the state of Washington.

## **4. THE NECESSITY AND BENEFIT OF ENACTING A SOLUTION**

CLIC RRG embraces the need for insurance regulation to obtain direction and security for the cannabis industry. By engaging in the rulemaking process to enact a solution to the section's ambiguity issue, the LCB would benefit captive insurers seeking to issue cannabis policies in Washington State, as well as cannabis licensees seeking to obtain cannabis insurance in the state.

First, the ambiguity within WAC 314-55-082 disadvantages CLIC RRG, and all captive groups that may seek to comply. The section, as written, essentially places non-admitted insurers in an impossible situation. On the one hand, non-admitted insurers without the AM Best rating do not know if they are in compliance with the subsection, as it is unclear whether the rating is required for non-admitted insurers. Further, if an AM Best rating remains the only rating acceptable to the LCB, this subsection discriminates against captive insurers that choose to be rated by other agencies approved by the federal government. The WAC section currently does not provide adequate direction for captive insurers and is written in a manner that appears at odds with the



very existence of captives. The certainly unintended result is that captive insurers are deterred or unable to provide services to cannabis licensees within the state of Washington.

This omission also disadvantages cannabis licensees in Washington. Cannabis insurance continues to be expensive and limited to a small number of insurance providers. The LCB should allow the companies it regulates the same opportunity to self-insure through an RRG, similar to the right granted to many other regulated industries in the state of Washington.

Another significant consideration is the growing importance of tribal nations in the cannabis industry who are potentially exempt from the regulation of the LCB. CLIC RRG is in discussion with several tribes who are frustrated by the cost and quality of insurance offerings available in the traditional market. CLIC RRG would like to have these nations become owners of the company and participate in its activities. Clarifying the LCB regulations would make it easier for these nations to make that choice.

Finally, enacting a solution to this issue also benefits the LCB by furthering its stated goal to provide clarity as to its rules and expectations so they can be strictly followed more feasibly. CLIC RRG's request is consistent with the LCB's commitment to transparency, accountability, equity and inclusion in rulemaking.

## CONCLUSION

CLIC RRG is a captive Risk Retention Group that seeks to service the cannabis industry in Washington State. To that end, CLIC RRG has identified a problematic ambiguity within the regulations that govern cannabis insurance within the state, and it proposes three separate options as a potential solution. At this juncture, the LCB should allow CLIC RRG a place on its upcoming Board Meeting Agenda, as doing so will benefit captive insurers and cannabis licensees, and furthers the LCB's rulemaking initiatives.

We thank you for considering this letter and look forward to discussing it with you.

Yours sincerely,

A handwritten signature in black ink that reads "Christopher J. Payne".

Chris Payne

Treasurer



## PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

### CONTACT INFORMATION *(please type or print)*

Petitioner's Name \_\_\_\_\_  
Name of Organization \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Telephone \_\_\_\_\_ Email \_\_\_\_\_

### COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm>.

### INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: \_\_\_\_\_

**1. NEW RULE - I am requesting the agency to adopt a new rule.**

The subject (or purpose) of this rule is: \_\_\_\_\_

The rule is needed because: \_\_\_\_\_

The new rule would affect the following people or groups: \_\_\_\_\_



**2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

I am requesting the following change: \_\_\_\_\_

This change is needed because: \_\_\_\_\_

The effect of this rule change will be: \_\_\_\_\_

The rule is not clearly or simply stated: \_\_\_\_\_

**3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

It does not do what it was intended to do.

It is no longer needed because: \_\_\_\_\_

It imposes unreasonable costs: \_\_\_\_\_

The agency has no authority to make this rule: \_\_\_\_\_

It is applied differently to public and private parties: \_\_\_\_\_

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

Other (please explain): \_\_\_\_\_

**RCW 48.15.160 Exemptions from surplus line requirements. (1)**

The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance, to insurance issued by a registered eligible captive insurer under chapter 48.201 RCW, or to the following insurances when so placed by licensed insurance producers of this state:

(a) Ocean marine and foreign trade insurances.

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(2) Insurance producers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The insurance producer shall furnish to the commissioner at the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year. [2021 c 281 s 9; 2008 c 217 s 11; 1987 c 185 s 23; 1985 c 264 s 5; 1949 c 190 s 22; 1947 c 79 s .15.16; Rem. Supp. 1949 s 45.15.16.]

**Application—2021 c 281 ss 8-11:** See note following RCW 48.14.095.

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**Severability—Effective date—2008 c 217:** See notes following RCW 48.03.020.

**Intent—Severability—1987 c 185:** See notes following RCW 51.12.130.

**Chapter 48.201 RCW  
CAPTIVE INSURANCE**

**Sections**

48.201.010	Findings—Intent—2021 c 281.
48.201.020	Definitions.
48.201.030	Eligible captive insurer—Registration.
48.201.040	Tax on premiums—Remittance.
48.201.050	Commissioner's enforcement authority.
48.201.060	Commissioner's rule-making authority.

**RCW 48.201.010 Findings—Intent—2021 c 281.** The legislature finds that creating a framework for Washington private entities and public institutions of higher education to manage their risks through captive insurers will facilitate the growth and safety of those entities and protect the public interest. The legislature further finds that captive insurance promotes prudent risk management and provides access to insurance and reinsurance markets that may not be available to these Washington entities otherwise. The legislature believes that encouraging the use of captive insurance will support those who rely upon the strength and stability of employers in this state.

The legislature does not intend by chapter 281, Laws of 2021 to make Washington a captive domicile state. Rather, the legislature is establishing a framework for registration by captive insurers that insure Washington-based entities and are licensed by the jurisdictions in which they are domiciled. [2021 c 281 s 1.]

**Effective date—2021 c 281:** "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 [May 12, 2021]." [2021 c 281 s 15.]

**RCW 48.201.020 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means an entity directly or indirectly controlling, controlled by, or under common control with another entity, such as a parent or a subsidiary corporation. "Affiliate" also means any person that holds an insured interest because that person has or had an employment or sales contract with an insured person.

(2) "Captive owner" means one of the following:

(a) An entity that is organized under Title 23B, 24, or 25 RCW, or analogous provisions of the law of another state or territory; or

(b) A public institution of higher education.

(3) "Casualty insurance" has the same meaning as "general casualty insurance" as defined in RCW 48.11.070.

(4) "Control" means possession of the power to direct the management and policies of an entity through ownership of voting securities, by contract, or otherwise.

(5) "Eligible captive insurer" means an insurance company with the following characteristics:

(a) It is wholly or partially owned by a captive owner;

(b) It insures risks of the captive owner, the captive owner's other affiliates, or both;

(c) One or more of its insureds have their principal place of business in Washington;

(d) It has assets that exceed its liabilities by at least \$1,000,000 and has the ability to pay its debts as they come due, both as verified by audited financial statements prepared by an independent certified accountant; and

(e) It is licensed as a captive insurer by the jurisdiction in which it is domiciled.

(6) "Property insurance" has the same meaning as in RCW 48.11.040.

(7) "Public institution of higher education" means an institution of higher education as defined in RCW 28B.10.016. [2021 c 281 s 2.]

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**RCW 48.201.030 Eligible captive insurer—Registration.** (1) Within 120 days after May 12, 2021, or, if later, within 120 days after first issuing a policy that covers Washington risks, an entity acting as an eligible captive insurer must register with the commissioner.

(2) The commissioner will approve an eligible captive insurer's registration if the commissioner determines that the eligible captive insurer has sufficiently demonstrated:

(a)(i) That its assets exceed its liabilities by at least \$1,000,000 and it has the ability to pay its debts as they come due, both as verified by audited financial statements prepared by an independent certified accountant; and

(ii) That it is in good standing in its jurisdiction of domicile; and

(b) The eligible captive insurer has paid a fee of \$2,500.

(3) The commissioner may request additional documentation and information if needed to show that these requirements have been met.

(4) The commissioner may deny registration for any eligible captive insurer that fails to meet the requirements in subsections (2) and (3) of this section.

(5) A registered captive insurer may renew its certificate of registration for successive periods of 12 months each by, for each period, meeting the requirements of subsections (2)(a) and (3) of this section and paying a renewal fee in an amount set by the commissioner not to exceed \$2,500.

(6) A registered eligible captive insurer may provide only property and casualty insurance and may provide such insurance to a captive owner, to the captive owner's other affiliates, or both. A registered eligible captive insurer may assume risks from other insurers as a reinsurer without regard to the limitations in the preceding sentence.

(7) A registered eligible captive insurer may insure risks of its affiliates and obtain or provide reinsurance for ceded or assumed risks insured in this state or elsewhere. [2021 c 281 s 3.]

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**RCW 48.201.040 Tax on premiums—Remittance.** (1) On or before the first day of March of each year, a registered eligible captive insurer must remit to the state treasurer through the commissioner a tax in the amount of two percent of the premiums, exclusive of returned premiums and sums collected to cover federal and state taxes and examination fees, for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the preceding calendar year. The tax when collected must be credited to the general fund.

(2) For the purposes of this section, "Washington risks" means the share of risk covered by the premiums that is allocable to this state, based on where the underlying risks are located or where the losses or injuries giving rise to covered claims arise. A registered eligible captive insurer may use any reasonable method of determining such an allocation, including actuarial analysis or use of a proxy such as sales, property value, or payroll. Whether paid directly or by reimbursement, neither the timing nor the nature of a captive insurer's payment may be deemed to reflect, create, or constitute Washington risks.

(3) The registered eligible captive insurer must share its methodology and relevant analysis in determining its allocation with the commissioner.

(4) A registered eligible captive insurer is not liable for premium tax on moneys received as a reinsurer or on insurance placed through a surplus lines broker or other intermediary that collects and remits premium tax.

(5) If a registered eligible captive insurer fails to remit the tax provided by this section by the last day of the month in which the tax becomes due, the registered eligible captive insurer must pay the tax and the penalties and interest provided in RCW 48.14.060. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner must be paid to the state treasurer and credited to the general fund.

(6) Taxes on premiums are due under this section from an eligible captive insurer for any period after January 1, 2011, if not previously remitted to the commissioner, and further provided that all such taxes must be limited to an eligible captive insurer's Washington risks. Taxes due under this subsection for periods before July 1, 2021, are not subject to the penalties or interest provided in RCW 48.14.060. For periods beginning July 1, 2021, a registered eligible captive insurer is subject to the sanctions in subsection (5) of this section.

(7) Taxes on premiums may not be imposed on or collected from an eligible captive insurer affiliated with a public institution of higher education. [2021 c 281 s 4.]

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**RCW 48.201.050 Commissioner's enforcement authority.** (1) The commissioner is authorized to make use of any of the powers established under Title 48 RCW to enforce the laws of this state. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief.

With regard to any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural law and regulations of the state. An eligible captive insurer that violates any provision of this chapter after its effective date will be subject to the fines and penalties applicable to authorized insurers generally, including revocation of its registration, suspension of registration, and refusal to renew registration.

(2) An eligible captive insurer that fails to register under chapter 281, Laws of 2021 is acting as an unlawful, unauthorized insurer and is subject to the fines and penalties applicable to unlawful, unauthorized insurers generally. [2021 c 281 s 5.]

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**RCW 48.201.060 Commissioner's rule-making authority.** The commissioner may adopt rules as necessary to implement chapter 281, Laws of 2021. [2021 c 281 s 6.]

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**RCW 69.50.331 Application for license—Renewal fee reimbursement, social equity plan.** (1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, or for the renewal of a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, the board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, cancellation, or renewal or denial thereof, of any license, the board may consider any prior criminal arrests or convictions of the applicant, any public safety administrative violation history record with the board, and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(b) No license of any kind may be issued to:

(i) A person under the age of 21 years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The board may, in its discretion, subject to RCW 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products thereunder must be suspended or terminated, as the case may be.

(b) The board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, and consider mitigating and aggravating circumstances in any case and deviate from any prescribed penalty, under rules the board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must return the license to the licensee at the expiration or termination of the period of suspension. The board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the board to implement and enforce this chapter. All conditions and restrictions imposed by the board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of 21 years.

(7)(a) Before the board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country,



or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, the county legislative authority or the official or employee selected by it, the tribal government, or port authority has the right to file with the board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The board may extend the time period for submitting written objections upon request from the authority notified by the board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, board representatives must present and defend the board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (e) of this subsection, the board may not issue a license for any premises within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged 21 years or older.

(b) A city, county, or town may permit the licensing of premises within 1,000 feet but not less than 100 feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within 1,000 feet but not less than 100 feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within 1,000 feet but not less than 100 feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to cannabis producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a cannabis research facility.

(e) The board must issue a certificate of compliance if the premises met the requirements under (a), (b), (c), or (d) of this subsection on the date of the application. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor.

(f) The board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(9) A city, town, or county may adopt an ordinance prohibiting a cannabis producer or cannabis processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

(11) The board may not issue a cannabis retail license for any premises not currently licensed if:

(a) The board receives a written objection from the legislative authority of an incorporated city or town, or county legislative authority, relating to the physical location of the proposed premises;

(b) The objection to the location from the incorporated city or town, or county legislative authority, is received by the board within 20 days of the board notifying the incorporated city or town, or county legislative authority, of the proposed cannabis retail location; and

(c) The objection to the issuance of a cannabis retail license at the specified location is based on a preexisting local ordinance limiting outlet density in a specific geographic area. For purposes of this subsection (11), a preexisting local ordinance is an ordinance enacted and in effect before the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed. No objection related to the physical location of a proposed premises may be made by a local government

under this subsection (11) based on a local ordinance enacted after the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed.

(12) After January 1, 2024, all cannabis licensees are encouraged but are not required to submit a social equity plan to the board. Upon confirmation by the board that a cannabis licensee who is not a social equity applicant, and who does not hold a social equity license issued under RCW 69.50.335, has submitted a social equity plan, the board must within 30 days reimburse such a licensee an amount equal to the cost of the licensee's annual cannabis license renewal fee. The license renewal fee reimbursement authorized under this subsection is subject to the following limitations:

(a) The board may provide reimbursement one time only to any licensed entity; and

(b) Any licensed entity holding more than one cannabis license is eligible for reimbursement of the license renewal fee on only one license. [2023 c 220 s 2; 2022 c 16 s 58; 2020 c 154 s 1; 2019 c 394 s 7; 2017 c 317 s 2; 2015 2nd sp.s. c 4 s 301; 2015 c 70 s 6; 2013 c 3 s 6 (Initiative Measure No. 502, approved November 6, 2012).]

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Findings—2019 c 394:** See note following RCW 69.50.563.

**Findings—Application—2017 c 317:** See notes following RCW 69.50.325.

**Findings—Intent—Effective dates—2015 2nd sp.s. c 4:** See notes following RCW 69.50.334.

**Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70:** See notes following RCW 66.08.012.

**Intent—2013 c 3 (Initiative Measure No. 502):** See note following RCW 69.50.101.

**RCW 69.50.342 State liquor and cannabis board—Rules.** (1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where cannabis is produced or processed, and inspection of the retail outlets and premises where cannabis is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where cannabis is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of cannabis, useable cannabis, cannabis concentrates, cannabis health and beauty aids, and cannabis-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products

produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters;

(m) The prohibition of any type of device used in conjunction with a cannabis vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of cannabis products, including cannabis vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; and

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each cannabis vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each cannabis vapor product.

(2) Rules adopted on retail outlets holding medical cannabis endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed cannabis businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed cannabis businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter. [2022 c 16 s 63; 2020 c 133 s 3; 2019 c 394 s 4; 2015 2nd sp.s. c 4 s 1601; 2015 c 70 s 7; 2013 c 3 s 9 (Initiative Measure No. 502, approved November 6, 2012).]

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Findings—2020 c 133:** "The legislature finds that recent reports of lung illnesses associated with vapor products demand serious attention by the state in the interest of protecting public health and preventing youth access. While state law grants the liquor and cannabis board broad authority to regulate vapor products containing marijuana [cannabis], the legislature finds that risks to public health and youth access can be mitigated by clarifying that the board is granted specific authority to prohibit the use of any additive, solvent, ingredient, or compound in marijuana [cannabis] vapor product production and processing and to prohibit any device used in conjunction with a marijuana [cannabis] vapor product." [2020 c 133 s 1.]

**Effective date—2020 c 133:** "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 25, 2020]." [2020 c 133 s 5.]

**Findings—2019 c 394:** See note following RCW 69.50.563.

**Findings—Intent—Effective dates—2015 2nd sp.s. c 4:** See notes following RCW 69.50.334.

**Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70:** See notes following RCW 66.08.012.

**Intent—2013 c 3 (Initiative Measure No. 502):** See note following RCW 69.50.101.

**Chapter 284-201 WAC  
CAPTIVE INSURANCE**

Last Update: 11/15/21

WAC	
284-201-110	Purpose.
284-201-120	Applicability and scope.
284-201-130	Definitions.
284-201-140	Computation of time.
284-201-150	Severability.
284-201-210	Registration.
284-201-220	Renewal.
284-201-230	Insurance limitations.
284-201-240	Taxes.
284-201-250	Administration.
284-201-300	Adjudicative proceedings.

**WAC 284-201-110 Purpose.** These regulations implement captive insurance (chapter 48.201 RCW) including, but not limited to, the processes and procedures for regulation and taxation of captive insurers by the office of the insurance commissioner (commissioner).

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-110, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-120 Applicability and scope.** This chapter applies to eligible captive insurers as defined in chapter 48.201 RCW, except for risk retention groups that must register pursuant to chapter 48.92 RCW and captive insurers that solely place insurance through a surplus line broker pursuant to chapter 48.15 RCW.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-120, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-130 Definitions.** The definitions in RCW 48.201.020, apply in this regulation unless otherwise specified or unless the context clearly requires otherwise. The following definitions apply to this chapter and to chapter 48.201 RCW:

(1) "Captive insurer" means an entity that is wholly or partially owned by a "captive owner" and it insures risks of the captive owner, the captive owner's other affiliates, or both.

(2) "Eligible captive insurer" has the same meaning as set forth in chapter 48.201 RCW.

(3) "Insurer" has the same meaning as set forth in RCW 48.01.050.

(4) "Principal place of business" refers to the place where a business entity's management direct, control, and coordinate the corporation's activities, i.e., its "nerve center," which will typically be found at its corporate headquarters. Except where the parent corporation is the alter ego of the subsidiary, subsidiaries are analyzed separately from their parent or holding companies. For example, if a captive insurer insures a subsidiary that is headquartered in Washington, then this state would be the principal place of business for the insured subsidiary, even if the parent company was headquartered elsewhere.

(5) "Registered eligible captive insurer" means an eligible captive insurer who submitted an application that was approved by the commissioner. A registered eligible captive insurer that fails to

properly renew its registration will no longer be considered registered under chapter 48.201 RCW.

(6) "Reinsurance" means a form of insurance issued to insurers.

(7) "Reinsurer" means an insurer that assumes all or part of an insurance or reinsurance policy written by the ceding insurer.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-130, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-140 Computation of time.** In computing any period of time prescribed by this rule, the commissioner:

(1) Will not count the first day; and

(2) Will count the next and last day, unless either is a weekend or a state legal holiday.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-140, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-150 Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or its application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-150, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-210 Registration.** (1) Eligible captive insurers must register with the commissioner within 120 days of May 12, 2021, or if later, within 120 days after first issuing a policy that covers Washington risks.

(2) The registration period for eligible captive insurers will be from the date the registration is approved by the commissioner, through June 30th.

(3) The commissioner may request and the eligible captive insurer must provide additional documentation and information to show registration requirements have been met.

(4) The registration fee is \$2,500.00.

(5) The commissioner will approve an eligible captive insurer's registration, if the commissioner determines that it meets the eligibility requirements in chapter 48.201 RCW, and this section.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-210, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-220 Renewal.** (1) To maintain registration, a registered eligible captive insurer must renew certificates of registration annually by June 30th. If an eligible captive insurer fails to properly renew their certificate of registration, then its registration will expire at the end of its registration period.

(2) The renewal process will require that a registered eligible captive insurer continue to meet eligibility requirements in accordance with RCW 48.201.020 and 48.201.030, and pay a renewal fee.



(3) For renewal, the commissioner will charge an annual renewal fee not to exceed \$2,500.00. The amount of the renewal fee will be published on the commissioner's website and must be paid by June 30th.

(4) The renewal period will be from July 1st through June 30th.

(5) In order to obtain a timely annual renewal, a registered eligible captive insurer should file the renewal application no later than April 1st. Otherwise, OIC may not approve the eligible captive insurer's renewal before the June 30th expiration date and the eligible captive insurer's registration will expire. If an eligible captive insurer's registration expires, it will then need to complete and file a new application and pay the fee for a new registration.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-220, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-230 Insurance limitations.** (1) For Washington risks, a registered eligible captive insurer may provide only property and casualty insurance, and may provide such insurance to only a captive owner, to the captive owner's other affiliates, or both, unless it places the insurance through a surplus lines broker pursuant to chapter 48.15 RCW.

(a) A registered eligible captive insurer may not provide stop loss insurance as defined in RCW 48.11.030 or 48.21.015.

(b) A registered eligible captive insurer may not provide workers' compensation coverage subject to Title 51 RCW that directly covers the worker. A registered eligible captive insurer may indemnify a self-insured employer for their state workers' compensation liability.

(2) A registered eligible captive insurer may assume risks from other insurers as a reinsurer without regard to the limitations in subsection (1) of this section.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-230, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-240 Taxes.** (1) A registered eligible captive insurer shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a two percent tax on premiums for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the previous calendar year. A registered eligible captive insurer that fails to remit the tax by the last day of the month in which the tax becomes due, will be subject to the tax, penalties, and interest provided in RCW 48.14.060.

(2) A registered eligible captive insurer shall file with the commissioner a statement of premiums on a tax form furnished by the commissioner. For tax purposes, the reporting of premiums shall be on a written basis.

(3) Instructions for accessing the online tax forms will be sent out to the registered eligible captive insurer's tax contact in January of each year. Tax contact information is provided to the commissioner as part of the registration process.

(4) The registered eligible captive insurer must share its methodology and relevant analysis in determining its Washington risks allocation by submitting this information to the commissioner by April 1st of each year, in a method as prescribed and furnished by the commissioner.

(5) Prior period taxes. Eligible captive insurers who insured Washington risk for any period after January 1, 2011, must remit a two percent tax on premiums for insurance directly procured by and provided to its parent or another affiliate for Washington risks, if not previously remitted to the commissioner. The reporting of premiums under this section shall be on a written basis, in a method as prescribed and furnished by the commissioner. Taxes due for premiums procured prior to January 1, 2021, are not subject to the penalties or interest provided in RCW 48.14.060.

(6) Eligible captive insurers must pay premium tax for Washington risks covered by all types of insurance, including premiums collected for insurance that is not property or casualty insurance, if the eligible captive insurer provided such coverage for any period after January 1, 2011.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-240, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-250 Administration.** (1) The commissioner is authorized to make use of any of the powers established under Title 48 RCW to enforce the laws of this state. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. Regarding any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural laws and regulations of the state.

(2) Fines and penalties.

(a) An eligible captive insurer that fails to register or maintain registration under this chapter or chapter 48.92 RCW is acting as an unlawful, unauthorized insurer, as set forth in RCW 48.15.020 and is subject to the fines and penalties under RCW 48.15.023, taxation under RCW 48.14.095 and penalties and interest under RCW 48.14.060.

(b) Captive insurers that have insured risks in Washington but are not eligible to register with the commissioner, continue to be subject to RCW 48.15.020, 48.15.023, 48.14.020, 48.14.060, and 48.14.095.

(c) A registered eligible captive insurer that violates any provision of this chapter will be subject to the fines and penalties applicable to authorized insurers generally, as set forth in chapter 48.05 RCW, including revocation of its registration, suspension of registration, and refusal to renew registration.

(d) The commissioner may deny the registration or renewal of a captive insurer who the commissioner has determined failed to sufficiently demonstrate the requirements outlined in RCW 48.201.020 and 48.201.030, and this chapter.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-250, filed 11/15/21, effective 12/21/21.]

**WAC 284-201-300 Adjudicative proceedings.** (1) Captive insurers may demand a hearing with the commissioner by submitting a request for an adjudicative proceeding in accordance with WAC 284-02-070 and RCW 48.04.010.

(2) General procedural and substantive requirements for adjudicative proceedings are contained in WAC 284-02-070, chapters 48.04 and 34.05 RCW.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.201.060. WSR 21-23-078, § 284-201-300, filed 11/15/21, effective 12/21/21.]

*(Effective until January 7, 2025)*

**WAC 314-55-035 Qualifying for a cannabis license.** A cannabis license must be issued in the name(s) of the true party(ies) of interest. The board may conduct an investigation of any true party of interest who exercises control over the applicant's business operations. This may include financial and criminal background investigations.

(1) **True parties of interest.** True parties of interest must qualify to be listed on the license, and meet residency requirements consistent with this chapter. For purposes of this title, "true party of interest" means:

<b>Entity</b>	<b>True party(ies) of interest</b>
Sole proprietorship	Sole proprietor
General partnership	All partners
Limited partnership, limited liability partnership, or limited liability limited partnership	All general partners All limited partners
Limited liability company (LLC)	All LLC members All LLC managers
Privately held corporation	All corporate officers and directors (or persons with equivalent title) All stockholders
Multilevel ownership structures	All persons and entities that make up the ownership structure
Any entity(ies) or person(s) with a right to receive revenue, gross profit, or net profit, or exercising control over a licensed business	Any entity(ies) or person(s) with a right to receive some or all of the revenue, gross profit, or net profit from the licensed business during any full or partial calendar or fiscal year  Any entity(ies) or person(s) who exercise(s) control over the licensed business
Nonprofit corporations	All individuals and entities having membership rights in accordance with the provisions of the articles of incorporation or bylaws

(2) A married couple may not be a true party of interest in more than five retail cannabis licenses, more than three producer licenses, or more than three processor licenses. A married couple may not be a true party of interest in a cannabis retailer license and a cannabis producer license or a cannabis retailer license and a cannabis processor license.

(3) The following definitions apply to this chapter unless the context clearly indicates otherwise:

(a) "Control" means the power to independently order, or direct the management, managers, or policies of a licensed business.

(b) "Financial institution" means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association,

trust company, or other lending institution under the jurisdiction of the department of financial institutions.

(c) "Gross profit" means sales minus the cost of goods sold.

(d) "Net profit" means profits minus all other expenses of the business.

(e) "Revenue" means the income generated from the sale of goods and services associated with the main operations of business before any costs or expenses are deducted.

(4) For purposes of this chapter, "true party of interest" does not include (this is a nonexclusive list):

(a) A person or entity receiving payment for rent on a fixed basis under a lease or rental agreement. Notwithstanding, if there is a common ownership interest between the applicant or licensee, and the entity that owns the real property, the board may investigate all funds associated with the landlord to determine if a financier relationship exists. The board may also investigate a landlord in situations where a rental payment has been waived or deferred.

(b) A person who receives a bonus or commission based on their sales, so long as the commission does not exceed 10 percent of their sales in any given bonus or commission period. Commission-based compensation agreements must be in writing.

(c) A person or entity contracting with the licensee(s) to receive a commission for the sale of the business or real property.

(d) A consultant receiving a flat or hourly rate compensation under a written contractual agreement.

(e) A person with an option to purchase the applied for or licensed business, so long as no money has been paid to the licensee under an option contract or agreement for the purchase or sale of the licensed business, or a business that is applying for a license.

(f) Any business or individual with a contract or agreement for services with a licensed business, such as a branding or staffing company, will not be considered a true party of interest, as long as the licensee retains the right to and controls the business.

(g) A financial institution.

(5) **Notification.**

(a) Except as provided in this subsection (4)(a)(i), (ii), and (iii), after licensure the licensee must continue to disclose the source of all funds to be invested in the licensed business, including all funds obtained from financiers, prior to investing the funds into the licensed business.

(i) Revenues of the licensed cannabis business that are reinvested in the business do not require notification or vetting by the board.

(ii) Proceeds of a revolving loan where such loan has been approved by the board within the three previous years do not need to be vetted by the board, unless the source of the funds has changed or the approved loan amount has increased.

(iii) If the source of funds is an identified true party of interest on the license, or a previously approved financier associated with the license, or a previously approved revolving loan, the board will allow these funds to be used upon receipt of an application to use such funds. The board will then investigate the source of funds. If the board cannot verify the source of funds after reasonable inquiry, or the board determines that the funds were obtained in a manner in violation of the law, the board may take actions consistent with the provisions of this chapter.

(b) Licensees must receive board approval before making any ownership changes consistent with WAC 314-55-120.

(c) Noncompliance with the requirements of this section may result in action consistent with this chapter.

**(6) Disclosure agreements and intellectual property.**

(a) Licensed cannabis businesses may enter into agreements consistent with the provisions of RCW 69.50.395.

(b) Notwithstanding the foregoing, no producer or processors may enter into an intellectual property agreement with a retailer.

**(7) Financiers.**

(a) Consistent with WAC 314-55-010(11), a financier is any person or entity, other than a financial institution or a government entity, that provides money as a gift, a grant, or loans money to an applicant, business, or both, and expects to be paid back the amount of the loan, with or without reasonable interest.

(b) A financier may not receive an ownership interest, control of the business, a share of revenue, gross profits or net profits, a profit sharing interest, or a percentage of the profits in exchange for a loan or gift of funds, unless the financier, if directly involved in the loaning of funds, receives board approval and has qualified on the license as a true party of interest.

(c) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must reside within the United States.

(d) The board will conduct a financial and criminal background investigation on all financiers.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-035, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.342, 69.50.345, 69.50.395 and 2019 c 380. WSR 20-18-099, § 314-55-035, filed 9/2/20, effective 10/3/20. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-035, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-035, filed 10/21/13, effective 11/21/13.]

***(Effective January 7, 2025)***

**WAC 314-55-035 Qualifying for a cannabis license.** A cannabis license must be issued in the name(s) of the true party(ies) of interest. The board may conduct an investigation of any true party of interest who exercises control over the applicant's business operations. This may include financial and criminal background investigations.

(1) **True parties of interest.** True parties of interest must qualify to be listed on the license, and meet residency requirements consistent with this chapter. For purposes of this title, "true party of interest" means:

Entity	True party(ies) of interest
Sole proprietorship	Sole proprietor
General partnership	All partners

Entity	True party(ies) of interest
Limited partnership, limited liability partnership, or limited liability limited partnership	All general partners All limited partners
Limited liability company (LLC)	All LLC members All LLC managers
Privately held corporation	All corporate officers and directors (or persons with equivalent title) All stockholders
Multilevel ownership structures	All persons and entities that make up the ownership structure
Any entity(ies) or person(s) with a right to receive revenue, gross profit, or net profit, or exercising control over a licensed business	Any entity(ies) or person(s) with a right to receive some or all of the revenue, gross profit, or net profit from the licensed business during any full or partial calendar or fiscal year  Any entity(ies) or person(s) who exercise(s) control over the licensed business
Nonprofit corporations	All individuals and entities having membership rights in accordance with the provisions of the articles of incorporation or bylaws

(2) A married couple may not be a true party of interest in more than five retail cannabis licenses, more than three producer licenses, or more than three processor licenses. A married couple may not be a true party of interest in a cannabis retailer license and a cannabis producer license or a cannabis retailer license and a cannabis processor license.

(3) The following definitions apply to this chapter unless the context clearly indicates otherwise:

(a) "Control" means the power to independently order, or direct the management, managers, or policies of a licensed business.

(b) "Financial institution" means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association, trust company, or other lending institution under the jurisdiction of the department of financial institutions.

(c) "Gross profit" means sales minus the cost of goods sold.

(d) "Net profit" means profits minus all other expenses of the business.

(e) "Revenue" means the income generated from the sale of goods and services associated with the main operations of business before any costs or expenses are deducted.

(4) For purposes of this chapter, "true party of interest" does not include (this is a nonexclusive list):

(a) A person or entity receiving payment for rent on a fixed basis under a lease or rental agreement. Notwithstanding, if there is a common ownership interest between the applicant or licensee, and the entity that owns the real property, the board may investigate all

funds associated with the landlord to determine if a financier relationship exists. The board may also investigate a landlord in situations where a rental payment has been waived or deferred.

(b) A person who receives a bonus or commission based on their sales, so long as the commission does not exceed 10 percent of their sales in any given bonus or commission period. Commission-based compensation agreements must be in writing.

(c) A person or entity contracting with the licensee(s) to receive a commission for the sale of the business or real property.

(d) A consultant receiving a flat or hourly rate compensation under a written contractual agreement.

(e) A person with an option to purchase the applied for or licensed business, so long as no money has been paid to the licensee under an option contract or agreement for the purchase or sale of the licensed business, or a business that is applying for a license.

(f) Any business or individual with a contract or agreement for services with a licensed business, such as a branding or staffing company, will not be considered a true party of interest, as long as the licensee retains the right to and controls the business.

(g) A financial institution.

**(5) Notification.**

(a) Except as provided in this subsection (4)(a)(i), (ii), and (iii), after licensure the licensee must continue to disclose the source of all funds to be invested in the licensed business, including all funds obtained from financiers, prior to investing the funds into the licensed business.

(i) Revenues of the licensed cannabis business that are reinvested in the business do not require notification or vetting by the board.

(ii) Proceeds of a revolving loan where such loan has been approved by the board within the three previous years do not need to be vetted by the board, unless the source of the funds has changed or the approved loan amount has increased.

(iii) If the source of funds is an identified true party of interest on the license, or a previously approved financier associated with the license, or a previously approved revolving loan, the board will allow these funds to be used upon receipt of an application to use such funds. The board will then investigate the source of funds. If the board cannot verify the source of funds after reasonable inquiry, or the board determines that the funds were obtained in a manner in violation of the law, the board may take actions consistent with the provisions of this chapter.

(b) Licensees must receive board approval before making any ownership changes consistent with WAC 314-55-120.

(c) Noncompliance with the requirements of this section may result in action consistent with this chapter.

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(a) Licensed cannabis businesses may enter into agreements consistent with the provisions of RCW 69.50.395.

(b) Notwithstanding the foregoing, no producer or processors may enter into an intellectual property agreement with a retailer.

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(a) Consistent with WAC 314-55-010(21), a financier is any person or entity, other than a financial institution or a government entity, that provides money as a gift, a grant, or loans money to an applicant, business, or both, and expects to be paid back the amount of the loan, with or without reasonable interest.



(b) A financier may not receive an ownership interest, control of the business, a share of revenue, gross profits or net profits, a profit sharing interest, or a percentage of the profits in exchange for a loan or gift of funds, unless the financier, if directly involved in the loaning of funds, receives board approval and has qualified on the license as a true party of interest.

(c) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must reside within the United States.

(d) The board will conduct a financial and criminal background investigation on all financiers.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 24-21-051, s 314-55-035, filed 10/9/24, effective 1/7/25. Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-035, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.342, 69.50.345, 69.50.395 and 2019 c 380. WSR 20-18-099, § 314-55-035, filed 9/2/20, effective 10/3/20. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-035, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-035, filed 10/21/13, effective 11/21/13.]

**WAC 314-55-082 Insurance requirements.** Cannabis licensees must obtain insurance coverage. Insurance is required to protect the consumer if any claims, suits, actions, costs, damages or expenses arise from any negligent or intentional act or omission of the cannabis licensees. Cannabis licensees will provide the board with a certificate of insurance demonstrating that the following types and minimum amounts of insurance have been obtained:

(1) Commercial general liability insurance: The licensee must carry and maintain commercial general liability insurance or commercial umbrella insurance for bodily injury and property damage arising out of licensed activities at all times. The limits of liability insurance will not be less than \$1,000,000. Upon board request, a licensee must provide proof of insurance.

(a) This insurance must cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants.

(b) The insurance must also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section must be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on insurance policies required under this section. All policies shall be primary over any other valid and collectable insurance.

(4) Failure to maintain or provide proof of insurance as required may result in license cancellation.

[Statutory Authority: RCW 69.50.335, 69.50.336, 69.50.342, and 2022 c 16. WSR 22-21-058, § 314-55-082, filed 10/12/22, effective 11/12/22. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-082, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-082, filed 5/18/16, effective 6/18/16. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-082, filed 10/21/13, effective 11/21/13.]