

CHAPTER 137REGULATION OF ENTITIES
OR SERVICES BY THE COMMISSIONER OF INSURANCE

H.F. 499

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including workers' compensation self-insurance, premium taxes, the uniform securities Act, powers and duties of the insurance division, regulation of insurance sales to military personnel, domestic insurance companies, life insurance companies, nonprofit health service corporations, external review of health care coverage decisions, investment limitations on insurers other than life insurers, property and casualty insurers' reserves, motor vehicle service contracts, county and state mutual associations, reciprocal or interinsurance contracts, protected cell companies, licensing of insurance producers and public adjusters, and life and fire insurance company boards of directors, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 87.11, Code 2007, is amended to read as follows:

87.11 RELIEF FROM INSURANCE — PROCEDURES UPON EMPLOYER'S INSOLVENCY.

1. a. When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner. Such security shall be held in trust for the sole purpose of paying compensation and benefits and is not subject to attachment, levy, execution, garnishment, liens, or any other form of encumbrance. However, the insurance commissioner shall be reimbursed from the security for all costs and fees incurred by the insurance commissioner in resolving disputes involving the security. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

b. If an approved self-insured employer discontinues its self-insured status or enters bankruptcy proceedings, the self-insured employer or its successor in interest, may petition the commissioner of insurance for release of its security. The commissioner shall release the security upon a finding of both of the following:

(1) The employer has not been self-insured pursuant to this chapter for at least four years.

(2) Ten years have elapsed from the date of the last open claim, claim activity, or claim payment involving the self-insured employer or its successor in interest, whichever is later.

c. The commissioner shall release the security upon a finding that a self-insured employer presents acceptable replacement security.

2. An employer seeking relief from the insurance requirements of this chapter shall pay to the insurance division of the department of commerce the following fees:

1. a. A fee of one hundred dollars, to be submitted annually along with an application for relief.

2. b. A fee of one hundred dollars for issuance of the certificate relieving the employer from the insurance requirements of this chapter.

3. c. A fee of fifty dollars, to be submitted with each filing required by the commissioner of insurance, including but not limited to the annual and quarterly financial statements, and material change statements.

~~3. a.~~ If an employer becomes insolvent and a debtor under 11 U.S.C., on or after January 1, 1990, ~~this paragraph applies.~~ ~~The~~ the commissioner of insurance may request of the workers' compensation commissioner that all future payments of workers' compensation weekly benefits, medical expenses, or other payments pursuant to chapter 85, 85A, 85B, 86, or 87, be commuted to a present lump sum. The workers' compensation commissioner shall fix the lump sum of probable future medical expenses and weekly compensation benefits, or other benefits payable pursuant to chapter 85, 85A, 85B, 86, or 87, capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees. The commissioner of insurance shall be discharged from all further liability for the commuted workers' compensation claim upon payment of the present lump sum to either the claimant, or a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant.

~~b.~~ The commissioner of insurance shall not be required to pay more for all claims of an insolvent self-insured employer than is available for payment of such claims from the security given under this section.

~~4.~~ Notwithstanding contrary provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payments by the commissioner of insurance from the security given under this section, pursuant to chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection 2.

~~5.~~ Financial statements provided to the commissioner of insurance pursuant to this section may be held as confidential, proprietary trade secrets, pursuant to section 22.7, subsection 3, upon the request of the employer, subject to rules adopted by the commissioner of insurance, and are not subject to disclosure or examination under chapter 22.

Sec. 2. Section 432.1, subsection 3, Code 2007, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums ~~written, and~~ assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates, and rejected applications but not including the gross premiums written, ~~and~~ assessments, and fees received in connection with ocean marine insurance authorized in section 515.48.

Sec. 3. Section 502.602, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by the administrator under this chapter, the administrator may apply to the Polk county district court or the district court for the county in which the person resides or is located or a court of another state to enforce compliance. The court may do any of the following:

Sec. 4. Section 502.603, subsection 1, Code 2007, is amended to read as follows:

1. CIVIL ACTION INSTITUTED BY ADMINISTRATOR. If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a rule adopted or order issued under this chapter, the administrator may maintain an action in the district court county in which the person against whom the action is being brought resides, has a principal place of business, or is doing business, or in the county where the transaction or any substantial portion of the transaction which is the subject of the action occurred, or in the county in which one or more of the victims of the transaction which is the subject of the action resides, to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a rule adopted or order issued under this chapter.

Sec. 5. Section 502.604, subsections 2 and 7, Code 2007, are amended to read as follows:

2. **SUMMARY PROCESS.** An order under subsection 1 is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within ~~fifteen~~ thirty days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within thirty days after the date of service of the order, the order, including the imposition of a civil penalty or requirement for payment of costs of investigation sought in the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

7. **ENFORCEMENT BY COURT — FURTHER CIVIL PENALTY.** If a person does not comply with an order under this section, the administrator may petition ~~a the Polk county district court of competent jurisdiction or the district court for the county in which the person resides or is located~~ to enforce the order. The court shall not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

Sec. 6. Section 505.8, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 8. The commissioner may do any of the following:

a. Conduct public or private investigations within or outside of this state which the commissioner deems necessary or appropriate to determine whether a person has violated, is violating, or is about to violate a provision of any chapter of this subtitle or a rule adopted or order issued under any chapter of this subtitle, or to aid in the enforcement of any chapter of this subtitle or in the adoption of rules and forms under any chapter of this subtitle.

b. Require or permit a person to testify, file a statement, or produce a record under oath or otherwise as the commissioner determines, concerning facts and circumstances relating to a matter being investigated or about which an action or proceeding will be instituted.

c. Notwithstanding subsection 6, publish a record concerning an action, proceeding, or investigation under, or a violation of, any chapter of this subtitle or a rule adopted or order issued under any chapter of this subtitle, if the commissioner determines that such publication is in the public interest and is necessary and appropriate for the protection of the public.

NEW SUBSECTION. 9. For the purpose of an investigation made under any chapter of this subtitle, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, seek compulsory attendance, take evidence, require the filing of statements, and require the production of any records that the commissioner considers relevant or material to the investigation, pursuant to rules adopted under chapter 17A.

NEW SUBSECTION. 10. If a person does not appear or refuses to testify, or does not file a statement or produce records, or otherwise does not obey a subpoena or order issued by the commissioner under any chapter of this subtitle, the commissioner may, in addition to assessing the penalties contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and 522B.17, make application to a district court of this state or another state to enforce compliance with the subpoena or order. A court to whom application is made to enforce compliance with a subpoena or order pursuant to this subtitle may do any of the following:

- a. Hold the person in contempt.
- b. Order the person to appear before the commissioner.
- c. Order the person to testify about the matter under investigation.
- d. Order the production of records.

e. Grant injunctive relief, including restricting or prohibiting the offer or sale of insurance or insurance advice.

f. Impose a civil penalty as set forth in section 505.7A.

g. Grant any other necessary or appropriate relief.

NEW SUBSECTION. 11. This section shall not be construed to prohibit a person from applying to a district court of this state or another state for relief from a subpoena or order issued by the commissioner under any chapter of this subtitle.

NEW SUBSECTION. 12. An individual shall not be relieved of an order to appear, testify, file a statement, produce a record or other evidence, or obey a subpoena or other order of the commissioner made under any chapter of this subtitle on the grounds that fulfillment of the requirement may, directly or indirectly, tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If an individual refuses to obey a subpoena or order by asserting that individual's privilege against self-incrimination, the commissioner may apply to the district court to compel the individual to obey the subpoena or order of the commissioner. Testimony, records, or other evidence that is compelled by a court enforcing an order of the commissioner shall not be used, directly or indirectly, against that individual in a criminal case, except in a prosecution for perjury or contempt or for otherwise failing to comply with the order.

NEW SUBSECTION. 13. Upon request of the insurance regulator of another state or foreign jurisdiction, the commissioner may provide assistance in conducting an investigation to determine whether a person has violated, is violating, or is about to violate an insurance law or rule of the other state or foreign jurisdiction administered or enforced by that insurance regulator. The commissioner may provide such assistance pursuant to the powers conferred under this section as the commissioner determines is necessary or appropriate under the circumstances. Such assistance may be provided regardless of whether the conduct being investigated would constitute a violation of this subtitle or any other law of this state if the conduct occurred in this state. In determining whether to provide such assistance the commissioner may consider whether the insurance regulator requesting the assistance is permitted to and has agreed to reciprocate in providing assistance to the commissioner upon request, whether compliance with the request would violate or prejudice the public policy of this state, and the availability of division commissioner resources and employees to provide such assistance.

Sec. 7. NEW SECTION. 505.27A SALE OF LIFE INSURANCE TO MILITARY PERSONNEL.

Notwithstanding any other provision of this title, the commissioner of insurance shall have the authority to adopt such rules related to the sale of life insurance, other than the service-members' group life insurance program under 38 U.S.C. pt. II, ch. 19, subc. III, as may be necessary to protect military personnel located either on a United States military installation or elsewhere in this state and to carry out the provisions of this title.

Sec. 8. NEW SECTION. 506.13 NEW OFFICERS OR DIRECTORS — BIOGRAPHICAL AFFIDAVIT REQUIRED.

Within thirty days after a quarterly or annual statement of an insurance company domiciled in this state first names an individual as an officer or director of the company on the jurat page of the quarterly or annual statement, the new officer or director shall file a biographical affidavit with the commissioner. The affidavit shall be prepared on the current template for biographical affidavits prescribed by the national association of insurance commissioners.

Sec. 9. Section 508.10, Code 2007, is amended to read as follows:

508.10 FOREIGN COMPANIES — CAPITAL OR SURPLUS — INVESTMENTS.

1. ~~No~~ A company incorporated by or organized under the laws of any other state or government shall not transact business in this state unless it is possessed of the actual amount of capi-

tal and surplus required of any company organized by the laws of this state, or, if it be a mutual company, of surplus equal in amount thereto, ~~and the same is invested in bonds of the United States or of this state, or in interest-paying bonds, when they are at or above par, of the state in which the company is located, or of some other state, or in notes or bonds secured by mortgages on unencumbered real estate within this or the state where such company is located, worth one and one-third times the amount loaned thereon, which securities shall, at the time, be on deposit with the commissioner of insurance, auditor, director of revenue, or chief financial officer of the state by whose laws the company is incorporated, or of some other state, and the commissioner of insurance is furnished with a certificate of such officer, under the officer's official seal, that the person as such officer holds in trust and on deposit for the benefit of all the policyholders of such company, the securities above mentioned. This certificate shall embrace the items of security so held, and show that such officer is satisfied that such securities are worth the amount stated in the certificate. Nothing herein contained shall invalidate the agency of any company incorporated in another state by reason of its having exchanged the bonds or securities so deposited with such officer for other bonds or securities authorized by this chapter, or by reason of its having drawn its interest and dividends on the same.~~

2. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part, and if so approved is deemed to be organized under the laws of this state and is an Iowa domestic insurer as provided by rules adopted by the commissioner. The approval of the commissioner may be based upon such factors as:

1. ~~a.~~ Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.

2. ~~b.~~ Maintenance of all books and records of United States operations in this state.

3. ~~c.~~ Maintenance of a separate financial reporting system for its United States operations.

4. ~~d.~~ Any other provisions deemed necessary by the commissioner.

3. A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.

Sec. 10. Section 514.4, unnumbered paragraph 2, Code 2007, is amended to read as follows:

A subscriber director is a director of the board of a corporation who is a subscriber and who is not a provider of health care pursuant to section 514B.1, subsection 7, a person who has material financial or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or a spouse or a member of the immediate family of such a person. However, a subscriber director of a dental service corporation may be an employee, officer, director, or trustee of a hospital that does not contract with the dental service corporation. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

Sec. 11. Section 514J.2, subsection 3, Code 2007, is amended to read as follows:

3. "Coverage decision" means a final adverse decision based on medical necessity. This definition does not include a denial of coverage for a service or treatment specifically listed in plan or evidence of coverage documents as excluded from coverage, or a denial of coverage for a service or treatment that has already been received and for which the enrollee has no financial liability.

Sec. 12. Section 515.35, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. "Capital and surplus", for purposes of computing percentage limitations on particular types of investments, means the capital and surplus that is authorized to be shown as capital and surplus on the national association of insurance commissioners' annual statement blank as of the December 31 immediately preceding the date the company acquires the investment.

Sec. 13. NEW SECTION. 515H.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Property and Casualty Actuarial Opinions Act".

Sec. 14. NEW SECTION. 515H.2 ACTUARIAL OPINION OF RESERVES — SUPPORTING DOCUMENTATION.

1. STATEMENT OF ACTUARIAL OPINION. Every property and casualty insurance company doing business in this state, unless otherwise exempted from this requirement by the commissioner, shall annually submit the opinion of an appointed actuary entitled "statement of actuarial opinion" with the company's annual statement in accordance with the provisions of section 515.63 and with the requirements of the national association of insurance commissioners' property and casualty annual statement instructions.

2. ACTUARIAL OPINION SUMMARY.

a. Every property and casualty insurance company domiciled in this state that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, prepared and signed by the company's appointed actuary. The actuarial opinion summary shall be filed in accordance with the requirements of the national association of insurance commissioners' property and casualty company annual statement instructions and shall be considered a document in support of the statement of actuarial opinion required under subsection 1.

b. A property and casualty insurance company that is licensed but not domiciled in this state shall provide an actuarial opinion summary upon request of the commissioner.

3. ACTUARIAL REPORT AND WORK PAPERS.

a. An actuarial report and supporting work papers shall be prepared to support each statement of actuarial opinion in accordance with the requirements of the national association of insurance commissioners' property and casualty company annual statement instructions.

b. If an insurance company fails to provide a supporting actuarial report and work papers as requested by the commissioner or the commissioner determines that the actuarial report or work papers provided are unacceptable, the commissioner may engage a qualified actuary at the company's expense to review the statement of actuarial opinion and the basis for the opinion and to prepare a supporting actuarial report or work papers.

4. An appointed actuary shall not be liable for damages to any person, except the company and the insurance commissioner, for any act, error, omission, decision, or misconduct of the appointed actuary in conducting the actuary's duties pursuant to this section except in cases of fraud or willful misconduct on the part of the appointed actuary.

Sec. 15. NEW SECTION. 515H.3 CONFIDENTIALITY.

1. A statement of actuarial opinion filed pursuant to section 515H.2, subsection 1, is a public record subject to examination and copying.

2. Documents in the possession or control of the insurance division that are provided to the division in support of a statement of actuarial opinion, that are considered an actuarial report, work papers, an actuarial opinion summary, or any other material provided by the company in connection with the actuarial report, work papers, or actuarial opinion summary are confidential records under section 507.14 and shall not be subject to subpoena or discovery or be admissible in evidence in any private civil action.

3. Disclosure of any documents, materials, or information to the division in compliance with the requirements of this chapter shall not be considered a waiver of any applicable privilege or claim of confidentiality.

Sec. 16. Section 516E.3, subsection 2, paragraph a, Code 2007, is amended by striking the paragraph.

Sec. 17. Section 518.14, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. "Surplus", for purposes of computing percentage limitations on

particular types of investments, means the surplus that is authorized to be shown on the commissioner's annual statement blank as surplus as of the December 31 immediately preceding the date the association acquires the investment.

Sec. 18. Section 518A.1, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. Any ~~automobile vehicle, excluding automobile~~ or aircraft or ~~other vehicle~~, including loss, ~~and~~ expense, or liability resulting from the ownership, maintenance, or use thereof, but shall not include insurance against bodily injury to the person.

Sec. 19. Section 518A.12, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. "Surplus", for purposes of computing percentage limitations on particular types of investments, means the surplus that is authorized to be shown on the commissioner's annual statement blank as surplus as of the December 31 immediately preceding the date the association acquires the investment.

Sec. 20. Section 520.9, subsection 1, Code 2007, is amended to read as follows:

1. There shall at all times be maintained as assets a sum in cash, or in securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred percent of the net unearned premiums or deposits collected and credited to the account of subscribers, or assets equal to fifty percent of the net annual deposits collected and credited to the account of subscribers on policies having one year or less to run and pro rata on those for longer periods; in addition to which there shall be maintained in cash, or in such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated in accordance with the laws of the state relating to similar reserves for companies insuring similar risks; provided that where the assets on hand available for the payment of losses other than determined losses, do not equal ~~two~~ five million dollars, all liability for each determined loss or claim deferred for more than one year, shall be provided for by a special deposit in a trust company or bank having fiduciary powers of the state in which the principal office is located, to be used in payment of compensation benefits for disability; such deposit to be a trust fund and applicable only to the purposes stated, or such liability may be reinsured in authorized companies with a surplus of at least ~~two~~ five million dollars. For the purpose of such reserves, net deposits shall be construed to mean the advance payments of subscribers after deducting the amount specifically provided in the subscribers' agreements for expenses. If at any time the assets so held in cash or such securities shall be less than required above, or less than ~~two~~ five million dollars, the subscribers or their attorney for them shall make up the deficiency within thirty days after notice from the commissioner of insurance to do so. In computing the assets required by this section, the amount specified in section 520.4, subsection 7, shall be included.

Sec. 21. Section 521.2, subsection 4, Code 2007, is amended to read as follows:

4. A domestic ~~mutual~~ insurance company shall not assume or reinsure the whole or any part of the risks of any other company, except as provided in this chapter. However, this chapter shall not be construed to prevent any company, as defined in section 521.1, from reinsuring a fractional part of any risk.

Sec. 22. Section 521G.6, subsection 6, Code 2007, is amended to read as follows:

6. A protected cell company shall only attribute to a protected cell account the insurance obligations relating to the protected cell company's general account. A protected cell ~~company~~ shall not issue an insurance or reinsurance contract directly to a policyholder or reinsured, and shall not have an obligation to a policyholder or reinsured of the protected cell company's general account.

Sec. 23. Section 522B.6, subsection 3, Code 2007, is amended to read as follows:

3. An insurance producer license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements for resident individual insurance producers are met by any applicable due date. Resident individual insurance producers are required to complete continuing education requirements in order to be eligible for license renewal unless exempted from such requirements under this chapter or by rule.

Sec. 24. NEW SECTION. 522C.1 PURPOSE.

The purpose of this chapter is to govern the qualifications and procedures for licensing public adjusters in this state, and to specify the duties of and restrictions on public adjusters, including limitation of such licensure to assisting insureds only with first-party claims.

Sec. 25. NEW SECTION. 522C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or any other legal entity.
2. "Commissioner" means the commissioner of insurance.
3. "Fingerprints" means an impression of the lines on a human finger taken for the purposes of identification. The impression may be electronic or in ink converted to an electronic format.
4. "First-party claim" means a claim filed by a person insured under the insurance policy against which the claim is made.
5. "Individual" means a natural person.
6. "Person" means an individual or a business entity.
7. "Public adjuster" means any person who for compensation or any other thing of value acts on behalf of an insured by doing any of the following:
 - a. Acting for or aiding an insured in negotiating for or effecting the settlement of a first-party claim for loss or damage to real or personal property of the insured.
 - b. Advertising for employment as a public adjuster of first-party insurance claims or otherwise soliciting business or representing to the public that the person is a public adjuster of first-party insurance claims for loss or damage to real or personal property of an insured.
 - c. Directly or indirectly soliciting business investigating or adjusting losses, or advising an insured about first-party claims for loss or damage to real or personal property of the insured.
8. "Uniform business entity application" means the current version of the national association of insurance commissioners' uniform business entity application for resident and nonresident business entities.
9. "Uniform individual application" means the current version of the national association of insurance commissioners' uniform individual application for resident and nonresident individuals.

Sec. 26. NEW SECTION. 522C.3 AUTHORITY OF THE COMMISSIONER.

1. The commissioner shall adopt rules pursuant to chapter 17A as necessary to administer and enforce this chapter.
2. The commissioner shall adopt rules including but not limited to all of the following:
 - a. Advertising standards.
 - b. Continuing education requirements for licensees.
 - c. Contracts between public adjusters and insureds.
 - d. Required disclosures by licensees.
 - e. Examinations for licensure.
 - f. Exemptions.
 - g. License bonds and errors and omissions insurance requirements.
 - h. License requirements and exclusions.
 - i. Prohibited practices.
 - j. Record retention requirements.

- k. Reporting requirements.
- l. Requirements and limitations on fees charged by public adjusters.
- m. Standards for reasonableness of payment.
- n. Standards of conduct.
- o. Penalties.

Sec. 27. NEW SECTION. 522C.4 LICENSE REQUIRED.

A person shall not operate as or represent that the person is a public adjuster in this state unless the person is licensed by the commissioner in accordance with this chapter.

Sec. 28. NEW SECTION. 522C.5 APPLICATION FOR LICENSE.

1. A person applying for a public adjuster license shall make application on a uniform individual application or uniform business entity application as prescribed by the commissioner pursuant to rules adopted under chapter 17A.

2. In determining eligibility for licensure under this chapter, the commissioner shall require each individual applying for a public adjuster license to submit a full set of fingerprints with the application. The commissioner shall also require each business entity applying for licensure under this chapter to submit a full set of fingerprints for each individual who will be acting as a public adjuster on behalf of the business entity. The commissioner shall conduct a state and national criminal history record check on each applicant. The commissioner is authorized to submit fingerprints and any required fees to the state department of public safety, the state attorney general, and the federal bureau of investigation for the performance of such criminal record checks.

a. The commissioner may contract for the collection, transmission, and resubmission of fingerprints required under this section and may contract for a reasonable fingerprinting fee to be charged by the contractor for these services. Any fees for the collection, transmission, and retention of fingerprints submitted pursuant to this subsection shall be paid directly to the contractor by the applicant.

b. The commissioner may waive submission of fingerprints by any person who has previously furnished fingerprints if those fingerprints are on file with the central repository of the national association of insurance commissioners, its affiliates, or subsidiaries.

c. The commissioner may receive criminal history record information concerning an applicant that was requested by the state department of justice directly from the federal bureau of investigation.

d. The commissioner may submit electronic fingerprint records and necessary identifying information to the national association of insurance commissioners, its affiliates, or subsidiaries for permanent retention in a centralized repository whose purpose is to provide state insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

Sec. 29. NEW SECTION. 522C.6 PENALTIES.

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a public adjuster's license or may levy a civil penalty as provided in section 505.7A if a licensed public adjuster is found after hearing to be in violation of the requirements of this chapter or rules adopted or orders issued pursuant to this chapter.

2. A person acting as a public adjuster without proper licensure or a public adjuster who willfully violates any provision of this chapter or any rule adopted or order issued under this chapter is guilty of a serious misdemeanor.

Sec. 30. Sections 505.26, 523.5, and 523.6, Code 2007, are repealed.

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