

ORGANIZATION AND PROCEDURES

CHAPTER 1
ORGANIZATION OF DIVISION

[Prior to 10/22/86, Insurance Department[510]]

191—1.1(502,505) Organization. The insurance division is headed by the commissioner of insurance who is assisted by a first and second deputy commissioner and other assistants. The functions of the division are divided into nine bureaus:

Administrative bureau provides staff support to the commissioner and is responsible for legal services, budgetary and personnel services. General oversight of the division operations is provided through interaction with the public, the insurance industry, and other state and federal agencies.

Financial regulation/examinations bureau is responsible for the admission of all insurance companies operating in Iowa; this includes examination and regulation of companies as well as review of filed financial statements. The staff is statutorily required to examine Iowa insurance companies every five years. Increased emphasis has been placed on the creation of an analysis unit and the change in focus for financial examinations in recent years in order to obtain and preserve this agency's NAIC accreditation. This bureau also serves as a general insurance information resource (e.g., insurance company status, addresses, telephone numbers, certifications, financial statements, statutory construction, and guaranty fund calculations). Other services provided by this bureau include assumption reinsurance; approval of acquisitions and mergers; authorization and oversight of workers' compensation self-insurance; supervision, rehabilitation and liquidation of insurance companies; premium tax audit; supervision of statutory deposits; and compilation of statistics based on financial reports made to the commissioner.

Property and casualty bureau is responsible for the review, approval/disapproval of property and casualty forms, and, where provided by law, rates of certain types of insurance. This bureau monitors surplus lines placement and audits surplus lines companies' financial statements. This bureau is responsible for the registration of new purchasing groups and risk retention groups. This bureau also oversees the payment of premium taxes for surplus lines business including purchasing group and risk retention group business. Other services include registration of managing general agents, legal expense, and the licensing of advisory organizations.

Life and health form and rates bureau is responsible for the review, approval/disapproval of life and health forms, and, where provided by law, rates of certain types of insurance. Actuarial analysis of public bodies that self-fund their life and health insurance plans is performed here.

Consumer and legal affairs bureau is responsible for ensuring fair treatment of consumers and preventing unfair or deceptive trade practices in the insurance marketplace. Consumer complaints and inquiries from the public are taken, agent/company investigations are conducted and, when necessary, offenders are prosecuted at administrative hearings.

Producers licensing bureau is responsible for licensing of insurance producers and oversight of required continuing education. Each individual insurance producer must be licensed and maintain yearly continuing education eligibility.

Senior health insurance information program (SHIIP) bureau provides training to senior volunteers located in 65 counties. These volunteers then provide free, confidential health insurance counseling to Iowa seniors. Issues addressed include Medicare, Medicare supplement insurance, long-term care insurance, insurance claims, and all other health insurance policies. This program is primarily funded by a federal health care finance administration grant.

Fraud bureau confronts the problem of insurance fraud by prevention, investigation, and prosecution of fraudulent insurance acts in an effort to reduce the amount of premium dollars used to pay fraudulent insurance claims.

Securities bureau is responsible for administering and enforcing the Iowa uniform securities Act through enforcement, licensing, and securities registration to ensure investor protection and a positive climate for capital formation. This bureau includes the regulated industries unit which is responsible for administering and enforcing motor vehicle service contracts, funeral services and merchandise, sale of cemetery merchandise, perpetual care cemetery licensing, business opportunities, residential service contracts, and retirement facilities to ensure conformity and protection of the public.

191—1.2(502,505) Location. The securities bureau of the insurance division is located at 340 East Maple in Des Moines, Polk County, Iowa. All other bureaus of the insurance division are located at 330 East Maple in Des Moines, Polk County, Iowa.

FAIR INFORMATION PRACTICES

The insurance division hereby adopts the rules on fair information practices of the Governor's Task Force on Uniform Rules of Agency Procedure to appear as subrules 1.3(1) to 1.3(8) with amendments. The uniform rules are printed in the first volume of the Iowa Administrative Code.

191—1.3(22,502,505) Public information and inspection of records.

1.3(1) Definitions. As used in this chapter:

"Agency" means the insurance division of the department of commerce.

"Confidential records" are records which are not available as a matter of right for examination and copying by members of the public under law. Confidential records include records that the agency is prohibited by law from making available for examination by members of the public, and records that are specified as confidential by Iowa Code section 22.7, or other provisions of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the agency or a person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual which identifies the individual and which is contained in a record system and does not include information pertaining to corporations.

"Record" means all or part of a "public record," as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the agency.

"Record system" means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of the individual, number, symbol or other unique retriever assigned to the individual.

1.3(3) Requests for access to records.

a. Location of record. A request for access to a record should be directed to the office of the bureau where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the division's receptionist at (515)281-5705 or in writing to Iowa Insurance Division, 330 East Maple, Des Moines, Iowa 50319-0065. The division will forward the request to the appropriate person.

b. Office hours. Records shall be made available from 8 a.m. to 4 p.m. daily, excluding Saturdays, Sundays and legal holidays.

c. Telephone access. The general telephone number for the insurance division is (515)281-5705. The telephone number of the division's automated phone system for producers licensing is (515)281-4037.

d. Internet access. The division's Internet home page is <http://www.state.ia.us/government/com/ins/ins.htm>. The page from which the division's bulletins are available is <http://www.state.ia.us/government/com/ins/bulletin/index.htm>.

e. Request for access. Requests for access to open records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

f. Response to requests. The division provides a public access room with photocopiers and work surfaces. Space is limited and advance reservations are requested. A location will be made available as soon as feasible. Subject to availability of the public access room or an alternative location in the division's offices, access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the division shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The division may deny access to the record by members of the public only on the grounds that such denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order.

g. Fees. Copies of an open record may be made in the division's public access room. Price schedules for published materials and for photocopies of records shall be determined by the division and prominently posted in the public access room. The payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest. When the mailing of copies of records is requested, the actual costs of the mailing will be charged to the requester.

The following additional subrules are also adopted:

1.3(9) Data processing system. The agency does not currently have a data processing system which matches, collates or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

1.3(10) Agency records routinely available for public inspection. The agency collects and maintains the following records that are open records:

- a.* Financial statements of insurers.
 - b.* Rate and policy form filings by insurers.
 - c.* The records of rule making, declaratory ruling, and contested case proceedings.
 - d.* Policyholder complaints against insurers, except to the extent the complaints include records which are confidential by reason of Iowa Code section 22.7(2).
 - e.* Agent licensure records.
 - f.* The records of premium tax and fee collection.
 - g.* Insurer acquisition and reinsurance records.
 - h.* Securities issuer registration records, exemption filings, and agent or broker-dealer records, except those pertaining to a broker-dealer audit or investigation, unless released by the division at a hearing upon the broker-dealer's registration.
 - i.* License, permit, registration, exemption, or other required filings in connection with membership sales, business opportunity promotions, residential service contracts, loan brokers, and motor vehicle service contracts.
 - j.* All other records that are not confidential records under subrule 1.3(11).
- The records listed above may contain personally identifiable information.
- Various legal and technical publications related to insurance are also open records.

1.3(11) *Records which are confidential records.* Confidential agency records are the following:

- a. Trade secrets recognized and protected by law. Iowa Code section 22.7(3).
- b. Records that represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body. Iowa Code section 22.7(4).
- c. Reports made to the agency which, if released, would give advantage to competitors and serve no public purpose. Iowa Code section 22.7(6). Included in this category are insurer examination reports prior to expiration of the 20-day period set forth in rule 191—5.1(507) for requesting a hearing before the commissioner of insurance upon the report and if a hearing is requested, until the commissioner enters a decision upon the report, and reports of the National Association of Insurance Commissioners' Insurance Regulatory Information System.
- d. Personal information in confidential personnel records of the division. Iowa Code section 22.7(10).
- e. Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications could reasonably believe that those persons would be discouraged from making them to the government body if they were available for general public examination. Notwithstanding this provision:
 - (1) The communication is a public record to the extent the person outside of government making that communication consents to its treatment as a public record.
 - (2) Information contained in the communication is a public record to the extent it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.
 - (3) Information contained in the communication is a public record to the extent it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize an investigation or would pose a clear and present danger. Iowa Code section 22.7(18).
- f. Complaint files, investigation files, other investigative reports and other investigative information of the agency relating to discipline of licensed insurance agents. Iowa Code section 272C.6(4).
- g. Insurance holding company system registration and holding company examination records unless the statutory determination in favor of publication is made. Iowa Code section 521A.7.
- h. Reports and recommendations by insurer guaranty associations regarding insolvent or impaired insurers. Iowa Code sections 508C.12(3), 508C.12(5), 515B.10(2).
- i. Investigation material in the possession of the superintendent of securities pertaining to violation of the securities laws unless released by the superintendent pursuant to statute. Iowa Code section 502.603(1) "c."
- j. All records relating to prearranged funeral contracts except upon the approval of the commissioner of insurance or the attorney general. Iowa Code section 523A.2(1) "e."
- k. Any other records made confidential by law.

These rules are intended to implement Iowa Code sections 505.1 and 22.11.

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