

CHAPTER 1016

INSURANCE — FRAUD INVESTIGATIONS — LICENSING REQUIREMENTS

H.F. 426

AN ACT relating to the insurance fraud bureau, criminal history checks for licenses granted by the insurance division, and resolving inconsistencies.

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

Section 1. [Section 502.604A](#), Code 2019, is amended to read as follows:

502.604A Limited law Law enforcement authority.

The administrator or the administrator's designee, when carrying out the provisions of [section 502.603](#) or [502.604](#), may develop, share, and receive information related to any law enforcement purpose, including any criminal investigation. ~~The administrator or designee shall not have the authority to issue criminal subpoenas or make arrests. The administrator or designee shall not be considered a peace officer, including as provided in [chapter 801](#).~~ An insurance fraud bureau investigator shall be authorized to conduct an investigation under [article 5 of this chapter](#) and shall have law enforcement authority pursuant to [section 507E.8](#).

Sec. 2. [Section 507E.2](#), Code 2019, is amended to read as follows:

507E.2 Purpose.

An insurance fraud bureau is created within the insurance division. Upon a reasonable determination by the division, by its own inquiries or as a result of ~~complaints~~ a complaint filed with the division, that a person has engaged in, is engaging in, or may be engaging in an act or practice that violates [this chapter](#) or any other provision of the insurance code subject to the jurisdiction of the commissioner, the division may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses, and collect evidence related to such act or practice.

Sec. 3. [Section 507E.5, subsection 5](#), Code 2019, is amended to read as follows:

5. An insurance fraud bureau investigator or other staff member of the bureau is not subject to subpoena in a civil action concerning any matter of which the bureau investigator or other staff member has knowledge pursuant to a pending or continuing investigation being conducted by the bureau pursuant to [this chapter](#).

Sec. 4. [Section 507E.8](#), Code 2019, is amended to read as follows:

507E.8 Law enforcement officer status authority.

1. ~~Bureau investigators~~ For purposes of an arrest resulting from a criminal violation of any provision of the code subject to the jurisdiction of the commissioner established as a result of an investigation pursuant to [this chapter](#), an insurance fraud bureau investigator shall have the power authority and status of a law enforcement officers who by the nature of their duties may be required to perform the duties of a peace officer when making arrests for criminal violations established as a result of their investigations pursuant to [this chapter](#) officer pursuant to [section 80B.3, subsection 3](#).

2. ~~The general laws applicable to arrests an arrest by a law enforcement officers officer of the state also apply to an insurance fraud bureau investigators investigator.~~ Bureau investigators An insurance fraud bureau investigator shall have the power to execute arrest warrants and search warrants for the same criminal violations, serve subpoenas issued for the examination, investigation, and trial of all offenses identified through their investigations the course of an investigation conducted pursuant to [this section](#), and arrest upon probable cause without warrant a person found in the act of committing a violation of the provisions a provision of [this chapter](#).

Sec. 5. [Section 508E.3](#), Code 2019, is amended to read as follows:

508E.3 License requirements.

1. a. A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the commissioner of the state of residence of the viator.

~~b. (1) A life insurance producer who has been duly licensed as a resident insurance producer with a life line of authority in this state or the life insurance producer's home state for at least one year immediately prior to operating as a viatical settlement broker and is licensed as a nonresident producer in this state shall be deemed to meet the licensing requirements of [this section](#) and shall be permitted to operate as a viatical settlement broker.~~

~~(2) Not later than thirty days from the first day of operating as a viatical settlement broker, the life insurance producer shall notify the commissioner that the life insurance producer is acting as a viatical settlement broker on a form prescribed by the commissioner, and shall pay any applicable fee of up to one hundred dollars as provided by rules adopted by the commissioner. The notification shall include an acknowledgment by the life insurance producer that the life insurance producer will operate as a viatical settlement broker in accordance with [this chapter](#). The notification shall also include proof that the life insurance producer is covered by an errors and omissions policy for an amount of not less than one hundred thousand dollars per occurrence and not less than one hundred thousand dollars total annual aggregate for all claims during the policy period.~~

~~(3) b. The An insurer that issued the a policy being viaticated shall not be responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.~~

~~c. A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency who is retained to represent the a viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate a viatical settlement contracts contract on behalf of the viator without having to obtain a license as a viatical settlement broker.~~

~~2. An application for a viatical settlement provider or viatical settlement broker license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee of not more than one hundred dollars as provided by rules adopted by the commissioner.~~

~~3. The A viatical settlement provider or viatical settlement broker license term shall be three years and the license may be renewed upon payment of the a renewal fee of not more than one hundred dollars as provided by rules adopted by the commissioner. A failure to pay the fee by the renewal date results shall result in expiration of the license.~~

~~4. An applicant shall provide information on forms required by the commissioner and shall meet all requirements pursuant to [section 522B.5A](#) if required by the commissioner. The commissioner shall have the authority, at any time, to require the an applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees, and the. The commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity to such applicant if not satisfied that any officer, employee, stockholder, partner, or member thereof, or employee who may materially influence the applicant's conduct meets the standards of [this chapter](#).~~

~~5. A license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers or viatical settlement brokers, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.~~

~~6. 5. Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of investigate each applicant and issue a license if the commissioner finds that the applicant complies with all of the following:~~

~~a. If a viatical settlement provider, has provided a detailed plan of operation.~~

~~b. Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for.~~

~~c. Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for.~~

~~d. If a legal entity, provides a certificate of good standing from the state of its domicile.~~

~~e. d. If a viatical settlement provider or viatical settlement broker, has provided an antifraud plan that meets the requirements of pursuant to [section 508E.15, subsection 7](#).~~

7. 6. The commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner. If an applicant files such consent, service of process made on the commissioner as the agent for service of process shall be made as provided in [section 505.30](#).

8. 7. A viatical settlement provider or viatical settlement broker shall provide to the commissioner new or revised information about officers, ten-percent-or-more stockholders, partners, directors, members, or designated employees within thirty days of the change.

9. 8. An individual licensed as a viatical settlement broker shall complete on a triennial basis running concurrent with the license term twenty credits of training related to viatical settlements and viatical settlement transactions, as required by the commissioner; ~~provided, however, that a life insurance producer who is operating as a viatical settlement broker pursuant to [subsection 1](#), paragraph "b", shall not be subject to the requirements of [this subsection](#)~~. Any person failing to meet the requirements of [this subsection](#) shall be subject to the penalties imposed by the commissioner.

10. 9. Fees collected pursuant to [this section](#) shall be deposited as provided in [section 505.7](#).

Sec. 6. [Section 522B.5, subsection 1](#), unnumbered paragraph 1, Code 2019, is amended to read as follows:

A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application, ~~meet all requirements pursuant to [section 522B.5A](#)~~, and declare under penalty of refusal, suspension, or revocation of the license that ~~the~~ all statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find all of the following:

Sec. 7. **NEW SECTION. 522B.5A Criminal history check.**

1. In determining eligibility for licensure, the commissioner is authorized to require an applicant pursuant to [subsection 2](#) to provide to the commissioner the applicant's fingerprints and reasonable fees required to perform a state criminal history check through the department of public safety, division of criminal investigation, and a national criminal history check through the federal bureau of investigation. By submitting such fingerprints, the applicant authorizes the commissioner to do all of the following:

a. Submit the applicant's fingerprints to the department of public safety, division of criminal investigation, for submission to the federal bureau of investigation for the purpose of conducting a national criminal history check.

b. Receive the results of the state and national criminal history checks.

2. The commissioner is authorized to require a state and national criminal history check on each applicant that applies for any of the following:

a. An initial license in Iowa as a resident insurance producer.

b. An initial license or an additional line of authority under a nonresident insurance producer license if a state and national criminal history check has not already been completed.

c. A renewal, reinstatement, or reissuance of a license if the license of a producer has been revoked or suspended pursuant to [section 522B.11](#), the license of a public adjuster has been revoked or suspended pursuant to [section 522C.6](#), or the license of a viatical settlement provider or viatical settlement broker has been revoked or suspended pursuant to [section 508E.4](#).

d. An initial license as a viatical settlement provider or viatical settlement broker in this state.

e. An initial license as a public adjuster in this state.

3. The commissioner shall require an applicant pursuant to [subsection 2](#) to submit a full set of fingerprints and any other required identifying information to the commissioner on a form prescribed by the department of public safety.

4. The commissioner may contract with a third-party vendor for the collection and transmission of an applicant's fingerprints for the purpose of conducting a state and national criminal history check. The commissioner may agree to reasonable fees to be charged by the third-party vendor and may require such reasonable fees to be paid by the applicant directly to the third-party vendor.

5. The results of a criminal history check conducted pursuant to [this section](#) shall not be considered a public record pursuant to [chapter 22](#). An applicant's fingerprints and any criminal history check information shall not be subject to subpoena, other than a subpoena issued in a criminal action or investigation, shall be confidential by law and privileged, and shall not be subject to discovery or be admissible in evidence in a private civil action.

Sec. 8. [Section 522C.5](#), Code 2019, is amended to read as follows:

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 is authorized to require a criminal history check pursuant to [section 522B.5A](#) for each individual applying for a public adjuster license to submit a full set of fingerprints with the application. The commissioner shall also require and for each individual who will be acting as a public adjuster of a 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.

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