

INSURANCE DIVISION

505.1 Insurance division created.

An insurance division is created within the department of commerce to regulate and supervise the conducting of the business of insurance in the state. The commissioner of insurance is the chief executive officer of the division. As used in this subtitle and chapter 502, "*division*" means the insurance division.

[S13, § 1683-r, -r1; C24, 27, 31, 35, 39, § **8604**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.1]

86 Acts, ch 1245, § 745; 93 Acts, ch 60, § 6; 94 Acts, ch 1023, §113

505.2 Appointment and term of commissioner.

The governor shall appoint subject to confirmation by the senate, a commissioner of insurance, who shall be selected solely with regard to qualifications and fitness to discharge the duties of this position, devote the entire time to such duties, and serve for four years beginning and ending as provided by section 69.19. The governor may remove the commissioner for malfeasance in office, or for any cause that renders the commissioner ineligible, incapable, or unfit to discharge the duties of the office.

[S13, § 1683-r; C24, 27, 31, 35, 39, § **8605**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.2]

86 Acts, ch 1245, § 1989

Footnotes

Confirmation, see § 2.32

505.3 Vacancies.

Vacancies shall be filled as regular appointments are made for the unexpired portion of the regular term.

[S13, § 1683-r; C24, 27, 31, 35, 39, § **8607**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.3]

505.4 Deputy assistants bond.

The commissioner of insurance shall appoint a first and second deputy commissioner and such other clerks and assistants as shall be needed to assist the commissioner in the performance of the commissioner's duty, all of whom shall serve during the pleasure of the commissioner. Before entering upon the duties of their respective offices, deputy commissioners shall give a bond in the penal sum of ten thousand dollars.

The commissioner may appoint a deputy commissioner for supervision whom the commissioner may appoint as supervisory or special deputy pursuant to chapter 507C and who shall perform such other duties as may be assigned by the commissioner. The deputy commissioner for supervision shall receive a salary to be fixed by the commissioner. The deputy commissioner for supervision shall be exempt from the merit system provisions of chapter 8A, subchapter IV, under section 8A.412, subsection 17.

[S13, § 1683-r2; C24, 27, 31, 35, 39, § **8608**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.4]

91 Acts, ch 26, §31; 2003 Acts, ch 145, §269

505.5 Expenses salary.

The commissioner shall be entitled to reimbursement of actual necessary expenses in attending meetings of insurance commissioners of other states, and in the performance of the duties of the office. The commissioner's salary shall be as fixed by the general assembly.

[S13, § 1683-r2; C24, 27, 31, 35, 39, § **8610**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.5]

505.6 Documents and records.

All books, records, files, documents, reports, and securities, and all papers of every kind and character relating to the business of insurance shall be delivered to, and filed or deposited with, the said commissioner of insurance.

[S13, § 1683-r4; C24, 27, 31, 35, 39, § **8611**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.6]

505.7 Fees expenses of division.

1. All fees and charges which are required by law to be paid by insurance companies, associations, and other regulated entities shall be payable to the commissioner of the insurance division of the department of commerce or department of revenue, as provided by law, whose duty it shall be to account for and pay over the same to the treasurer of state at the time and in the manner provided by law for deposit in the general fund of the state.

2. The commissioner shall account for receipts and disbursements according to the separate inspection and examination duties imposed upon the commissioner by the laws of this state and each separate inspection and examination duty shall be fiscally self-sustaining.

3. Forty percent of the nonexamination revenues payable to the division of insurance or the department of revenue in connection with the regulation of insurance companies or other entities subject to the regulatory jurisdiction of the division shall be subject to annual appropriation to the division for its operations and is also subject to expenditure under subsection 6.

4. Except as otherwise provided in subsection 6, the insurance division may expend additional funds if those additional expenditures are actual expenses which exceed the funds budgeted for statutory duties of the division and directly result from the statutory duties of the division. The amounts necessary to fund the excess division expenses shall be collected from additional fees and other moneys collected by the division. The division shall notify in writing the legislative services agency and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.

5. The insurance division may transfer moneys between budgeted line items of its appropriation, but such transfers may not reduce moneys budgeted for examinations or professional services, including but not limited to actuarial and legal services.

6. The insurance division may expend additional funds, including funds for additional personnel if those additional expenditures are actual expenses which exceed the funds budgeted for insurance solvency oversight under the following conditions:

a. The division may exceed the line item budgets for examinations and professional services, including but not limited to legal and actuarial services, provided that the division funds the increased expenditures through assessments or increased nonexamination revenues payable to the division under subsection 1 or otherwise.

The amounts necessary to fund the excess expenses may be collected from those regulated entities or classes of entities which either cause or benefit from the expenditure or encumbrance.

b. Before the division expends or encumbers an amount in excess of the funds budgeted for line items other than examinations and professional services, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses can be paid from nonexamination revenues payable to the division under subsection 1 or otherwise. Upon the approval of the director of the department of management the division may expend and encumber funds for the excess expenses. The amounts necessary to fund the excess expenses may be collected from those regulated entities or classes of entities which either cause or benefit from the expenditure or encumbrance.

The annual salaries of the deputy commissioner for supervision and the chief examiner appointed pursuant to section 507.5 shall be expenses of examination of insurance companies and shall be charged to insurance companies examined on a proportionate basis as provided by rule adopted by the commissioner. Insurance companies examined shall pay the proportion of the salaries of the deputy commissioner for supervision and the chief examiner charged to them as part of the costs of examination as provided in section 507.8.

7. The insurance division shall, by January 15 of each year, prepare estimates of projected receipts, refunds, and reimbursements to be generated by the examinations function of the division during the calendar year in which the report is due, and such receipts, refunds, and reimbursements shall be treated in the same manner as repayment receipts, as defined in section 8.2, subsection 8, and shall be available to the division to pay the expenses of the division's examination function.

8. The commissioner may assess the costs of an audit or examination to a health insurance purchasing cooperative, in the same manner as provided for insurance companies under sections 507.7 through 507.9, and may establish by rule reasonable filing fees to fund the cost of regulatory oversight.

9. The commissioner may retain funds collected during the fiscal year beginning July 1, 2003, pursuant to any settlement, enforcement action, or other legal action authorized under federal or state law for the purpose of reimbursing costs and expenses of the division.

[S13, § 1683-r5; C24, 27, 31, 35, 39, § **8612**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.7]

86 Acts, ch 1246, § 615; 87 Acts, ch 234, § 433; 90 Acts, ch 1247, § 12, 13; 91 Acts, ch 26, §32; 91 Acts, ch 260, §1239; 93 Acts, ch 88, § 3; 94 Acts, ch 1176, §1, 2; 2002 Acts, 2nd Ex, ch 1003, §32, 35; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §135

Footnotes

Deposit of fees, § 12.10

505.7A Civil penalties.

Unless specifically provided for in this subtitle, penalties imposed under this subtitle by order of the commissioner of insurance after hearing shall not exceed one thousand dollars for each act or violation of this subtitle, up to an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this subtitle, in which case the penalty shall not exceed five thousand dollars for each act or violation, up to an aggregate of fifty thousand dollars in any one six-month period.

2004 Acts, ch 1110, §5

505.8 General powers and duties.

1. The commissioner of insurance shall be the head of the division, and shall have general control, supervision, and direction over all insurance business transacted in the state, and shall enforce all the laws of the state relating to such insurance.
2. The commissioner shall, subject to chapter 17A, establish, publish, and enforce rules not inconsistent with law for the enforcement of this subtitle and for the enforcement of the laws, the administration and supervision of which are imposed on the division, including rules to establish fees sufficient to administer the laws, where appropriate fees are not otherwise provided for in rule or statute.
3. The commissioner shall supervise all transactions relating to the organization, reorganization, liquidation, and dissolution of domestic insurance corporations, and all transactions leading up to the organization of such corporations.
4. The commissioner shall also supervise the sale in the state of all stock, certificates, or other evidences of interest, either by domestic or foreign insurance companies or organizations proposing to engage in any insurance business.
5. The commissioner shall supervise all health insurance purchasing cooperatives providing services or operating within the state and the organization of domestic cooperatives. The commissioner may admit nondomestic health insurance purchasing cooperatives under the same standards as domestic cooperatives.
6. *a.* Notwithstanding chapter 22, the commissioner shall keep confidential both information obtained in the course of an investigation and information submitted to the insurance division pursuant to chapters 514J and 515D.
- b.* The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.
- c.* However, notwithstanding paragraphs "*a*" and "*b*", if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other regulatory authorities or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter. Such information may be redacted so that personally identifiable information is not made available.
- d.* The commissioner may adopt rules protecting the privacy of information submitted to the insurance division consistent with this section.
7. Notwithstanding chapter 22, the commissioner may keep confidential any social security number, residence address, and residence telephone number that is contained in a record filed as part of a licensing, registration, or filing process if disclosure is not required in the performance of any duty or is not otherwise required under law.

[S13, § 1683-r3; C24, 27, 31, 35, 39, § **8613**; C46, 50, 54, § 505.8; C58, 62, § 505.8, 522.3; C66, 71, 73, § 505.8, 515.150, 522.3; C75, 77, 79, 81, § 505.8]

83 Acts, ch 27, § 10; 88 Acts, ch 1159, § 2; 90 Acts, ch 1234, § 2; 94 Acts, ch 1176, §3; 97 Acts, ch 23, §61; 98 Acts, ch 1119, § 3; 99 Acts, ch 114, §41; 2000 Acts, ch 1023, §4, 5; 2002 Acts, ch 1111, §6; 2003 Acts, ch 91, §2

Footnotes

See also §523A.801

505.9 Ex officio receiver.

The commissioner of insurance henceforth shall be the receiver and liquidating officer for any insurance company, association, or insurance carrier, and shall serve without compensation other than the stated compensation as commissioner of insurance, but the commissioner shall be allowed clerical and other expenses necessary for the conduct of such receivership.

[C31, 35, § 8613-c1; C39, § **8613.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.9]

505.10 Expenses attending liquidation.

All expenses of supervision and liquidation shall be fixed by the commissioner of insurance, subject to approval by the court or a judge thereof, and shall, upon the commissioner's order, be paid out of the funds of such company, association, or insurance carrier in the commissioner's hands.

[C31, 35, § 8613-c2; C39, § **8613.2**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.10]

505.11 Refunds.

Whenever it appears to the satisfaction of the commissioner of insurance that, because of error, mistake, or erroneous interpretation of statute, a foreign or domestic insurance corporation has paid to the state of Iowa taxes, fines, penalties, or license fees in excess of the amount legally chargeable against it, the commissioner of insurance shall have power to refund to such corporation any such excess by applying the amount of the excess payment toward the payment of taxes, fines, penalties, or license fees already due or which may become due, until such excess payments have been fully refunded.

[C31, 35, § 8613-c3; C39, § **8613.3**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.11]

2001 Acts, ch 69, §2; 2002 Acts, ch 1050, §44

505.12 Life insurance annual report.

Before the first day of September the commissioner of insurance shall make an annual report to the governor of the general conduct and condition of the life insurance companies doing business in the state, and include therein an aggregate of the estimated value of all outstanding policies in each of the companies; and in connection therewith prepare a separate abstract thereof as to each company, and of all the returns and statements made to the commissioner by them.

[C73, § 1176; C97, § 1781; C24, 27, 31, 35, 39, § **8614**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.12]

88 Acts, ch 1112, § 101

505.13 Other insurance annual report by the division.

The commissioner shall annually cause the preparation and printing of a report to be delivered to the governor. The report shall contain information from the statements required of insurance companies, other than life insurance companies, organized or doing business in the state. The reports shall be delivered on or before the first day of September each year.

[C73, § 1158; C97, § 1720; S13, § 1720-a; C24, 27, 31, 35, 39, § **8615**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.13]

87 Acts, ch 132, § 1; 88 Acts, ch 1112, § 102; 98 Acts, ch 1119, § 4

505.13A Reserved.

505.14 Foreign insurers reciprocal provisions.

When by the laws of any other state a premium or income or other taxes, or fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions are imposed upon Iowa insurance companies actually doing business in the other state, or upon the agents of the Iowa companies, which in the aggregate are in excess of the aggregate of the taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions directly imposed upon insurance companies of the other state under the statutes of this state, the same obligations, prohibitions or restrictions of whatever kind are in the same manner and for the same purpose imposed upon insurance companies of the other state doing business in Iowa. Insurance premium taxes paid which were not paid under protest shall not be refunded if the refund claim is based upon an alleged error or mistake of law or erroneous interpretation of statute regarding the validity or legality of this section under the laws or constitutions of the United States or this state. For the purpose of this section, an alien insurer is deemed domiciled in a state designated by it wherein it has (1) established its principal office or agency in the United States, or (2) maintains the largest amount of its assets held in trust or on deposit for the security of its policyholders or policyholders and creditors in the United States, or (3) in which it was admitted to do business in the United States. This section does not apply to ad valorem taxes on real or personal property or to personal income taxes.

[C46, 50, 54, § 432.2; C58, 62, 66, 71, 73, 75, 77, 79, 81, § 505.14; 81 Acts, ch 164, § 1]

505.15 Actuarial staff.

The commissioner may appoint a staff of actuaries as necessary to carry out the duties of the division. The actuarial staff shall:

1. Perform analyses of rate filings.
2. Perform audits of submitted loss data.
3. Conduct rate hearings and serve as expert witnesses.
4. Prepare, review, and dispense data on the insurance business.
5. Assist in public education concerning the insurance business.
6. Identify any impending problem areas in the insurance business.
7. Assist in examinations of insurance companies.

87 Acts, ch 132, §2

505.16 Applications for insurance test restrictions duties of commissioner.

1. A person engaged in the business of insurance shall not require a test of an individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual provides a written release on a form approved by the insurance commissioner. The form shall include information regarding the purpose, content, use, and meaning of the test, disclosure of test results including information explaining the effect of releasing the information to a person engaged in the business of insurance, the purpose for which the test results may be used, and other information approved by the

insurance commissioner. The form shall also authorize the person performing the test to provide the results of the test to the insurance company subject to rules of confidentiality, consistent with section 141A.9, approved by the insurance commissioner. As used in this section, *"a person engaged in the business of insurance"* includes hospital service corporations organized under chapter 514 and health maintenance organizations subject to chapter 514B.

2. The insurance commissioner shall approve rules for carrying out this section including rules relating to the preparation of information to be provided before and after a test and the protection of confidentiality of personal and medical records of insurance applicants and policyholders.

88 Acts, ch 1234, § 7; 99 Acts, ch 181, §17

505.17 Confidential information.

Information, records, and documents utilized for the purpose of, or in the course of, investigation, regulation, or examination of an insurance company or insurance holding company, received by the division from some other governmental entity which treats such information, records, and documents as confidential, are confidential and shall not be disclosed by the division and are not subject to subpoena. Such information, records, and documents do not constitute a public record under chapter 22.

The disclosure of confidential information, administrative or judicial orders which contain confidential information, or information regarding other action of the division which is not a public record subject to disclosure, to other insurance and financial regulatory officials may be permitted by the commissioner provided that those officials are subject to, or agree to comply with, standards of confidentiality comparable to those imposed on the commissioner.

94 Acts, ch 1176, §4; 99 Acts, ch 165, §1

505.18 and 505.19 Reserved.

505.20 Health accounting standards duties of commissioner. Repealed by 99 Acts, ch 114, § 54.

505.21 Health care access duties of commissioner penalties.

1. The commissioner shall adopt rules establishing a requirement that an employer provide access to health care to the employees of the employer. The rules shall provide that an employer doing business within this state shall offer each employee, at a minimum, access to health insurance. The requirement contained in this section may be satisfied by offering any of the following:

a. Health care coverage through an insurer or health maintenance organization authorized to do business in this state.

b. Access to health benefits through a health benefits plan qualified under the federal Employee Retirement Income Security Act of 1974.

2. An employer may financially contribute toward the employee's health benefit plan. The employer shall offer payroll deduction of employee contributions and direct deposit of premium payments related to a health insurance purchasing cooperative or other health care coverage.

3. A violation of this section may be reported to the consumer and legal affairs bureau in the insurance division. The division may issue, upon a finding that an employer has failed to offer an employee access to health insurance, any of the following:

- a. A cease and desist order instructing the employer to cure the failure and desist from future violations of this section.
- b. An order requiring an employer who has previously been the subject of a cease and desist order to pay an employee's reasonable health insurance premiums necessary to prevent or cure a lapse in health care coverage arising out of the employer's failure to offer as required.
- c. An order upon the employer assessing the reasonable costs of the division's investigation and enforcement action.

94 Acts, ch 1176, §6; 98 Acts, ch 1217, § 38

505.22 Certain religious organization activities exempt from regulation.

A religious organization which, through its publication to subscribers, solicits funds for the payment of medical expenses of other subscribers, shall not be considered to be engaging in the business of insurance for purposes of this chapter or any other provision of this title, and shall not be subject to the jurisdiction of the commissioner of insurance, if all of the following apply:

1. The religious publication is provided by a nonprofit charitable organization described in section 501(c)(3) of the Internal Revenue Code.
2. Participation is limited to subscribers who are members of the same denomination or religion.
3. The publication is registered with the United States postal service and acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs, and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need.
4. The organization, through its publication, provides for the payment for subscriber financial or medical needs through direct payments from one subscriber to another.
5. The organization, through its publication, suggests amounts to contribute that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication.

95 Acts, ch 185, §3

505.23 Hearings.

If an evidentiary hearing is conducted in a proceeding pursuant to section 508B.7, 515G.7, 521A.3, or 521A.14, or in a proceeding with respect to a merger or consolidation pursuant to chapter 521, the proceeding is a contested case subject to chapter 17A.

2000 Acts, ch 1023, §6

505.24 Sale of policy term information by consumer reporting agency.

1. For purposes of this section, unless the context otherwise requires, "*consumer reporting agency*" means any person that for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

2. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Information submitted in conjunction with an insurance inquiry about a consumer includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage.

3. The restrictions provided in subsection 2 do not apply to data or lists supplied by a consumer reporting agency to an insurance producer from whom information was received, the insurer on whose behalf such producer acted, or such insurer's affiliates or holding companies.

4. This section shall not be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

2003 Acts, ch 91, §3

505.25 Information provided to medical assistance and hawk-i programs.

A carrier, as defined in section 514C.13, shall enter into a health insurance data match program with the department of human services for the sole purpose of comparing the names of the carrier's insureds with the names of recipients of the medical assistance program under chapter 249A or enrollees of the hawk-i program under chapter 514I.

2004 Acts, ch 1175, §153, 162; 2005 Acts, ch 175, §123

505.26 Prescription drug assistance clearinghouse program.

1. The commissioner of insurance shall establish and administer a prescription drug assistance clearinghouse program to improve access to prescription drugs for individuals who have no or inadequate health insurance or other resources for the purchase of medically necessary prescription drugs and to assist individuals in accessing programs offered by pharmaceutical manufacturers that provide free or discounted prescription drugs or provide coverage for prescription drugs.

2. The commissioner of insurance shall utilize computer software programs to do all of the following:

a. Provide a clearinghouse to assist individuals in accessing manufacturer-sponsored prescription drug assistance programs for which they may be eligible, including listing the eligibility requirements for pharmaceutical assistance programs offered by manufacturers.

b. Disseminate information about and assist individuals in assessing pharmaceutical discount or insurance programs that may be beneficial.

c. Serve as a resource for pharmaceutical benefit issues.

d. Assist individuals in making application to and enrolling in the pharmaceutical assistance program most appropriate for the individual.

e. Maintain a listing of community-based pharmacy assistance programs for additional assistance.

3. The commissioner of insurance shall provide information to pharmacies, physicians, other appropriate health care providers, and the general public regarding the program and about manufacturer-sponsored prescription drug assistance programs.

4. The commissioner of insurance shall notify pharmaceutical manufacturers doing business in this state of the prescription drug assistance clearinghouse program, and every pharmaceutical manufacturer that does business in this state that offers a pharmaceutical assistance program shall notify the commissioner of the existence of the program, the prescription drugs covered by the program, and all information necessary for application for assistance through the program. The commissioner of insurance shall provide for ongoing review and assessment of pharmaceutical discount or insurance programs.
5. The commissioner of insurance may work with pharmaceutical manufacturers to develop a simplified system to assist individuals in accessing pharmaceutical assistance programs. The system may include a simplified, uniform application process or a voucher system for dispensing prescription drugs through local pharmacies.
6. The commissioner of insurance shall monitor and evaluate the prescription drug assistance clearinghouse program including but not limited to the number of individuals served, the length and types of services provided, and any other measurable data available to assess the effectiveness of the program. The commissioner shall make recommendations for improvement of the program and shall identify and make recommendations regarding additional strategies to improve access to prescription drugs for citizens who have no or inadequate health insurance or other resources for the purchase of prescription drugs.
7. The commissioner of insurance shall submit a report regarding the effectiveness of the program and including any recommendations for improvement of the program to the governor and the general assembly on or before December 15, annually. If a national pharmaceutical assistance program is established by a public or private entity, the commissioner of insurance shall include in the annual report a recommendation regarding the continuation or elimination of the state prescription drug assistance clearinghouse program.