

CHAPTER 546

DEPARTMENT OF COMMERCE

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546.1 Definitions.

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

1. “*Department*” means the department of commerce.
2. “*Director*” means the director of the department of commerce.
86 Acts, ch 1245, §701

546.2 Department of commerce.

1. A department of commerce is created to coordinate and administer the various regulatory, service, and licensing functions of the state relating to the conducting of business or commerce in the state.

2. The chief administrative officer of the department is the director. The director shall be appointed by the governor from among those individuals who serve as heads of the divisions within the department. A division head appointed to be the director shall fulfill the responsibilities and duties of the director in addition to the individual’s responsibilities and duties as the head of a division. The director shall serve at the pleasure of the governor. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

3. The department is administratively organized into the following divisions:

- a. Banking.
- b. Credit union.
- c. Utilities.
- d. Insurance.
- e. Alcoholic beverages.

4. The director shall have the following responsibilities:

a. To establish general operating policies for the department to provide general uniformity among the divisions while providing for necessary flexibility.

b. To assemble a department structure and strategic plan that will provide optimal decentralization of responsibilities and authorities with sufficient coordination for appropriate growth and development.

c. To coordinate personnel services and shared administrative support services to assure maximum support and assistance to the divisions.

d. To coordinate the development of an annual budget which quantifies the operational plans of the divisions.

e. To identify and, with the chief administrative officers of each division, facilitate the opportunities for consolidation and efficiencies within the department.

f. To maintain monitoring and control systems, procedures, and policies which will permit each level of responsibility to quickly and precisely measure its results with its plan and standards.

5. The chief administrative officer of each division shall have the following responsibilities:

a. To make rules pursuant to chapter 17A except to the extent that rulemaking authority is vested in a policymaking commission.

b. To hire, allocate, develop, and supervise employees of the division necessary to perform duties assigned to the division by law.

c. To supervise and direct personnel and other resources to accomplish duties assigned to the division by law.

d. To establish fees assessed to the regulated industry except to the extent this power is vested in a policymaking commission.

6. Each division is responsible for policymaking and enforcement duties assigned to the division under the law. Except as provided in section 546.10, subsection 3:

a. Each division shall adopt rules pursuant to chapter 17A to implement its duties.

b. Decisions by the divisions are final agency actions pursuant to chapter 17A.

86 Acts, ch 1245, §702; 87 Acts, ch 234, §438; 93 Acts, ch 175, §20; 2000 Acts, ch 1219, §17; 2006 Acts, ch 1177, §49; 2007 Acts, ch 88, §44

546.3 Banking division.

1. The banking division shall regulate and supervise banks under chapter 524, debt management licensees under chapter 533A, money services under chapter 533C, delayed deposit services under chapter 533D, savings and loan associations under chapter 534, mortgage bankers and brokers under chapter 535B, regulated loan companies under chapter 536, and industrial loan companies under chapter 536A, and shall perform other duties assigned to the division by law. The division is headed by the superintendent of banking who is appointed pursuant to section 524.201. The state banking council shall render advice within the division when requested by the superintendent.

2. The banking division shall administer and manage the professional licensing and regulation bureau within the division. The division shall separately account for funds of the bureau. However, the division may allocate costs for administrative, technical, support, and other shared services across the entire division.

86 Acts, ch 1245, §703; 91 Acts, ch 63, §5; 2004 Acts, ch 1141, §32; 2006 Acts, ch 1177, §50; 2007 Acts, ch 88, §45

546.4 Credit union division.

1. The credit union division created by section 533.103 shall regulate and supervise credit unions under chapter 533.

2. The division is headed by the superintendent of credit unions who shall be appointed pursuant to section 533.104.

3. The credit union review board shall perform duties within the division as prescribed in chapter 533.

86 Acts, ch 1245, §704; 2007 Acts, ch 174, §96

546.5 Savings and loan division. Repealed by 2007 Acts, ch 88, § 50.

546.6 Repealed by 87 Acts, ch 234, § 440.

546.7 Utilities division.

The utilities division shall regulate and supervise public utilities operating in the state. The division shall enforce and implement chapters 476, 476A, 477C, 478, 479, 479A, and 479B and shall perform other duties assigned to it by law. The division is headed by the administrator of public utilities who shall be appointed by the governor pursuant to section 474.1.

86 Acts, ch 1245, §707; 91 Acts, ch 97, §58; 92 Acts, ch 1163, §105; 95 Acts, ch 192, §60

546.8 Insurance division.

The insurance division shall regulate and supervise the conducting of the business of insurance in the state. The division shall enforce and implement Title XIII, subtitle 1, insurance and related regulation, and chapter 502, and shall perform other duties assigned to the division by law. The division is headed by the commissioner of insurance who shall be appointed pursuant to section 505.2.

86 Acts, ch 1245, §708; 93 Acts, ch 60, §24; 94 Acts, ch 1023, §115

546.9 Alcoholic beverages division.

The alcoholic beverages division shall enforce and implement chapter 123. The division is headed by the administrator of alcoholic beverages who shall be appointed pursuant to section 123.10. The alcoholic beverages commission shall perform duties within the division pursuant to chapter 123.

86 Acts, ch 1245, §709; 90 Acts, ch 1247, §17; 94 Acts, ch 1107, §93

546.10 Professional licensing and regulation bureau — superintendent of banking.

1. The professional licensing and regulation bureau of the banking division shall administer and coordinate the licensing and regulation of several professions by bringing together the following licensing boards:

a. The engineering and land surveying examining board created pursuant to chapter 542B.

b. The Iowa accountancy examining board created pursuant to chapter 542.

c. The real estate commission created pursuant to chapter 543B.

d. The architectural examining board created pursuant to chapter 544A.

e. The landscape architectural examining board created pursuant to chapter 544B.

f. The real estate appraiser examining board created pursuant to section 543D.4.

g. The interior design examining board created pursuant to chapter 544C.

2. The bureau is headed by the administrator of professional licensing and regulation who shall be the superintendent of banking. The administrator shall appoint and supervise staff and shall coordinate activities for the licensing boards within the bureau.

3. The licensing and regulation examining boards included in the bureau pursuant to subsection 1 retain the powers granted them pursuant to the chapters in which they are created, except for budgetary and personnel matters which shall be handled by the administrator. Each licensing board shall adopt rules pursuant to chapter 17A. Decisions by a licensing board are final agency actions for purposes of chapter 17A.

Notwithstanding subsection 5, eighty-five percent of the funds received annually resulting from an increase in licensing fees implemented on or after April 1, 2002, by a licensing board or commission listed in subsection 1, is appropriated to the professional licensing and regulation bureau to be allocated to the board or commission for the fiscal year beginning July 1, 2002, and succeeding fiscal years, for purposes related to the duties of the board or commission, including but not limited to additional full-time equivalent positions. The director of the department of administrative services shall draw warrants upon the treasurer of state from the funds appropriated as provided in this section and shall make the funds available to the professional licensing and regulation bureau on a monthly basis during each fiscal year.

4. The professional licensing and regulation bureau of the banking division of the department of commerce may expend additional funds, including funds for additional personnel, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before the bureau expends or encumbers an amount in excess of the funds budgeted for examinations, 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 examination expenses exceed the funds budgeted by the general assembly to the bureau and the bureau does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management, the bureau may expend and encumber funds for excess examination expenses. The amounts necessary to fund the examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 8.

5. Fees collected under chapters 542, 542B, 543B, 543D, 544A, 544B, and 544C shall be paid to the treasurer of state and credited to the general fund of the state. All expenses required in the discharge of the duties and responsibilities imposed upon the professional licensing and regulation bureau of the banking division of the department of commerce, the administrator, and the licensing boards by the laws of this state shall be paid from moneys appropriated by the general assembly for those purposes. All fees deposited into the general

fund of the state, as provided in this subsection, shall be subject to the requirements of section 8.60.

6. The licensing boards included in the bureau pursuant to subsection 1 may refuse to issue or renew a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended or a licensee may otherwise be disciplined, or upon any other grounds set out in the chapter governing the respective board.

7. The licensing boards included in the bureau pursuant to subsection 1 may suspend, revoke, or refuse to issue or renew a license, or may discipline a licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another state, territory, or country. For purposes of this subsection, “disciplinary action” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

8. Notwithstanding any other provision of law to the contrary, the licensing boards included within the bureau pursuant to subsection 1 may by rule establish the conditions under which an individual licensed in a different jurisdiction may be issued a reciprocal or comity license, if, in the board’s discretion, the applicant’s qualifications for licensure are substantially equivalent to those required of applicants for initial licensure in this state.

9. Notwithstanding section 272C.6, the licensing boards included within the bureau pursuant to subsection 1 may by rule establish the conditions under which the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information, as the board in its sole discretion believes would aid the investigation or resolution of the matter.

10. Notwithstanding section 17A.6, subsection 2, the licensing boards included within the bureau pursuant to subsection 1 may adopt standards by reference to another publication without providing a copy of the publication to the administrative rules coordinator if the publication containing the standards is readily accessible on the internet at no cost and the internet site at which the publication may be found is included in the administrative rules that adopt the standard.

11. Renewal periods for all licenses and certificates of the licensing boards included within the bureau pursuant to subsection 1 may be annual or multiyear, as provided by rule.

12. A quorum of a licensing board included within the bureau pursuant to subsection 1 shall be a majority of the members of the board and action may be taken upon a majority vote of board members present at a meeting who are not disqualified.

86 Acts, ch 1245, §710; 88 Acts, ch 1274, §41; 90 Acts, ch 1247, §18; 90 Acts, ch 1261, §42; 91 Acts, ch 260, §1246; 93 Acts, ch 131, §24; 94 Acts, ch 1107, §94, 95; 94 Acts, ch 1187, §22; 2001 Acts, ch 55, §33, 34, 38; 2002 Acts, 2nd Ex, ch 1003, §33, 35; 2003 Acts, ch 145, §286; 2005 Acts, ch 19, §115; 2006 Acts, ch 1030, §66; 2006 Acts, ch 1177, §52; 2007 Acts, ch 170, §7; 2010 Acts, ch 1055, §3; 2011 Acts, ch 34, §131

[P] Confirmation, see §2.32

[T] Subsection 10 amended

546.11 Repealed by 94 Acts, ch 1107, § 99.

546.12 Department of commerce revolving fund.

1. A department of commerce revolving fund is created in the state treasury. The fund shall consist of moneys collected by the banking division; credit union division; utilities division, including moneys collected on behalf of the office of consumer advocate established in section 475A.3; and the insurance division of the department; and deposited into an account for that division or office within the fund on a monthly basis. Except as otherwise provided by statute, all costs for operating the office of consumer advocate and the banking division, the credit union division, the utilities division, and the insurance division of the department shall be paid from the division’s accounts within the fund, subject to appropriation by the general assembly. The insurance division shall administer the fund

and all other divisions shall work with the insurance division to make sure the fund is properly accounted and reported to the department of management and the department of administrative services. The divisions shall provide quarterly reports to the department of management and the legislative services agency on revenues billed and collected and expenditures from the fund in a format as determined by the department of management in consultation with the legislative services agency.

2. To meet cash flow needs for the office of consumer advocate and the banking division, credit union division, utilities division, or the insurance division of the department, the administrative head of that division or office may temporarily use funds from the general fund of the state to pay expenses in excess of moneys available in the revolving fund for that division or office if those additional expenditures are fully reimbursable and the division or office reimburses the general fund of the state and ensures all moneys are repaid in full by the close of the fiscal year. Notwithstanding any provision to the contrary, the divisions shall, to the fullest extent possible, make an estimate of billings and make such billings as early as possible in each fiscal year, so that the need for the use of general fund moneys is minimized to the lowest extent possible. Periodic billings shall be deemed sufficient to satisfy this requirement. Because any general fund moneys used shall be fully reimbursed, such temporary use of funds from the general fund of the state shall not constitute an appropriation for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54.

3. Section 8.33 does not apply to any moneys credited or appropriated to the revolving fund from any other fund.

4. The establishment of the revolving fund pursuant to this section shall not be interpreted in any manner to compromise or impact the accountability of, or limit authority with respect to, an agency or entity under state law. Any provision applicable to, or responsibility of, a division or office collecting moneys for deposit into the fund established pursuant to this section shall not be altered or impacted by the existence of the fund and shall remain applicable to the same extent as if the division or office were receiving moneys pursuant to a general fund appropriation. The divisions of the department of commerce shall comply with directions by the governor to executive branch departments regarding restrictions on out-of-state travel, hiring justifications, association memberships, equipment purchases, consulting contracts, and any other expenditure efficiencies that the governor deems appropriate.

2009 Acts, ch 181, §108; 2011 Acts, ch 127, §51, 89

[T] 2011 repeal of this section and related amendments enacted by 2009 Acts, ch 181, §43-108, stricken pursuant to 2011 Acts, ch 127, §57, 89

[T] Partial item veto applied

[T] Section amended