

*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 deputy commissioner and other deputy and assistant commissioners. The functions of the division are divided into five bureaus.

**1.1(1)** The 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.

**1.1(2)** The company regulation bureau is responsible for the following:

*a.* Regulating of all domestic and foreign insurance companies licensed in Iowa through licensure, financial and market examinations.

*b.* Examining the financial condition of Iowa insurance companies not less than once every five years. Foreign companies are examined as deemed appropriate. The bureau ensures compliance with National Association of Insurance Commissioners accreditation mandates, and financial examination and analysis standards.

*c.* Serving as a general insurance information repository and resource for both insurers and consumers regarding, for example: insurance companies' status, addresses, telephone numbers, certifications, and financial statements; statutory construction; guaranty fund calculations; powers of attorney; compilation of statistics; and publication of annual governor's report.

*d.* Reviewing and approving filed company transactions including, but not limited to, approval of acquisitions and mergers of domestic insurers, intercompany contractual agreements and assumption reinsurance agreements.

*e.* Authorizing and overseeing individual and group workers' compensation self-insurance.

*f.* Authorizing, examining and analyzing benevolent associations.

*g.* Authorizing and reviewing multiple employer welfare arrangements.

*h.* Registering and verifying compliance for risk retention groups.

*i.* Supervising the rehabilitation and liquidation of insurance companies.

*j.* Auditing and monitoring premium tax remittances for admitted companies and supervising statutory deposits.

*k.* Reviewing and approving admission applications for foreign surplus lines insurers as well as conducting premium tax audits associated with the nonadmitted insurance industry.

**1.1(3)** The market regulation bureau is responsible for the following:

*a.* Ensuring fair treatment of consumers and preventing unfair or deceptive trade practices in the insurance and securities marketplaces. Inquiries from the public are answered and consumer complaints regarding insurance producers, insurers, broker-dealers, securities agents, investment advisers, and investment adviser representatives are received, reviewed, and investigated. Administrative actions are taken where appropriate, and criminal matters are referred to prosecutors for potential action.

*b.* Operating the senior health insurance information program (SHIIP), which provides training to senior volunteers throughout the state. These volunteers then provide free, confidential health insurance counseling to Iowa seniors. Issues addressed include Medicare, Medicare subscription drug coverage, Medicare supplement insurance, long-term care insurance, insurance claims, and all other health insurance policies. This program is primarily funded by a Centers for Medicare and Medicaid Services grant.

*c.* Reviewing, approving or disapproving property, casualty, life and health forms and, where provided by law, premium rates of certain types of insurance.

*d.* Performing actuarial analysis of life and health insurance plans funded by certain public bodies.

*e.* Licensing insurance producers and overseeing the continuing education that insurance producers are required to complete.

*f.* Monitoring surplus lines placement, registering purchasing groups, and overseeing the payment of premium taxes for surplus lines business including that which is placed through purchasing groups and risk retention groups.

*g.* Registering managing general agents and legal expense insurers.

*h.* Registering and monitoring third-party administrators.

*i.* Registering and monitoring health maintenance organizations.

*j.* Licensing advisory organizations.

**1.1(4)** The 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, as set forth in Iowa Code chapter 507E.

**1.1(5)** The securities and regulated industries 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. The bureau also is responsible for protecting the public by administering and enforcing rules related to motor vehicle service contracts, residential service contracts, retirement facilities, cemeteries, and preneed purchase agreements for cemetery merchandise, funeral merchandise and funeral services.

**191—1.2(502,505) Location and contact information.** The insurance division is located at 330 East Maple in Des Moines, Polk County, Iowa. The general telephone number for the division is (515)281-5705 or 1-877-955-1212. The division's Web site is [www.iid.state.ia.us](http://www.iid.state.ia.us).

#### 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 toll-free at 1-877-955-1212, 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 or toll-free at 1-877-955-1212.

*d. Internet access.* The division's Internet Web site home page is [www.iid.state.ia.us](http://www.iid.state.ia.us). The page from which the division's bulletins are available is [http://www.iid.state.ia.us/news\\_media/bulletins.asp](http://www.iid.state.ia.us/news_media/bulletins.asp).

*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), or to permit the division time to redact personally identifiable information from the record. 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 currently has certain data processing systems which match, collate or permit 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, some of which may contain personally identifiable information:

- 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.* Agent licensure records.
- e.* The records of premium tax and fee collection.
- f.* Insurer acquisition and reinsurance records.
- g.* 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.
- h.* 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.
- i.* Various legal and technical publications related to insurance.
- j.* All other records that are not confidential records under subrule 1.3(11).

**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, except as allowed under Iowa Code section 505.8(6), 505.17, 507A.10, or 507B.3.
- 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.

**191—1.4(505) Service of process.** A party to a proceeding who requests that the commissioner provide service of process as allowed by law shall pay a fee to the Iowa insurance division of \$50.

These rules are intended to implement Iowa Code sections 22.11, 505.1 and 505.29.

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