

## 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 six bureaus:

*Administrative bureau* exercises general supervision and control over the insurance and securities business in the state of Iowa and provides supervision and direction to the various bureaus of the insurance division, including administrative support.

*Insurance examination bureau* is responsible for the admission and continuous monitoring of all insurance companies operating in Iowa, including review of applications for admission, review of annual statements, examination of companies and control of securities on deposit with the division.

*Property and casualty bureau* is responsible for the review and approval of policy forms and rates relating to property and casualty lines of insurance, review and investigation of citizen complaints concerning insurance practices, and general legal support for the division.

*Life and health bureau* is responsible for review and approval of all life and accident and health forms, Blue Cross and Blue Shield forms and rates, health maintenance organization forms and rates, credit life and accident and health rates and forms, and technical advice on citizen complaints concerning life and accident and health insurance.

*Agent examination and licensing bureau* is responsible for the testing, licensing and supervision of all insurance agents in the state, citizen complaints concerning agent conduct, and investigation of alleged agent misconduct in advance of hearings concerning suspension or revocation of agent licenses.

*Securities bureau* is responsible for the registration of securities issuers, dealers, and agents within the state; the regulation and examination of dealers and agents; and the enforcement of securities law and regulations in civil and criminal proceedings.

**191—1.2(502,505) Location.** The insurance division is located in the Lucas State Office Building 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) 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 where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Iowa Division of Insurance, Lucas State Office Building, Des Moines, Iowa 50319. The division will forward the request to the appropriate person.

*b. Office hours.* Records shall be made available during all customary office hours, which are 7:30 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

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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