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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.)*

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.)*

CHAPTER 1. General Regulations [680 - 1113] (*Chapter 1 enacted by Stats. 1935, Ch. 145.)*

ARTICLE 10.2. Minority, Women, LGBT, Veteran, and Disabled Veteran Business Enterprises [927 - 927.5] (*Article 10.2 added by Stats. 2019, Ch. 249, Sec. 1.)*

927. The Legislature finds and declares all of the following:

(a) It is in the state's interest to encourage competitive business opportunities for all of its people. Insurers are uniquely positioned to build relationships within the communities they serve through the development, inclusion, and utilization of certified minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business enterprises whenever possible.

(b) It is in the state's interest to encourage corporate leadership opportunities for all of its people. Insurers are uniquely positioned to build relationships within the communities they serve through the development of a corporate board that represents the diversity of the state.

(c) According to the California Insurance Diversity Survey, in 2021, among at least 1,600 board seats reported by 386 insurance companies, nearly 64 percent of those seats were occupied by Caucasians, and 62 percent of board members identified as men. Meanwhile, less than 1 percent of board members publicly identified as LGBT, 4.1 percent publicly identified as veterans, and less than 1 percent publicly identified as disabled veterans. Moreover, diverse board members from historically underrepresented communities continue to remain disproportionately low. Blacks and African Americans, Asians-Pacific Islanders, Hispanics-Latinos, and Native Americans comprised only 7.8 percent, 4.4 percent, 3.4 percent, and 0 percent, of board seats, respectively.

(d) An analysis by KPMG of 2020 proxy statement data from Equilar, Inc. revealed that nearly 23 percent of the directors serving on the boards of publicly held insurance companies in the Russell 3000 Index are women. At more than 35 percent of insurance companies, women comprise less than 10 percent of the board.

(e) By requiring each major insurer to report to the Insurance Commissioner, explaining the insurer's supplier diversity statement, expressing its goals regarding certified minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business enterprises, and detailing the insurer's efforts and goals regarding board diversity, and by having the commissioner place that information on the department's internet website, will help facilitate these relationships.

(Amended by Stats. 2023, Ch. 204, Sec. 3. (AB 1140) Effective January 1, 2024.)

927.1. For the purposes of this article, the following definitions apply:

(a) "Control" means to exercise the power to make policy decisions.

(b) "Disabled veteran business enterprise" has the same meaning as defined in subparagraph (A) of paragraph (7) of subdivision (b) of Section 999 of the Military and Veterans Code, or any successor provision. Disabled veteran business enterprise certification eligibility requirements shall be consistent with those imposed by the Department of General Services, and this section applies only to those disabled veteran business enterprises certified by the Department of General Services.

(c) "LGBT business enterprise" means a business enterprise that is 51 percent owned, managed, operated, and controlled by one or more lesbian, gay, bisexual, or transgender (LGBT) individuals, has been legally formed in the United States, and exercises independence from any non-LGBT business enterprise.

(d) "Minority business enterprise" means a business enterprise, physically located in the United States or its trust territories, that is at least 51 percent owned by a minority group or groups, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority groups, and whose management and daily business operations are controlled by one or more of those individuals. "Minority" includes African Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans.

(e) "Operate" means to be actively involved in the day-to-day management of the enterprise and not to be merely officers or directors.

(f) "Person with disabilities" means a person who identifies as having any of the following:

(1) A physical or mental impairment that substantially limits one or more major life activities as defined by subdivision (2) of Section 12102 of Title 42 of the United States Code, also known as the federal Americans with Disabilities Act of 1990.

(2) A record of such an impairment.

(3) Being regarded as having such an impairment as described under subdivision (3) of Section 12102 of the federal Americans with Disabilities Act of 1990.

(g) (1) "Persons with disabilities business enterprise" or "Disability-owned business enterprise" or "Disabled-owned business enterprise" means a business enterprise physically located in the United States or its trust territories, that is at least 51 percent owned by a person or persons with a disability or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more persons with a disability, and whose management and daily business operations are controlled by one or more of those individuals.

(2) "Disabled" means an individual who self-identifies as having a disability, as defined in Section 12102 of the federal Americans with Disabilities Act of 1990.

(h) "Women business enterprise" means a business enterprise physically located in the United States or its trust territories, that is at least 51 percent owned by a woman or women, or, in the case of any publicly owned business at least 51 percent of the stock of which is owned by one or more women, and whose management and daily business operations are controlled by one or more of those individuals.

(i) "Veteran business enterprise" means a business enterprise physically located in the United States or its trust territories that is at least 51 percent owned by one or more veteran groups or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more veteran groups, and whose management and daily business operations are controlled by one or more of those individuals.

(Amended by Stats. 2023, Ch. 204, Sec. 4. (AB 1140) Effective January 1, 2024.)

927.2. (a) (1) Commencing July 1, 2020, and biennially on July 1 of each even-numbered year thereafter, each admitted insurer, with California premiums written of seventy-five million dollars (\$75,000,000) or more, shall report to the commissioner on its minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business procurement efforts during the previous two years.

(2) The insurer shall provide all of the following:

(A) The insurer's supplier diversity policy statement.

(B) The insurer's outreach and communications to minority, women, LGBT, persons with disabilities, veteran, and disabled veteran business enterprises, including:

(i) How the insurer encourages and seeks out minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business enterprises to become potential suppliers.

(ii) How the insurer encourages its employees involved in procurement to seek out minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business enterprises to become potential suppliers.

(iii) How the insurer conducts outreach and communication to minority, women, LGBT, persons with disabilities, veteran, and disabled veteran business enterprises.

(iv) How the insurer supports organizations that promote or certify minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business enterprises.

(v) Information regarding appropriate contacts at the insurer for interested business enterprises.

(C) Information about which procurements are made from minority, women, LGBT, persons with disabilities, and veteran business enterprises with a headquarters' address in California, and from disabled veteran business enterprises, as defined in subdivision (b) of Section 927.1, with each category aggregated separately, to the extent that information is readily accessible. An insurer may also include other relevant information.

(D) Information about which procurements are made from minority, women, LGBT, persons with disabilities, veteran, and disabled veteran business enterprises with at least a majority of the enterprise's workforce in California, with each category aggregated separately, to the extent that information is readily accessible. An insurer may also include other relevant information.

(E) Information related to total procurement contract dollars awarded, to the extent that information is readily accessible. An insurer may also include other relevant information.

(3) An insurer that does not enter into contracts to procure goods or services in California satisfies the requirements of paragraph (2) by filing a statement with the commissioner attesting that it does not enter into procurement contracts in California.

(b) This section does not require quotas, set-asides, or preferences in an admitted insurer's procurement of goods or services, and this section does not apply to insurer producer or licensee contracts. Admitted insurers retain the authority to use business judgment to select the supplier for a particular contract.

(c) This section does not preclude an admitted insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with paragraphs (1) and (2) of subdivision (a) through a single filing on behalf of the entire group of affiliated companies.

(d) Failure to report the information required by subdivision (a), by the reporting deadline, shall subject the admitted insurer to a civil penalty to be fixed by the commissioner, not to exceed five thousand dollars (\$5,000), or if the act or practice was willful, a civil penalty not to exceed ten thousand dollars (\$10,000). An insurer may request, and the commissioner may grant, a 30-day extension to report the information if needed due to unintended or unforeseen delays. If the insurer has failed to report the information within 30 days of a written notice by the commissioner that the insurer has failed to report the information, the commissioner may find that the failure to report the information was willful and increase the civil penalty to an amount not to exceed ten thousand dollars (\$10,000). The penalty imposed by this section shall be enforced by the commissioner and is appealable by means of any remedy provided by Section 12940, or by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. This subdivision is the sole means for enforcement of this section.

(e) By November 1 of the reporting year, the commissioner shall establish and maintain a link on the department's internet website that provides public access to the contents of each admitted insurer's reported information on minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned business procurement efforts. The commissioner shall include a statement on the department's internet website that the information on minority, women, LGBT, persons with disabilities, veteran, and disabled veteran-owned businesses posted pursuant to this subdivision is provided for informational purposes only.

(Amended by Stats. 2023, Ch. 204, Sec. 5. (AB 1140) Effective January 1, 2024.)

927.3. (a) (1) Commencing July 1, 2020, and biennially on July 1 of each even-numbered year thereafter, each admitted insurer with California premiums written of seventy-five million dollars (\$75,000,000) or more, shall report to the commissioner on its governing board and board diversity efforts during the previous two years.

(2) The insurer shall provide all of the following information:

(A) The demographic makeup of the insurer's governing board.

(B) The insurer's goals regarding board diversity, including outreach and communication strategies to diversify its board.

(C) A board diversity policy statement or a measurable goal or goals to include at least one diverse board member on the insurer's board of directors. For purposes of this subparagraph:

(i) A "board diversity policy statement" is any language that refers to an insurer's corporate governance policy or guidelines, with the goal of increasing diversity on the insurer's board of directors. Board diversity language as part of an insurer's corporate governance policy describes how the board considers gender, ethnicity, race, age, geographic location, sexual orientation, skills, disability, and experience when identifying director candidates and throughout the nomination process.

(ii) A "diverse board member" means an individual who self-identifies as a woman, nonbinary, Black, African American, Hispanic, Latino-Latina, Asian, Pacific Islander, Native American, Native Hawaiian, Alaskan Native, person with disabilities, veteran or disabled veteran, lesbian, gay, bisexual, transgender, or queer.

(b) (1) An insurer shall provide each board member with an opportunity to participate in a survey for the purpose of collecting and reporting the information described in subparagraph (A) of paragraph (2) of subdivision (a).

(2) The insurer shall distribute a written disclosure to each board member prior to, or concurrently with, the survey. The disclosure shall notify the board member that the board member's decision to disclose their demographic information is voluntary, that no

adverse action may be taken against the board member or the insurer if the board member declines to participate in the survey, and that the aggregate data collected for each demographic category will be reported.

(3) The survey shall be completed using a standardized form to be specified by the commissioner.

(4) Neither an insurer nor the department shall in any way encourage, incentivize, or attempt to influence the decision of a board member to participate in the survey.

(5) An insurer required to conduct the survey shall do both of the following:

(A) Collect survey response data from board members in a manner that maintains the anonymity of the responding board member and the confidentiality of the data reported.

(B) Transmit the survey response data to the department in a manner that does not associate the survey response data with an individual board member.

(c) This section does not require quotas, set-asides, or preferences in regard to an admitted insurer's governing board.

(d) This section does not preclude an admitted insurer that is a member of an insurance holding company system, as defined in Article 4.7 (commencing with Section 1215) of Chapter 2, from complying with subdivisions (a) and (b) through a single filing by the insurance holding company on behalf of an entire group of affiliated companies that identifies the aggregated survey results for each affiliated insurer.

(e) By November 1 of the reporting year, the commissioner shall establish and maintain a link on the department's internet website that provides public access to the information submitted pursuant to this section. The commissioner shall publish the information submitted pursuant to this section in the aggregate, and shall not identify an individual respondent or insurer. The commissioner shall include a statement on the department's internet website that the information posted pursuant to this subdivision is provided for informational purposes only.

(f) The data collected pursuant to this section is confidential and shall not be released by the department or an insurer under any circumstances, except as provided in this section.

(Amended by Stats. 2023, Ch. 204, Sec. 6. (AB 1140) Effective January 1, 2024.)

927.4. (a) The commissioner shall establish and appoint an Insurance Diversity Task Force.

(b) The task force shall be comprised of at least 13, but not more than 15, members as follows:

(1) The commissioner or the commissioner's designee.

(2) Two members who are representatives in the insurance industry, one of whom shall, at the time of appointment, serve as a practitioner in the field of supplier diversity, and one of whom shall, at the time of appointment, have expertise in governing board diversity.

(3) Two members who are representatives of a minority business enterprise.

(4) Two members who are representatives of a women business enterprise.

(5) A member who is a representative of a disabled veteran business enterprise or a veteran business enterprise.

(6) A member who is a representative of an LGBT business enterprise.

(7) A member who is representative of a persons with disabilities business enterprise.

(8) Two members with expertise in the field of supplier diversity.

(9) Two members with expertise in the field of governing board diversity.

(c) The term of each member shall be for two years. Staggered terms shall be established by drawing lots at the first meeting of the task force so that a simple majority of the members shall initially serve a two-year term, and the remainder shall initially serve a one-year term.

(d) The task force shall have all of the following duties:

(1) To advise and provide recommendations to the department on the best methods to increase procurement with diverse suppliers and to increase diversity on governing boards within the insurance industry.

(2) To meet quarterly, or as deemed necessary by the commissioner, or the commissioner's designee.

(3) Assist the department in promoting and providing outreach to insurance companies that are actively engaged in supplier and governing board diversity issues.

(e) The members of the task force shall not receive compensation from the state for their services under this section but may be reimbursed for their actual and necessary expenses incurred in connection with attending a task force meeting.

(f) The department shall review and revise, if necessary, the department's conflicts of interest regulations to ensure that each task force member is required to disclose conflicts of interest to the public.

(Amended by Stats. 2023, Ch. 204, Sec. 7. (AB 1140) Effective January 1, 2024.)

927.5. The commissioner may promulgate regulations that further the purposes of this article.

(Added by Stats. 2019, Ch. 249, Sec. 1. (SB 534) Effective January 1, 2020.)