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Code: Section:

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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 9. Rates and Rating and Other Organizations [1850.4 - 1861.16] (*Chapter 9 added by Stats. 1947, Ch. 805.*)

ARTICLE 4. Advisory Organizations [1855 - 1855.5] (*Article 4 added by Stats. 1947, Ch. 805.*)

1855. No advisory organization shall conduct its operations in this State unless and until it has filed with the commissioner (a) a copy of its constitution, articles of incorporation, agreement or association, and of its by-laws, or rules and regulations governing its activities, all duly certified by the custodian of the originals thereof, (b) a list of its members and subscribers, and (c) the name and address of a resident of this State upon whom notices or orders of the commissioner or process may be served.

Every such advisory organization shall notify the commissioner promptly of every change in its constitution, its articles of incorporation, agreement or association, and of its by-laws, rules and regulations governing the conduct of its business; its list of members and subscribers; and the name and address of the resident of this State designated by it upon whom notices or orders of the commissioner or process affecting such organization may be served.

No such advisory organization shall engage in any unfair or unreasonable practice with respect to such activities.

(*Added by Stats. 1947, Ch. 805.*)

1855.1. It is the intent of the Legislature in enacting this article to promote competition in the insurance business and provide a means whereby insurance consumers can more easily comparison shop for insurance coverage by allowing insurance advisory organizations to develop and draft for use by all insurers in California common forms, coverages, endorsements, and manuals for insurance policies and bonds.

(*Amended by Stats. 1991, Ch. 880, Sec. 4.*)

1855.2. As used in this article, "advisory organization" means every group, association, or other organization of insurers, whether located within or outside of this state, that develops and prepares policy or bond forms, or manuals, for use by admitted insurers, carries on research relative to the development and preparation of policy and bond forms, and acts in an advisory, as distinguished from a ratemaking, capacity.

Every advisory organization shall, prior to operation, file with the commissioner (a) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules, and regulations governing its activities, (b) a list of its members, and (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his or her direction may be served. Every advisory organization shall thereafter promptly notify the commissioner of every material change in the documents required to be filed with the commissioner.

(*Amended by Stats. 1991, Ch. 880, Sec. 5.*)

1855.3. Two or more insurers may cooperate with and act in concert with others as members of an advisory organization with respect to any matters pertaining to the preparation or making of insurance policy or bond forms, or manuals, or carrying on of research relative to the preparation and development of policy or bond forms, or manuals.

(*Amended by Stats. 1991, Ch. 880, Sec. 6.*)

1855.4. Members and subscribers of advisory organizations may use the policy or bond forms, or manuals, of advisory organizations, either consistently or intermittently, but, except for insurers having common ownership or management, shall not agree with each other or others to adhere thereto or violate the antitrust or unfair business practice laws. The fact that two or more admitted insurers are members or subscribers of an advisory organization, or the fact that they use, either consistently or

intermittently, the policy or bond forms, or manuals, prepared by an advisory organization, shall not be sufficient evidence, alone or in conjunction with each other, to support a finding either that an agreement to adhere to those forms or manuals exists or that an insurer or advisory organization is violating the antitrust or unfair business practice laws. These facts may be used only for the purpose of supplementing or explaining other evidence of the existence of an agreement to adhere to those forms or manuals or the existence of the violation of the antitrust or unfair business practice laws. No act, agreement, or practice involving the activities of an advisory organization, an insurer's participation in those activities, or the use of an advisory organization's products or services shall be found to be unfair or unreasonable under this code because it is uncompetitive unless proven by a preponderance of the evidence that the act, agreement, or practice violates the antitrust or unfair business practice laws. Findings of this nature that are made in support of an order or regulation of the commissioner shall be determined and enforced under Article 7 (commencing with Section 1858) of this chapter. As used in this section, "antitrust laws" means Part 2 (commencing with Section 16600) of the Business and Professions Code, and "unfair business practice laws" means Part 3 (commencing with Section 17500) of the Business and Professions Code.

(Amended by Stats. 1996, Ch. 1002, Sec. 1. Effective September 29, 1996.)

1855.5. (a) An advisory organization may prepare and distribute insurance policy or bond forms, and manuals, including policy writing rules, rating plans, classification codes and descriptions, territory codes and descriptions, prospective loss costs, and rules that include factors and relativities such as increased limits factors, classification relativities, or similar factors, if, prior to being used by insurers, they are submitted in writing to the commissioner for his or her consideration and approval, together with any information the commissioner may reasonably require. All of these documents shall be available for public inspection at the office of the commissioner. The commissioner shall approve advisory organization policy forms or bond forms, or manuals, that are not found by him or her to be unfair, unreasonable, or violate the provisions of this code, including Sections 1861.02 and 1861.05.

(b) Upon submission of any advisory organization policy forms or bond forms, or manuals, the commissioner may review them, and if after a hearing, at which representatives of consumers and other interested parties may participate, upon not less than 10 days' notice to an advisory organization he or she finds that the contents of policy forms or bond forms, or manuals, are unfair or unreasonable, or violate the provisions of this code, he or she may issue a written order to the advisory organization specifying in what respect the contents of the policy forms, bond forms, or manuals, are unfair or unreasonable or violate the provisions of this code and disapprove the use of the forms or manuals.

(c) Notwithstanding the provisions of this section, if the commissioner fails to act within 90 days of the submission of a proposed policy or bond form, or manual by an advisory organization, the policy or bond form, or manual, shall be deemed approved.

(d) For good cause, and after a hearing, at which representatives of consumers and other interested parties may participate, upon not less than 10 days' notice to the advisory organization, the commissioner may revoke approval of any policy form or bond form or manual only upon his or her finding grounds that would permit disapproval of the policy or bond form, or manual, if submitted for approval at the time of the revocation hearing.

(e) Nothing in this chapter shall be interpreted to allow an advisory organization to set or establish rates or to issue any manual that contains final rates for any insurance coverage, policy endorsement, or bond.

(Amended by Stats. 1996, Ch. 1002, Sec. 2. Effective September 29, 1996.)