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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 6. Records and Examinations [1857 - 1857.4] (*Article 6 added by Stats. 1947, Ch. 805.*)

1857. (a) Every insurer or advisory organization and every group, association, or other organization of insurers that engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys, or inspections made or used by it so that those records will be available at all reasonable times to enable the commissioner to determine whether that organization, insurer, group, or association, and, in the case of an insurer, every rate, rating plan, and rating system made or used by it, complies with the provisions of this chapter applicable to it. The maintenance of those records in the office of an organization of which an insurer is a member or subscriber shall be sufficient compliance with this section for any insurer maintaining membership or subscribership in that organization, to the extent that the insurer uses the rating plans, rating systems, or underwriting rules of that organization. The records shall be maintained in an office within this state or shall be made available for examination or inspection within this state by the commissioner at any time upon reasonable notice.

(b) There are established data advisory committees to assist the commissioner in making special calls for one or more lines or types of insurance to which this chapter applies that are commercial insurance as defined in Section 675.5 and to make available the types of reasonable records that subdivision (a) requires insurers, and advisory organizations to maintain and make available. No data advisory committee shall have any authority to veto, amend, or alter any request for the reporting of records or information by the commissioner, but shall only provide advice to the commissioner relative to methods and efficiency in the collection of records and information as set forth in subdivision (c).

(c) Each data advisory committee shall review all proposed industrywide requests for records and information by the commissioner at least one time but shall not review substantially the same request made on a recurring or ad hoc basis in the future. No later than 10 business days after receipt of each proposal, the data advisory committee may advise the commissioner as to both of the following:

(1) Whether the desired records and information are already available in other forms or are being maintained by one or more insurance advisory organizations that may be able to provide the records and information to the commissioner on a more efficient and cost-effective basis.

(2) Whether the format and contents of the proposal are likely to elicit useful information and make recommendations as to changes in the format or contents of the proposal.

If the data advisory committee cannot reach unanimous agreement on its advice to the commissioner, any member may provide his or her own advice. Any written advice to the commissioner by the advisory committee and by individual members shall be submitted simultaneously.

(d) Each data advisory committee shall consist of the following members:

(1) The commissioner or his or her representative.

(2) A representative of the department's statistical unit.

(3) No more than three representatives from advisory organizations operating under this article that maintain insurer records for the lines or types of insurance that are the subject of the call.

(4) Three representatives from various sizes of insurers chosen by the commissioner that underwrite diverse risks for the lines or types of insurance that are subject to the call.

(5) At least one but not more than two qualified consumer representatives chosen by the commissioner. As used in this section, "qualified consumer representative" means a person who has experience with the collection, use, and analysis of insurance data and who can show that he or she represents the interests of consumers as demonstrated by, but not limited to, a history of that type of representation in administrative, legislative, or judicial proceedings.

Any group, association, or insurer that represents persons described in paragraphs (1) to (5), inclusive, may submit to the commissioner the names of those persons for consideration of appointment to the advisory committee.

(e) Each data advisory committee shall meet telephonically. Members of an advisory committee shall receive no compensation.

(f) An insurer may fulfill any obligation to maintain, record, or report information under Article 6.5 (commencing with Section 1857.7) by reporting records required by subdivision (a) to an advisory organization that maintains the insurer's records with those records of other insurers and reports the aggregate records of insurers to the department according to reasonable schedules approved by the commissioner. The aggregate reports shall be made available by the commissioner for public inspection at the department, but shall not disclose the information of an individual insured, insurer, or insurer group.

(g) Upon a request made by any person to the commissioner in conjunction with an insurer's pending rate application, the advisory organization shall, within five business days, send to the commissioner the information in its possession regarding the individual insurer that Article 6.5 (commencing with Section 1857.7) specifically requires to be submitted with those filings. The information sent to the commissioner under this subdivision shall be available for public inspection at the department.

(h) Except as otherwise permitted or required by this section, no advisory organization shall provide an individual insurer's information to any other insurer, person, or organization, other than rates, rating systems, and rating plans that have been filed with the commissioner and are available for public inspection at the department.

(i) The commissioner may adopt rules necessary to implement this section.

(j) Nothing in subdivisions (b) to (i), inclusive, shall be construed to affect any of the following:

(1) Any authority granted to the commissioner under this code to obtain aggregate or individual insurer data or policy records from advisory organizations or insurers.

(2) Any industrywide data reporting requirements and standards that might exist in this chapter.

(3) The right of any person under any provision of this code, including Section 1861.07, to obtain and inspect at the department the aggregate or individual records of insurers maintained by advisory organizations.

(Amended by Stats. 1998, Ch. 725, Sec. 2. Effective January 1, 1999.)

1857.1. The commissioner shall, at least once every five years, and may as often as may be reasonable and necessary, make or cause to be made an examination of each licensed rating organization, and he may, as often as may be reasonable and necessary, make or cause to be made an examination of any advisory organization or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance.

In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state.

In examining any organization, group or association pursuant to this section the commissioner shall ascertain whether such organization, group or association, and, in the case of a rating organization, any rate or rating system made or used by it, complies with the requirements and standards of this chapter applicable to it.

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

1857.2. The commissioner may, at any reasonable time, make or cause to be made an examination of every admitted insurer transacting any class of insurance to which the provisions of this chapter are applicable to ascertain whether such insurer and every rate and rating system used by it for every such class of insurance complies with the requirements and standards of this chapter applicable thereto. Such examination shall not be a part of a periodic general examination participated in by representatives of more than one state.

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

1857.3. The officers, managers, agents and employees of any such organization, group, association or insurer may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation, together with all data, statistics and information of every kind and character collected or considered by such organization, group, association or insurer in the conduct of the operations to which such examination relates.

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

1857.4 The reasonable cost of any examination authorized by this article shall be paid by the organization, group, association or insurer to be examined.

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