INSURANCE CODE - INS

DIVISION 3. THE INSURANCE COMMISSIONER [12900 - 13813] *(Division 3 enacted by Stats. 1935, Ch. 145.)*

CHAPTER 1. Appointment, Qualification, and Offices [12900 - 12907] *(Chapter 1 enacted by Stats. 1935, Ch. 145.)*

12900. (a) The commissioner shall be elected by the people in the same time, place, and manner as the Governor not to exceed two four-year terms.

(b) Should a vacancy occur during the term of office, legislative confirmation shall be required for the position of commissioner in the same manner and procedure as that required by Section 5 of Article V of the California Constitution.

(Amended by Stats. 1993, Ch. 1227, Sec. 4. Effective January 1, 1994. Note: This section was added on Nov. 8, 1988, by initiative Prop. 103.)

12901. The commissioner shall be a person competent and fully qualified to perform the duties of the office. Neither the commissioner nor any deputy or employee shall during the commissioner's, deputy's, or employee's tenure of office be an officer, agent, or employee of an insurer or directly or indirectly interested in any insurer or licensee under this code, except (a) as a policyholder or (b) by virtue of relationship by blood or marriage to any person interested in any insurer or licensee.

If the commissioner or any deputy or employee holds any license or permit issued under this code, that commissioner, deputy, or employee shall surrender it for cancellation within 10 days after appointment and qualification. Upon termination of the commissioner's, deputy's, or employee's office or employment, that license or permit shall be reissued for the balance of the then current license or permit year without fee or penalty.

(Amended by Stats. 2021, Ch. 50, Sec. 240. (AB 378) Effective January 1, 2022.)

12902. The annual salary of the commissioner is provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1951, Ch. 1613.)

12903. The commissioner may employ actuarial, technical, and administrative assistants and clerks, as the commissioner may need to discharge in proper manner the duties imposed upon the commissioner by law. The commissioner may also employ stenographic reporters to take and transcribe the testimony in any formal hearing or investigation before the commissioner, deputy, or person authorized by the commissioner.

Those employed persons shall perform the duties assigned to them by the commissioner, subject to the provisions of the civil service laws. The commissioner may incur traveling and other expenses as are necessary, convenient, or advisable for the performance of the commissioner's duties. The provisions of this section shall not be deemed to affect or modify positions or seniority of officers or employees existing and held in the office of the commissioner immediately prior to the date this section takes effect, and all persons then serving in any capacity therein shall continue and remain in that capacity without change of position or seniority, subject to the provisions of the law regulating civil service in the same manner and to the same extent as prior to the date this section takes effect.

(Amended by Stats. 2021, Ch. 50, Sec. 241. (AB 378) Effective January 1, 2022.)

12903.1. (a) The commissioner may not accept, use, or in any manner benefit from payments or reimbursements made to the department for travel from any of the following:

(1) A single source that is subject to regulation by the commissioner.

(2) A private attorney or law firm that is under contract or is bidding on or under consideration for a contract to represent either the department or the commissioner in the commissioner's official capacity.

(3) A private attorney or law firm that seeks to be awarded, or has been awarded, advocacy fees under subdivision (b) of Section 1861.10.

(4) A private attorney or law firm that has a client subject to regulation by the commissioner.

(b) For purposes of this section, any payment or reimbursement provided by a representative of a person or entity subject to regulation by the commissioner shall be deemed to be provided by the regulated person or entity.

(c) (1) The Attorney General or any other person within this state may bring a civil action for the violation of this section. The court may assess a civil penalty in the amount of three times the amount of the unlawful benefit or payment received by the commissioner.

(2) An action under this subdivision shall be filed within five years of the date on which the violation occurred. If the commissioner engages in fraudulent concealment, the five-year period shall be tolled for the period of the concealment. For the purposes of this paragraph, “fraudulent concealment” means the commissioner knowingly concealed facts related to the commissioner’s travel expenditures or reimbursements.

(Amended by Stats. 2021, Ch. 50, Sec. 242. (AB 378) Effective January 1, 2022.)

12903.5. On the recommendation of the commissioner the Personnel Board may establish rates of compensation for insurance examiners engaged in examinations out of this State which are in excess of the rates based on the regular monthly salary ranges established for such examiners.

(Amended by Stats. 1949, Ch. 173.)

12904. In the administration of the provisions of this code and other insurance laws, the commissioner may purchase reports of financial and character reporting services, and other books and reports as in the commissioner’s opinion will aid in administration.

(Amended by Stats. 2021, Ch. 50, Sec. 243. (AB 378) Effective January 1, 2022.)

12905. The commissioner shall maintain offices in Sacramento, Los Angeles, San Diego, and the San Francisco Bay area.

(Amended by Stats. 2018, Ch. 37, Sec. 44. (AB 1817) Effective June 27, 2018.)

12906. The governmental agency unit heretofore known as the Department of Insurance in the Business, Transportation and Housing Agency is hereby made an independent department. The Department of Insurance is under the control of the Insurance Commissioner. The removal from the Business, Transportation and Housing Agency of the Department of Insurance, effected by this section, shall not affect in any manner the deputies or employees of such governmental agency unit, except as otherwise provided by the act enacted in the 1990 portion of the 1989–90 Regular Session that amended this section, and, except as so provided, their employments and positions are hereby expressly continued in existence. The Insurance Commissioner is not a head of a department within the meaning of Sections 1061 and 11151 of the Government Code.

(Amended by Stats. 1990, Ch. 1239, Sec. 5.)

12907. The following existing positions in the Department of Insurance shall be appointed by the Governor and are exempt from the state civil service system:

(a) Chief executive officer.

(b) Deputy commissioner for the office of the ombudsman.

(c) Career executive assignment IV, in the administration and licensing services division.

(Added by Stats. 2002, Ch. 1124, Sec. 38. Effective September 30, 2002.)