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INSURANCE CODE - INS

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

CHAPTER 2. Powers and Duties [12919 - 13555] (*Chapter 2 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 4. Fees [12970 - 12980] (*Article 4 enacted by Stats. 1935, Ch. 145.*)

12970. The commissioner shall require the payment in advance of a fee for copying microfilm records in the amount of thirty cents (\$0.30) per page.

(Amended by Stats. 1985, Ch. 770, Sec. 27.5.)

12970.1. In addition to all other fees required for furnishing copies of instruments or documents filed in his office, the commissioner shall require the payment, in lawful money of the United States, of an amount approximately equal to the postage or other delivery charges he must pay for delivery of the copies so furnished if at the request of the person ordering them they are delivered by any more expensive means than ordinary first-class United States mail.

(Added by Stats. 1959, Ch. 542.)

12972. The commissioner shall require the payment of one dollar (\$1), in advance, as a fee for attaching the commissioner's seal of office to any paper or document not specified in this code.

(Amended by Stats. 2021, Ch. 50, Sec. 257. (AB 378) Effective January 1, 2022.)

12973. The commissioner shall require, in advance, as a fee for issuing certificates when the fee is not otherwise specified, the following amounts:

- (a) Twenty-two dollars (\$22), if there is sufficient demand so that the commissioner in the commissioner's discretion has prepared a form of the certificate in advance that requires only the filling in of blanks for completion.
- (b) For issuing any other certificate, the reasonable cost of preparing and issuing that certificate, but not to exceed fifty dollars (\$50) for the first copy of the certificate and nine dollars (\$9) for each additional copy.

(Amended by Stats. 2021, Ch. 50, Sec. 258. (AB 378) Effective January 1, 2022.)

12973.5. The commissioner shall charge and collect, in advance, the following fees:

- (a) For filing any application for a license, permit, or certificate of authority when a fee for either filing the application or issuing the license, permit, or certificate is not elsewhere specified in this code, twenty-two dollars (\$22).
- (b) For filing any application to take any qualifying examination required by this code to be taken by a licensee other than an insurer, or to be taken by any applicant for a license other than a certificate of authority when a fee for filing that application or giving that examination is not elsewhere specified in this code, seventy-two dollars (\$72).

(Amended by Stats. 2017, Ch. 534, Sec. 88. (AB 1699) Effective January 1, 2018.)

12973.6. If a check in payment of a tax, fee, or penalty is not paid by the bank on which it is drawn on its first presentation, the commissioner shall charge and collect an additional fee of fourteen dollars (\$14).

(Amended by Stats. 2017, Ch. 534, Sec. 89. (AB 1699) Effective January 1, 2018.)

12973.7. Where provision for fees or charges for documents, transcripts, or other materials which may be furnished by the commissioner is not specifically made in this code, the commissioner may fix and collect fees therefor not in excess of reasonable cost. All publications and other printed matter shall be distributed and sold by the Department of General Services.

(Amended by Stats. 1965, Ch. 371.)

12973.9. Whenever by the provisions of this code a form of policy or certificate and any endorsement, rider, application, amendment, fill-in material, classification of rates, certificate or premium to be used therewith, is required to be filed with, submitted to, or approved by the commissioner, fees as provided for by this section shall be paid to the commissioner to cover the expenses of processing and indexing the same and maintaining copies of the same.

The required fee shall be prescribed by the commissioner for each type document submitted, depending on its nature and the kind of processing required. The commissioner may prescribe different fees for different types of documents, and in the case of documents submitted for approval or authorization of use, shall prescribe a fee only for the final approval or authorization for use, if any. The commissioner shall determine the fee, or fees, by estimating in advance the commissioner's total costs of performing these services for all types of documents for a specified period of time, estimating the total number of documents of various kinds which will be submitted for processing during such time and equitably distributing the total cost on a per document basis. The commissioner shall, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to establish the standard or standards by which the commissioner shall determine the original fee schedule or any amended fee schedule. Any rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be effective 90 days after adoption by the commissioner, except the first fee schedule adopted by the commissioner under such regulation may be retroactive to the effective date of this section.

All fees received by the commissioner under this section shall be remitted to the credit of the Insurance Fund pursuant to the provisions of Section 12975.7.

Without in any manner affecting the applicability of this section to any other provisions of this code, it is expressly provided herein that the provisions of this section apply to the forms required to be filed, submitted, or approved under the following sections of this code: 779.8, 795.5, 1320, 9080.1, 10205, 10225, 10270, 10270.1, 10270.5, 10270.57, 10270.9, 10270.93, 10290, 10292, 10506, 11027, 11029, 11066, 11069, 11513, 11522, 11658, 12250, and 12640.18.

(Amended by Stats. 1981, Ch. 714, Sec. 312.)

12975. Whenever, by the provisions of this code a duty, right, privilege, or power is imposed or conferred upon the commissioner, but it is provided that the expense of performance of that duty or exercise of that right, privilege, or power is to be paid in advance or otherwise out of sources other than the Insurance Fund, the commissioner may defray that expense, or any portion thereof, out of the appropriation for the support of the Department of Insurance without regard to prospect of repayment. The repayment of those moneys, not to exceed one thousand one hundred twenty-one dollars (\$1,121) shall be a debt of and a lien against the assets of every person otherwise chargeable with that payment and shall constitute a preferred claim in all proceedings in bankruptcy or insolvency to the same extent as claims for compensation due employees for wages and salaries and claims for expenses of conservatorship or liquidation in proceedings under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1.

(Amended by Stats. 2017, Ch. 534, Sec. 90. (AB 1699) Effective January 1, 2018.)

12975.1. All examination expense moneys collected by the Department of Insurance under the provisions of Sections 736, 1061, and 1857.4 are hereby appropriated to the department and shall be deposited in the Insurance Fund to the credit of the support appropriation for the department current at the time of the deposit.

(Amended by Stats. 1982, Ch. 722, Sec. 1. Operative July 1, 1983, by Sec. 12 of Ch. 722. Note: Stats. 1988, Ch. 855, deleted the July 1, 1989, termination date in Stats. 1982, Ch. 722, Sec. 10, as amended by Stats. 1985, Ch. 770, Sec. 34.)

12975.5. The commissioner may, in any investigation or hearing the commissioner conducts, take or cause to be taken the deposition of any witness residing within or without this state and may pay the expense thereof out of the current support appropriation of the department. The commissioner may pay out of the appropriation to any witness subpoenaed by the commissioner the necessary and reasonable traveling expenses of any witness, to the place of hearing or investigation and return and a per diem of twelve dollars (\$12) for each day that the witness is in attendance at or en route to and from the place of hearing or investigation in obedience to the subpoena. The provisions of this section shall not apply to proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and those proceedings shall be governed solely by that chapter.

(Amended by Stats. 2021, Ch. 50, Sec. 259. (AB 378) Effective January 1, 2022.)

12975.7. (a) All moneys received by the commissioner in payment of lawful fees or reimbursements pursuant to this code shall be transmitted to the Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. Unless specified in this code to be deposited in a different fund, all moneys received by the commissioner in fines, penalties, assessments, costs, or other sanctions shall be transmitted to the State Treasury for deposit in the General Fund.

(b) The money in the Insurance Fund received from the commissioner pursuant to this section is hereby appropriated to pay the refunds authorized by this code.

(c) The balance of the money in the Insurance Fund shall be used for the purposes specified in Section 12975.9, for the support of the Department of Insurance as authorized by the Budget Act, and for related cashflow needs.

(Amended by Stats. 2004, Ch. 183, Sec. 251. Effective January 1, 2005.)

12975.8. (a) The Insurance Fund shall, in addition to the funds specified in Section 12975.7, consist of all of the following:

(1) All moneys appropriated to the fund in accordance with law.

(2) All moneys deposited into the State Treasury from any source whatever in payment of lawful fees or reimbursements collected by the Department of Insurance.

(3) The balance remaining in the Insurance Fund at the end of the fiscal year, whether the moneys received are from an appropriation, fees, or from reimbursements for services rendered.

(b) (1) All moneys in the Insurance Fund credited to the Seismic Safety Account shall be subject to an annual appropriation each fiscal year for the purposes specified in Section 12975.9.

(2) All other moneys in the Insurance Fund shall be subject to an annual appropriation each fiscal year for the support of the Department of Insurance.

(3) If the current cash balance in the Seismic Safety Account is not adequate to fund the amount appropriated from it in the annual Budget Act, the Insurance Fund, upon enactment of the Budget Act, shall loan to the account the amount of the appropriation, and one half of this amount shall be transferred to the Seismic Safety Commission. The second half of the appropriated amount shall be transferred to the Seismic Safety Commission from the Seismic Safety Account on or before December 31 of each year. This loan shall be repaid by revenues collected pursuant to Section 12975.9.

(c) Any balance remaining in the Insurance Fund at the end of the fiscal year may be carried forward to the next succeeding fiscal year.

(d) Whenever the balance in the Insurance Fund is not sufficient to cover cashflow in the payment of authorized expenditures, the department may borrow funds as may be necessary from whatever source and under terms and conditions as may be determined by the Director of Finance. Repayment shall be made from revenues received by the department for the same fiscal year for which the loan is made.

(Amended by Stats. 2004, Ch. 183, Sec. 252. Effective January 1, 2005.)

12975.9. (a) The Seismic Safety Account is hereby created as a special account within the Insurance Fund. Moneys in the account are available, upon appropriation by the Legislature, for the purposes of this section to fund the department and the Alfred E. Alquist Seismic Safety Commission.

(b) There is hereby imposed an assessment on each person who owns real property, commercial or residential, that is insured by a property insurance policy. The department shall calculate the annual assessment to be charged to each commercial and residential earned property exposure. The assessment shall be set annually every August 1, beginning August 1, 2014, for all commercial and residential earned property exposures reported during the previous calendar year. The annual assessment shall be set at fifteen cents (\$0.15) per earned property exposure for the first three years of the implementation of this section. Each year thereafter, the annual assessment shall be based upon the number of earned property exposures from both commercial and residential insurance policies, the amount required for the support of the Alfred E. Alquist Seismic Safety Commission, the actual collection and administrative costs of the department, and the maintenance of an adequate reserve, but shall not exceed fifteen cents (\$0.15) per earned property exposure.

(c) The insurer, upon receipt of an invoice from the department, shall transmit payment to the department for deposit into the Seismic Safety Account. The insurer shall recover the assessment from the insured, unless the insurer elects to pay the assessment on the insured's behalf. The insurer may provide a description of the assessment to the insured as part of its billing statement. The insurer is not required to refund any portion of an assessment because the policy or coverage is terminated prior to the expiration date of the policy or coverage. Any deficiency or excess in the amount collected in relation to the appropriation authority for the commission and the department shall be accounted for in the subsequent annual fee calculation. Any balance remaining in the Seismic Safety Account at the end of each fiscal year shall be retained in the account and carried forward to the next fiscal year.

(d) Funds in the Seismic Safety Account shall be distributed, upon appropriation by the Legislature, to the Alfred E. Alquist Seismic Safety Commission for the support of the commission and to the department for the actual administrative costs incurred in collecting the assessments.

(e) Any assessment collected from an insured that has not been remitted to the department shall be a debt owed to the state by the insurer. This part does not impose any obligation upon an insurer to take any legal action to enforce the collection of the assessment

imposed by this section.

(f) Payment of the assessment shall be considered delinquent if not paid within 45 days of the invoice date. The department is authorized to charge a late fee of 1.5 percent per month of the balance due, compounded monthly, for any amount not paid within this period in accordance with Section 12995.

(g) (1) Notwithstanding Section 10231.5 of the Government Code, the department shall report by December 1 of each year, beginning on December 1, 2014, to the Legislature, the Alfred E. Alquist Seismic Safety Commission, and the Department of Finance on the assessment calculation methodology employed.

(2) A report to be submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(Amended by Stats. 2014, Ch. 407, Sec. 2. (AB 1395) Effective January 1, 2015.)

12976. All fines, forfeitures, taxes, assessments, restitution, and penalties provided for in this code shall be due and payable on the demand of the commissioner. If payment is not made within 10 days after that demand, then the commissioner shall institute an action in the name of the people of the State of California for the purpose of recovering that moneys due. All such actions shall be subject to all the provisions of the Code of Civil Procedure which may be applicable thereto.

(Amended by Stats. 2022, Ch. 540, Sec. 3. (SB 1040) Effective January 1, 2023.)

12976.5. (a) On and after January 1, 1994, and before January 1, 1995, every insurer whose annual taxes exceed fifty thousand dollars (\$50,000) shall make payment by electronic funds transfer. On and after January 1, 1995, every insurer whose annual taxes exceed twenty thousand dollars (\$20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 for completing the electronic funds transfer.

(b) Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(c) (1) Any insurer required to remit taxes by electronic funds transfer pursuant to this section who remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.

(2) If the department finds that an insurer's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (a) is due to reasonable cause or circumstances beyond the insurer's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer shall be relieved of the penalty provided in paragraph (1).

(3) Any insurer seeking to be relieved of the penalty provided in paragraph (1) shall file with the department a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(Amended by Stats. 1995, Ch. 721, Sec. 8. Effective January 1, 1996.)

12977. The commissioner may authorize the refund of money received or collected by the department in payment for the filing of applications for licenses, permits or certificates, or for the rendering of other services:

(a) Where the receipt or collection has resulted in an overpayment or duplicate payment.

(b) In cases where no payment is required for filing the application for the license, permit or certificate sought, or for rendering the other service.

(c) Where an insufficient fee is paid and for which reason the application for the license, permit or certificate cannot be filed or the other service cannot be rendered.

(d) The penalty fee required by subdivision (b) of Section 1718 upon a written showing, filed within sixty (60) days after the delinquency date, with particularity as to facts that late payment resulted from mistake, inadvertence or excusable neglect.

This section does not exclude the making of refunds under other appropriate provisions of law requiring the approval of the Director of General Services before such refunds may be made.

(Amended by Stats. 1965, Ch. 371.)

12978. (a) Notwithstanding any other law, the commissioner may increase or decrease the fees set forth in this code, as necessary, to allow the department to meet the appropriation authorized by the annual Budget Act. However, any increase or decrease so made

shall be made only in accordance with this section, and a fee increase shall not exceed 10 percent without the prior approval of the Legislature.

(b) A single annual increase or decrease in fees, on a fiscal year basis, may be made by the department at any time during the year provided it is announced by bulletin issued at least 90 days prior to the effective date of that increase or decrease. The bulletin shall be sent to all affected parties and to the Assembly Committee on Insurance and the Senate Committee on Insurance. That fee increase or decrease may be rescinded by a majority vote of both houses of the Legislature not later than 60 days after the issuance of the bulletin announcing the increase or decrease.

(c) If the bulletin is issued during the period between August 1 and December 1 of any year, the department shall provide notice in writing of the necessity of any fee increase or decrease as proposed in the bulletin upon issuance of the bulletin to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee.

(d) If written notice is provided to the commissioner within 60 days of the issuance of the bulletin announcing the increase or decrease by any of the chairpersons that there is an objection to the fee increase or decrease, the increase or decrease shall take effect February 1 of the following year unless rescinded by a majority vote of both houses of the Legislature by that date, rather than 60 days after issuance of the bulletin.

(e) The department shall annually project forward its workload for the subsequent three years in order to project appropriate fee levels, and shall annually make adjustments to those fees, if necessary, based on actual workload experience.

(f) The limit on the cumulative amount that the fees may be increased or decreased shall be the amount necessary to provide sufficient moneys to carry out the projected workload within the appropriations contained in the Governor's Budget for the next succeeding fiscal year, or, to the extent that moneys received or projected to be received by the department are insufficient to carry out the projected workload within the appropriation authorized by the annual Budget Act during the then current fiscal year, an amount necessary to meet that appropriation and consistent with that projected workload.

(Amended by Stats. 2017, Ch. 534, Sec. 91. (AB 1699) Effective January 1, 2018.)

12979. Notwithstanding the provisions of Section 12978, the commissioner shall establish a schedule of filing fees to be paid by insurers to cover any administrative or operational costs arising from the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

(Added November 8, 1988, by initiative Proposition 103, Sec. 5.)

12980. The Financial Responsibility Penalty Account is hereby created in the General Fund. Moneys in the account shall be expended, upon appropriation therefor, for matters including, but not limited to, automobile insurance and financial responsibility of vehicle owners and operators.

(Added by Stats. 1985, Ch. 1494, Sec. 1. Effective October 2, 1985.)