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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 5. Fee Oversight [12990 - 12995] ( Article 5 added by Stats. 1994, Ch. 965, Sec. 1. )

**12990.** The department shall adopt an accounting system, as recommended by the State Auditor in Report No. 93030, that will allow the department to accurately identify costs by the regulatory activities and to link the costs to fees collected for those regulatory activities.

(Added by Stats. 1994, Ch. 965, Sec. 1. Effective January 1, 1995.)

**12991.** On and after October 1, 1995, the department may not levy any fee or fees under Section 736 or 12979 unless the fees are created in compliance with Sections 12992 and 12993.

(Added by Stats. 1994, Ch. 965, Sec. 1. Effective January 1, 1995.)

**12992.** (a) The department shall determine the actual cost of providing each examination as authorized under Section 730 and following. The department shall then set each fee levied under Section 736 to be based on the actual cost of providing the examination.

(b) The department shall determine the actual administrative and operational costs arising from the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1. The department shall then set the fees assessed under Section 12979 to be based on the actual administrative and operational costs arising from the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

(Added by Stats. 1994, Ch. 965, Sec. 1. Effective January 1, 1995.)

**12993.** The department shall provide the schedule of fees created under Section 12992, as well as the justification that the fees are based on the actual cost of the regulatory activity, to the Department of Finance, the Legislative Analyst, and the insurance committees in each house of the Legislature.

(Added by Stats. 1994, Ch. 965, Sec. 1. Effective January 1, 1995.)

**12994.** On or before October 1, 1995, the department shall publish a schedule of all fees levied under Sections 736 and 12979. The fees shall be calculated in accordance with Sections 12992 and 12993. On or before January 15, 1996, the Bureau of State Audits shall complete an audit of the schedule of fees created by this section. The audit shall determine if the fees are in compliance with Section 12992.

(Added by Stats. 1994, Ch. 965, Sec. 1. Effective January 1, 1995.)

**12995.** (a) Notwithstanding any other provision of this code, all uncontested departmental billings for services or assessments authorized herein, which are not paid within 45 days of the invoice date, shall be subject to a late charge, unless waived or modified by the department. The late charge shall be  $1\frac{1}{2}$  percent per month of the balance due. This late charge shall be compounded monthly.

(b) Billings from the department shall be postmarked within five working days of the invoice date. If the billing is postmarked more than five working days after the invoice date, the insurer shall be given 45 days from the date of the postmark to pay the amount due. In those instances where a billing is postmarked more than five working days after the invoice date, the insurer is required to submit the postmarked envelope with payment to avoid a late charge.

(c) Payments shall be postmarked by the due date to avoid a late charge. Except as provided in subdivision (d), contested billings for which the original amount is paid to the department after the 45 day period shall be subject to the late charge, unless waived or modified by the department. The insurer shall provide written notice of the contested billing and shall set forth the basis for the contestability in writing to the department prior to the due date.

(d) Late charges shall be tolled for the portion of the billing that is contested by an insurer. The commissioner shall consider the material submitted by the insurer and reach a decision on the contested billing within 30 days of receiving written notification that a billing is being contested. The commissioner's written decision on contested amounts shall be final and written notification, including a revised amount, if any, shall be provided indicating the basis for the decision. This written notification shall also include an invoice date from which an insurer shall be given 30 days to remit payment. This section shall not preclude an insurer from filing a petition for writ of mandate in accordance with the provisions of the Code of Civil Procedure.

(e) All late charges collected pursuant to this section shall be deposited into the General Fund.

(f) This section shall not apply to the Insurance Department Schedule of Fees and Charges pursuant to Section 12978.

*(Added by Stats. 1997, Ch. 798, Sec. 4. Effective October 9, 1997. Operative January 1, 1998, by Sec. 8 of Ch. 798.)*