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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 12. The Insurance Frauds Prevention Act [1871 - 1879.8] (Chapter 12 added by Stats. 1989, Ch. 1119, Sec. 3.)

ARTICLE 5.6. Insurer Fraud Investigation [1875.20 - 1875.24] (Article 5.6 added by Stats. 1991, Ch. 1222, Sec. 4.)

1875.20. Every insurer admitted to do business in this state, except those otherwise exempted in this code, shall provide for the continuous operation of a unit or division to investigate possible fraudulent claims by insureds or by persons making claims for services or repairs against policies held by insureds.

(Amended by Stats. 2005, Ch. 717, Sec. 15. Effective January 1, 2006.)

1875.21. Insurers may maintain the unit or division required by this article using its employees or by contracting with others for that purpose.

(Added by Stats. 1991, Ch. 1222, Sec. 4.)

1875.22. Insurers shall establish the unit or division required by this article no later than July 1, 1992.

(Added by Stats. 1991, Ch. 1222, Sec. 4.)

1875.23. For purposes of this article, "unit or division" may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit or division, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense for ratesetting purposes.

(Added by Stats. 1991, Ch. 1222, Sec. 4.)

1875.24. (a) If after examination, or upon the basis of other information, the commissioner has good cause to believe that an insurer to whom the provisions of this article apply does not comply with the requirements of this article, or with the regulations set forth in Article 2 (commencing with Section 2698.30) of Subchapter 9 of Chapter 5 of Title 10 of the California Code of Regulations, the commissioner shall notify the insurer of its noncompliance. The notice shall state in what manner and to what extent the noncompliance is alleged to exist, shall specify a reasonable time, not less than 10 days thereafter, in which the noncompliance may be corrected, and shall set forth the amount of any penalty that may be due under subdivision (b).

(b) Any insurer that fails to comply with the provisions of this article or with the regulations described in subdivision (a) shall be liable to the state for a civil penalty not to exceed five thousand dollars (\$5,000) for each act, or, if the act was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each act. The commissioner shall have the discretion to determine what constitutes an act. However, when violations relative to the maintenance and operation of the unit or division are inadvertent, the violations shall be considered a single act for the purpose of this section. Any penalty imposed by the commissioner pursuant to this section shall be determined as provided in subdivision (d) of this section and Article 19 (commencing with Section 2591) of Subchapter 3 of Chapter 5 of Title 10 of the California Code of Regulations. Notwithstanding subdivision (c) of Section 2591.1 of Title 10 of the California Code of Regulations, enforcement of any provision of this section shall be deemed an enforcement action pursuant to Article 19 (commencing with Section 2591) of Subchapter 3 of Chapter 5 of that title.

(c) An insurer served with a notice of noncompliance described herein shall, within the time specified therein, do one or more of the following:

- (1) Establish to the satisfaction of the commissioner that the noncompliance does not exist.

(2) Request a hearing, notice of which must be given at least 30 days prior to the date set for a hearing.

(3) Enter into a consent order with the commissioner to correct the specified noncompliance within the time period specified in the consent order.

(d) If, after hearing, the commissioner finds that the facts alleged in the notice of noncompliance are true, he or she shall issue an order requiring compliance with the provisions of this article within a reasonable time. An insurer that fails to comply with an order issued by the commissioner, including a consent order, shall be liable to the state for a civil penalty not to exceed ten thousand dollars (\$10,000) for each day the insurer fails to comply with the provisions of the order. Any order, including any consent order, issued pursuant to this section shall specify the amount of the penalty due under subdivision (b), and shall indicate that an additional penalty shall be imposed for each day the insurer fails to comply with the order within the time specified therein. In addition to any other remedy provided by statute, regulation, or otherwise, the commissioner may direct the insurer to take any other corrective action that he or she may deem necessary and proper.

(e) The commissioner shall adopt regulations necessary to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Added by Stats. 2004, Ch. 596, Sec. 1. Effective January 1, 2005.)