

## DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Section 311 (18 Del.C. §311)  
18 DE Admin. Code 101

FINAL

ORDER

### 101 Organization, Methods and Operations of the Delaware Insurance Commission [Formerly Regulation 25]

Regulation 101 (formerly Regulation 25) first became effective on August 20, 1976. Section 8.1 of Regulation 101 states that the Delaware Assigned Risk Plan is governed by Regulation 17. Regulation 17 was formerly titled the Delaware Assigned Risk Plan but in lieu of a published regulation, the Department of Insurance incorporated the information published by a national service organization named AIPSO, which published, and continues to publish, the information and manuals applicable to the Delaware Assigned Risk Plan. The internet home page for the Delaware Assigned Risk Plan is <https://www.aipso.com/de/> and the internet page for the Delaware manual is <https://www.aipso.com/DEManuals/>. Pursuant to the authority of 29 Del.C. §10113(b)(4) and (5) I hereby order that section 8.1 of Regulation 101, insofar as it relates to the Delaware Assigned Risk Plan, be amended without the necessity of meeting the procedural requirements of 29 Del.C. §§10115-10118 by (1) deleting the reference to Regulation 17 and (2) by deleting the reference to public hearing since 18 Del.C. Ch. 25 governs the requirements for setting rates and holding hearings on rates and forms so that the appropriate paragraph of section 8.1 shall read as follows:

Assigned Risk Plan (Delaware Automobile Insurance Plan). The Plan is administered by the Commissioner pursuant to 18 Del.C. §2527 ~~and Regulation No. 47. The information contained in the Delaware manual published, and as amended from time to time, on the internet at <https://www.aipso.com/DEManuals/> is incorporated herein by reference and made a part of this regulation.~~ It provides for: (1) the equitable apportionment, among all the insurers writing automobile insurance in this State, of insurance which shall be afforded applicants who are in good faith entitled to, but are unable to procure insurance through ordinary methods and (2) reasonable rates for such insurance and (3) such other rules as are necessary to effect and maintain the Assigned Risk Plan. ~~Each year a public hearing is held to update and adjust the Plan's rates or rules.~~

IT IS SO ORDERED this 12th day of July, 2007.

Matthew Denn  
Insurance Commissioner

### 101 Organization, Methods and Operations of the Delaware Insurance Commission [Formerly Regulation 25]

#### 1.0 Agent Licensing

1.1 The Department in licensing agents, brokers, consultants, adjusters and appraisers is charged with the responsibility of protecting the citizens of this State by approving for licensing and renewal only those applicants who possess the mental ability and the moral character that is needed to suppress misrepresentation of the product to be offered.

1.2 The Department endeavors to promote the dignity of career insurance representatives by strict enforcement of qualification requirements and by firm but fair disposition of violations of the Delaware Insurance Law, with no individual exceptions. Effort is also made to improve public acceptance of insurance by careful screening and testing of proposed representatives and by consistent elimination of those licensees who, through unethical, unfair or illegal practices, tend to destroy the confidence of the industry.

1.3 Administer qualifications prescribed by law and Departmental Regulations.

- 1.4 Issue interim licenses and examination permits to qualified, first-time applicants.
- 1.5 Provide for an examination study manual.
- 1.6 Provide for license examinations.
- 1.7 Issue permanent licenses.
- 1.8 Renewal licenses.
- 1.9 Collect all license and examination fees.
- 1.10 Work out reciprocal agreements with other states for nonresident applicants.
- 1.11 Provide Letters of Certifications for Delaware agents seeking licenses in other states.
- 1.12 Issue Service Representative Permits to qualified applicants.
- 1.13 Handle complaints involving misappropriation of funds filed by insurers against agents.
- 1.14 Investigate any other type of complaints filed by insurers against agents for the purpose of determining the facts and coordinating action.
- 1.15 Conduct such prehearing conferences with agents as may be necessary for determination if formal hearings are necessary.
- 1.16 Conduct formal hearings for license revocations; if in the opinion of the Commissioner, satisfactory evidence or answers were not given at the prehearing conference.
- 1.17 Advise all companies of any change in the status of their agents' licenses for the purpose of restricting or curtailing an agent's authority to act and/or termination of the agent's service if the discrepancy warrants such action.

## **2.0 Claims and Investigation**

- 2.1 Through investigation, the Insurance Department attempts to assure fair and honest dealings between insurers, agents and policyholders in all insurance matters.
  - 2.1.1 Receives all complaints by and against agents and policyholders.
  - 2.1.2 An investigator obtains, through investigation, all available data necessary to properly evaluate a claim.
  - 2.1.3 A review is made of the estimate of losses in all claims involving fire and casualty to determine if an offer is based on a legitimate estimate.
  - 2.1.4 Frequently an informal conference is held between policyholders and company adjusters hoping that the conference will bring forth a meeting of minds.
  - 2.1.5 The Department is constantly alert for violations of the Unfair Trade Practices Act (18 Del.C. Ch.23) and investigates any apparent violations of such Act. Results are submitted to the Commissioner for his determination.
  - 2.1.6 The Department reviews advertising materials to determine if unauthorized insurers are soliciting business within this State, and if so, seeks voluntary discontinuance of such advertising and solicitation. The facts are presented to the Commissioner for his order, ordering the offending party to show cause why an order should not be issued ordering such party to cease and desist.
  - 2.1.7 The Department promptly investigates all complaints of every kind and nature and takes such action within the law as the facts and the relationship of the parties dictate; investigation is made regardless of the amount involved and the policyholder is informed as to the Department's view and if the claim is deemed uncollectible, the file is closed.
  - 2.1.8 The Department actively participates in third party claims only when it appears that the company or its representatives is acting in bad faith.

## **3.0 General Administration of Insurance Regulatory Laws**

- 3.1 The Commissioner:
  - 3.1.1 Shall grant or deny applications for Certificates of Authority in accordance with the requirements, information and instructions set forth in the Code.
  - 3.1.2 Approve or disapprove all petitions filed with the Secretary of State for organizing domestic insurers.
  - 3.1.3 Renew Certificates of Authority.
  - 3.1.4 Examine each insurer, rating organization, advisory organization and joint underwriting or joint reinsurance group, association or organization authorized to do business in the State.

3.1.4.1 Whenever the Commissioner shall deem it expedient, he shall examine the affairs, transactions, accounts, records, documents, and assets of each insurer authorized to do business in this State and any other fact relative to its business methods, management and its dealings with policyholders.

3.1.4.2 At least once every five years he shall so examine each domestic insurer.

3.1.4.3 Whenever he shall deem it necessary and at least once in five years, the Commissioner shall fully examine each rating organization which is licensed in this State. As often as he shall deem it necessary, he may examine each advisory organization and each joint underwriting or joint reinsurance group, association or organization.

3.1.4.4 The Commissioner shall examine the affairs, transactions, accounts, records, documents and assets of each insurer or rating organization applying for authority to do business in this State, and any other fact relative to its business methods, management and its dealings with policyholders.

3.1.4.5 Determine when an insurer should be cited to show cause why his Certificate of Authority should not be suspended or revoked.

3.1.4.6 Determine when court action should be taken.

3.1.5 The Department may institute court proceedings when the Commissioner's order upon hearing has been ignored or defied.

3.1.5.1 Pass upon eligibility, soundness and the amount of securities to be deposited with the Treasurer by an insurer to qualify for a Certificate of Authority.

3.1.5.2 Determine when an insurer may be permitted to withdraw its securities.

3.1.5.3 Review and pass upon all proposals for merger or sale where a domestic insurer is a party.

#### **4.0 Policy Forms**

4.1 The Commissioner:

4.1.1 Is charged with the responsibility of disapproving policy forms or withdrawing any approval previously granted by him if he finds that such policies do not meet the requirements of the Insurance Code.

4.1.2 No basic insurance policy, annuity contract form, printed rider, endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this State, unless the form has been filed with the Commissioner.

4.1.3 All forms will be reviewed to determine that:

4.1.3.1 Coverage is not unduly restrictive;

4.1.3.2 Wording is not ambiguous;

4.1.3.3 Coverage is not contrary to public policy;

4.1.3.4 Coverage bears some relationship to the premium charged; and

4.1.3.5 The contract covers a legitimate insurable interest.

#### **5.0 Rates and Rating Organizations**

5.1 The purpose of 18 Del.C. Ch. 25 is to promote the public welfare by regulating insurance rates (in accordance with the intent of Congress as expressed in Public Law 15 — 79th Congress) and to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of 18 Del.C. Ch. 25.

5.1.1 Every insurer shall file with the Commissioner, except as to inland marine risks, every manual, minimum, class rate, rating schedule or plan and every other rating rule, and every modification of any of the foregoing which it proposes to use.

5.2 The Commissioner:

5.2.1 Shall review all rate and deviation filings. Rates shall not be excessive, inadequate or unfairly discriminatory. Filings may be reviewed by the Commissioner for any reason not inconsistent with the provisions of the Delaware Insurance Code which the Commissioner shall deem necessary and appropriate to accomplish the purposes of said Code.

5.2.2 License all rating bureaus which meet the statutory requirements.

5.2.3 License all advisory organizations which meet statutory requirements.

5.2.4 Collect fees.

5.2.5 Administer rates and promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be

used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such forms and details as may be necessary to aid him in determining whether rating systems comply with the standards set forth by law for making of rates.

## **6.0 Rehabilitation and Liquidation**

6.1 Delinquency proceedings pursuant to the Insurance Code shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the State on the relation of the Commissioner.

6.2 The Commissioner shall commence any delinquency proceedings by application to the court for an order directing the insurer to show cause why the Commissioner should not have the relief prayed for.

6.3 The Commissioner may apply to the court for an order:

6.3.1 Appointing him as Receiver of and directing him to rehabilitate a domestic insurer who has violated certain sections of the Code or is impaired or insolvent.

6.3.2 Appointing him as Receiver and directing him to liquidate the business of the domestic insurer of the United States branch of an alien insurer having trustee assets in this State.

6.3.3 Appointing him as Receiver or Ancillary Receiver and directing him to conserve the assets of a foreign or alien insurer upon certain grounds as set forth in the Insurance Code.

6.3.4 Appointing him as Ancillary Receiver of and directing him to liquidate the business of a foreign insurer having assets, business or claims in the State.

6.4 The Department shall prepare for each case which it administers, as soon as possible, a summary of fact giving rise to the insolvency, a set of instructions to claimants and policyholders describing how they may assert and protect their rights in answering the principle question with respect to those rights and problems which are expected to recur and also a schedule setting out each of the major steps contemplated in the course of administration of each estate and the estimated time at which such occurrence will take place.

6.5 The Department will further prepare regular and frequent reports to the court having jurisdiction. All such reports and judicial proceedings shall be prepared in the name of the Commissioner as Receiver or Ancillary Receiver and shall be submitted to him for his approval and verification before being filed with the court.

## **7.0 Insurance for the Protection of the State of Delaware**

7.1 Determination of coverage. The Governor, the State Auditor and the Insurance Commissioner shall from time to time determine the method, the amount of insurance, and the class of coverage covering any type of risk, included but not limited to property, fidelity and surety, life, accident and health, workmen's compensation, marine, to be effected and carried by the State or any subdivision thereof, including all school districts, but excepting, however, the municipal corporations, counties, and the authorities relating to the crossings of the Delaware River and the Delaware Bay.

7.2 The Insurance Commissioner shall establish an insurance purchasing and administrative office; the executive head of which shall be the Director of Insurance Coverage, who shall be appointed and serve at the pleasure of the Insurance Commissioner.

7.3 The Insurance Purchasing and Administrative Office shall provide:

7.3.1 The placement of all insurance as has been determined necessary by the Governor, the State Auditor and the Insurance Commissioner.

7.3.2 The preparation of reports as required by the Insurance Commissioner. Such reports shall present basic statistical-actuarial data pertaining to the experience of the program and its component parts, provide sufficient information about bidding procedures as required by the statutes of the State of Delaware so that any qualified insurance firm may have the opportunity to offer its service to the State, and such report shall be a public document.

7.3.3 Periodic comprehensive insurance surveys of program needs, and a continuing review of existing insurance contracts as well as analysis of rates in terms of changing economic conditions, and periodic studies of market conditions and developments.

7.3.4 Special investigation and reports as may be requested by the Insurance Commissioner.

## **8.0 Other Responsibilities**

8.1 In addition to the regulatory and quasi-judicial functions of the Insurance Commissioner, the Insurance Code has charged the Commissioner with the duty of administering various other activities and subjects such as:

- Collection of Fees and Taxes (18 **Del.C.** Ch. 7)
  - Review of Companies' Assets and Liabilities (18 **Del.C.** Ch. 11).
  - Company Investment Placement (18 **Del.C.** Ch. 13).
  - Administration of Deposits (18 **Del.C.** Ch. 15).
  - Authorization of Surplus Lines Insurers (18 **Del.C.** Ch. 19).
  - Unauthorized Insurers — Prohibitions, Process and Advertising (18 **Del.C.** Ch. 21).
  - Trade Practices and Frauds (18 **Del.C.** Ch. 23).
  - Life Insurance and Annuity Contracts (18 **Del.C.** Ch. 29).
  - Group Life Insurance Contracts (18 **Del.C.** Ch. 31).
  - Health Insurance Contracts (18 **Del.C.** Ch. 33).
  - Group and Blanket Health Insurance (18 **Del.C.** Ch. 35).
  - Credit Life and Credit Health Insurance (18 **Del.C.** Ch. 37).
  - Casualty Insurance Contracts (18 **Del.C.** Ch. 39).
  - Property Insurance Contracts (18 **Del.C.** Ch. 41).
  - Surety Insurance Contracts (18 **Del.C.** Ch. 43).
  - Title Insurance Contracts (18 **Del.C.** Ch. 45).
  - Financing of Insurers (18 **Del.C.** Ch. 47).
  - Premium Finance Companies (18 **Del.C.** Ch. 48).
  - Organization and Corporate Procedures., Powers of Domestic Stock and Mutual Insurers (18 **Del.C.** Ch. 49).
  - Insider Trading and Domestic Insurer Securities (18 **Del.C.** Ch. 51).
  - Mutual Assessment Property Insurers (18 **Del.C.** Ch. 53).
  - Mutual Benefit Associations (18 **Del.C.** Ch. 55).
  - Reciprocal Insurers (18 **Del.C.** Ch. 57).
  - Fraternal Benefit Societies (18 **Del.C.** Ch. 61).
  - Health Service Corporations, including Blue Cross and Blue Shield of DE, Inc. (18 **Del.C.** Ch. 63).
  - Suretyships (18 **Del.C.** Ch. 77).
- Fair Plan. The Plan is administered pursuant to 19 **Del.C.** Ch. 41 and its purpose is to make basic property insurance available for qualified property.
- Assigned Risk Plan (Delaware Automobile Insurance Plan). The Plan is administered by the Commissioner pursuant to 18 **Del.C.** §2527 ~~and Regulation No. 47.~~ The information contained in the Delaware manual published, and as amended from time to time, on the internet at <https://www.aipso.com/DEManuals/> is incorporated herein by reference and made a part of this regulation. It provides for: (1) the equitable apportionment, among all the insurers writing automobile insurance in this State, of insurance which shall be afforded applicants who are in good faith entitled to, but are unable to procure insurance through ordinary methods and (2) reasonable rates for such insurance and (3) such other rules as are necessary to effect and maintain the Assigned Risk Plan. ~~Each year a public hearing is held to update and adjust the Plan's rates or rules.~~
- Automobile Arbitration Panel. Pursuant to 21 **Del.C.**, §2118(i), the Commissioner has established a panel of arbitrators consisting of licensed attorneys and insurance adjusters licensed in this State and promulgated Regulation No. 1401 (Formerly Regulation No. 10) to administer the panel. Each insurer is required to submit to arbitration for losses and damages to motor vehicles as covered under 21 **Del.C.** 2118(a)(2).
- Delaware Insurance Guaranty Association (IGA). Pursuant to 18 **Del.C.** Ch. 42, the Commissioner has caused the IGA to be created. Its function is to assess each automobile insurer in this State an amount determined by the IGA Board of Directors and to pay covered claims against an insolvent insurer, less \$100 deductible, from assessment fund.
- Medical Malpractice Review Panel. Pursuant to 18 **Del.C.** Ch. 68, the Commissioner has compiled, subject to certain limitations, a list of 100 objective and judicious persons of appropriate education and experience residing in this State and list of all physicians and attorneys who have been licensed to practice in this State from which the Review Panel will be chosen by the parties thereto. The Commissioner has adopted and published such rules and regulations as necessary and shall convene the Panel upon proper request. The Commissioner shall forward the name of every health care provider against whom a settlement is made or

judgment is rendered under the chapter to the appropriate agency for licensure or professional registration and examination for review of the fitness of the health care provider to practice his profession.

**11 DE Reg. 218 (08/01/07) (Final)**