

Part 1

The Insurance Department

31A-2-101 General duties.

The Insurance Department shall administer the Insurance Code, seeking to achieve the purposes in Section 31A-1-102, and shall perform other duties imposed by law.

Enacted by Chapter 242, 1985 General Session

31A-2-102 Appointment, general powers, and duties of commissioner -- Vacancy -- Compensation of commissioner.

- (1) The chief officer of the department is the insurance commissioner, who may exercise all powers given to, and shall perform all duties imposed on, the Insurance Department. He shall be appointed by the governor with the consent of the Senate. If the commissioner dies, resigns, or is removed, a successor may be appointed as specified in this subsection. If the Legislature is not then in session, the successor may serve as acting commissioner without consent until the Senate has an opportunity to consent to the successor. The commissioner is subject to removal at the pleasure of the governor.
- (2) When the office of the commissioner is vacant, or when the commissioner is unable to perform the duties of the office, the governor shall fill the position as provided in Section 67-1-1.5.
- (3) The governor shall establish the commissioner's salary within the salary range approved by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Amended by Chapter 176, 2002 General Session

31A-2-103 Commissioner's appointees.

- (1) The commissioner may appoint up to three persons to assist the commissioner. The commissioner may designate a person appointed under this section as a "deputy," "administrative assistant," "secretary," or any other title chosen by the commissioner.
- (2) Persons appointed under this section are exempt from career service status under Section 67-19-15 and serve at the pleasure of the commissioner.

Amended by Chapter 128, 1994 General Session

31A-2-104 Other employees -- Insurance fraud investigators.

- (1) The department shall employ a chief examiner and such other professional, technical, and clerical employees as necessary to carry out the duties of the department.
- (2) An insurance fraud investigator employed pursuant to Subsection (1) may as approved by the commissioner:
 - (a) be designated a law enforcement officer, as defined in Section 53-13-103; and
 - (b) be eligible for retirement benefits under the Public Safety Employee's Retirement System.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-2-105 Constitutional oath.

Before entering upon the duties of his office, the commissioner shall take, subscribe, and file the constitutional oath. If the commissioner takes action in his office before complying with this section, in good faith and without knowledge of this requirement, and the validity of his action is then challenged, that person may take the oath after the action and the oath shall be given retroactive effect to the date on which he began his duties.

Amended by Chapter 305, 1993 General Session

31A-2-106 Ethical requirements for Insurance Department staff.

- (1) No employee of the Insurance Department, including the commissioner, may:
 - (a) make any solicitation for any partisan political purpose or for anything that is not related to the public interest, as it is affected by insurance; or
 - (b) continue or initiate a monetary relationship, except as policyholder, with an insurance agency or brokerage firm, insurance service organization, insurance adjuster, insurer or person affiliated with an insurer, except that:
 - (i) a commissioner may receive renewal commissions or other deferred compensation earned before his appointment if this commission or compensation does not require him to personally perform further service;
 - (ii) a commissioner may continue to be obligated under the terms of a mortgage entered into prior to his appointment; and
 - (iii) a commissioner may continue to have the beneficial interest in or own stock in an insurer, noninsurance company with insurance subsidiaries, insurance agency, brokerage firm, or insurance service organization acquired before appointment if the commissioner's ownership or interest is not of such total value that the commissioner might receive a substantial monetary benefit by failing to act impartially towards the organization. A partnership interest shall be treated as if it were shares in a corporation.
- (2) If the commissioner has any beneficial interest or ownership in an organization outlined under Subsection (1)(b)(iii), or if it is known to the commissioner that his spouse, parent, sibling, or child has an interest in any organization that, if held by the commissioner, would disqualify him from serving as commissioner, he shall disqualify himself from all actions respecting the particular organization. The commissioner shall then delegate a senior staff member who is not also disqualified to act in his place with regard to that organization. There is a rebuttable presumption that the commissioner or the delegate service staff member knows of any disqualifying holdings. The commissioner shall report a disqualification in each annual report to the governor as long as the disqualification continues.
- (3) The commissioner shall give the governor at least 10 days written notice of any solicitation to be made by the commissioner or other member of the department staff.
- (4) In addition to any other penalty, an employee violating this section may be removed from office.

Amended by Chapter 91, 1987 General Session

31A-2-108 Legal services.

- (1) Except as provided in Subsection (4), the commissioner shall call upon the attorney general for the legal counsel and assistance necessary to enforce this title. Upon the commissioner's request, or upon the attorney general's own initiative, the attorney general may hire special legal counsel under Section 67-5-5 to represent the department.
- (2) Upon the commissioner's request, or upon the commissioner's own initiative, the attorney general may aid in any investigation, hearing, or other procedure under this title and may

institute, prosecute, and defend proceedings relating to the enforcement or interpretation of this title, including any proceeding to which the state, or the commissioner or any employee of the department in an official capacity, is a party or is interested.

- (3) The commissioner may refer such evidence as is available concerning violations of this title or of any rule or order under this title to the proper county attorney or district attorney, who may, with or without this reference, institute the appropriate criminal proceedings.
- (4) For proceedings authorized by Chapter 27a, Insurer Receivership Act, the commissioner may employ on a contract basis legal counsel other than the attorney general, with the fees, costs, and expenses of the counsel and the attorney general being a class one administrative expense under Section 31A-27a-701.

Amended by Chapter 309, 2007 General Session

31A-2-109 Outside consultants.

The department may employ outside consultants on a contract or part-time basis to perform any professional service needed by the department which cannot be performed by regular employees of the department.

Enacted by Chapter 242, 1985 General Session

31A-2-110 Official seal and signature.

- (1) Any statutory or common-law requirement that an official seal be affixed is satisfied by the signature of the commissioner. However, the commissioner may adopt and use a seal bearing the words "Commissioner of Insurance for Utah," an impression of which shall be filed with the Division of Archives.
- (2) Any signature of the commissioner may be in facsimile unless specifically required to be handwritten.

Amended by Chapter 204, 1986 General Session

31A-2-111 Delegation.

- (1) Any power, duty, or function vested in the commissioner by law may be exercised, discharged, or performed by an employee of the Insurance Department acting in the commissioner's name and under his delegated authority.
- (2) Any person whose own course of action depends in good faith upon proof of the validity of an alleged delegation is not obligated to act until shown a written delegation of the commissioner with the signature of the commissioner or deputy commissioner.

Enacted by Chapter 242, 1985 General Session

31A-2-112 Advisory councils and committees.

The commissioner may create advisory councils and committees to assist him. He may appoint members and provide by rule for the creation, governance, duties, and termination of any council or committee established.

Enacted by Chapter 242, 1985 General Session

31A-2-113 Supporting services.

- (1) The Department of Administrative Services shall provide suitable offices for the Insurance Department:
 - (a) in Salt Lake City; and
 - (b) elsewhere, if approved by the governor as necessary for the efficient operation of the department.
- (2) The commissioner shall, in accordance with the rules of the Department of Administrative Services or other applicable laws, procure or obtain access to all materials, supplies, and equipment necessary for the efficient operation of the Insurance Department, including reasonable library facilities and books.

Enacted by Chapter 242, 1985 General Session