

CHAPTER 286  
FORMERLY  
HOUSE BILL NO. 291  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE INSURANCE COVERAGE OFFICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 6501, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 6501. Definitions.

As used in this chapter:

(1) "The Committee" means the Insurance Coverage Determination Committee, hereinafter established by § 6502 of this title.

~~(2) "Coverage Office" means the State Insurance Coverage Office, hereinafter established by § 6505 of this title.~~

(3) ~~"Director"~~ "Administrator" means the ~~Director~~ of Insurance Coverage Administrator, hereinafter established by § 6505 of this title.

(4) "The Fund" means the State Self-Insurance Fund as provided for by subchapter III of this chapter.

Section 2. Amend § 6502, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6502. Insurance for the protection of the State and the public; determination of coverage.

There is hereby established the Insurance Coverage Determination Committee, which shall be composed of the ~~Governor, Director of the Office of Management and Budget,~~ the State Auditor and the Insurance Commissioner or their designees, during their respective terms of office. The Director of the Office of Management and Budget or his or her designee shall serve as the Chair of the Committee. The Committee shall from time to time determine the method of insuring, the amount of insurance, and the class of coverage covering any type of risk to which the State may be exposed, including, but not limited to: ~~Life insurance, as defined in § 902 of this title; health insurance, as defined in § 903 of this title;~~ property insurance, as defined in § 904 of this title; surety insurance, as defined in § 905(a)(1) of this title; casualty insurance, as defined in § 906 of this title; marine and transportation and "wet marine" insurance, as defined in § 907 of this title; title insurance, as defined in § 908 of this title; to be effected and carried by the State or any subdivision thereof, including all school districts, but excluding, however, municipal corporations, counties, and the authorities relating to the crossings of the Delaware River and the Delaware Bay.

Section 3. Amend § 6504, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6504. Rules and regulations.

The Insurance ~~Commissioner~~ Coverage Administrator, with the approval of the Committee, shall promulgate such rules and regulations as shall be necessary to carry out the policy determinations of the Committee in administering the state insurance coverage program, so as to effectively provide coverage for the State whether same be procured from commercial insurance or by self-insurance or a combination of both.

Section 4. Amend § 6505, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6505. Establishment of ~~State~~ Insurance Coverage Office.

There is hereby established under the direction and supervision of the Director of the Office of Management and Budget ~~Insurance Commissioner~~ the State Insurance Coverage Office, ~~hereinafter in this chapter referred to as the Coverage Office,~~ the executive head of which shall be the Director of Insurance Coverage Administrator, ~~hereinafter referred to in this chapter as the Director,~~ who shall ~~be appointed by and serve at the pleasure of the Insurance Commissioner;~~ serve in the State classified service.

Section 5. Amend § 6506, Title 18 of the Delaware Code by making insertions as shown by underlining and

deletions shown as strike through as follows:

§ 6506. Qualifications of ~~Director~~ of the Insurance Coverage Administrator.

The ~~Director~~ Administrator shall be qualified for the office by virtue of the ~~Director~~ Administrator's education and experience, ~~and during the tenure of office the Director.~~ The Administrator shall not be associated directly or indirectly with any insurance agency, firm or corporation, ~~and before entering upon the duties of the office the Director shall file with the Secretary of State a bond in the penal sum of \$50,000 with corporate surety approved by the Insurance Commissioner.~~ The ~~Director~~ Administrator shall be charged with and responsible for the administration of the Insurance Coverage Office as herein provided.

Section 6. Amend § 6507, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6507. ~~[Repealed].~~ Salary of the Director of Insurance Coverage.

~~The salary of the Director shall be not less than \$10,000 per year. The Director shall be in the classified service of the State by virtue of said employment.~~

Section 7. Amend § 6508, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6508. Duties of the ~~State~~ Insurance Coverage Office.

The Insurance Coverage Office shall provide:

(1) The placement of all insurance with commercial insurers ~~that the Committee has deemed appropriate to place with such insurers~~ as directed by the Committee;

(2) The operation of the Self-Insurance fund, as established in Subchapter III of this Chapter ~~when and if same shall be established by the Committee for the operation of a self insurance program;~~

(3) Centralized responsibility for the operation of the State insurance coverage program vested in a single agency with an adequate staff of legal, actuarial and administrative resources ~~personnel;~~

(4) The establishment and operation of an open bid procedure to be maintained for purchasing new insurance coverage from commercial insurers and renewing existing contracts with such commercial insurers which will permit the free forces of market competition to operate to the benefit of the state insurance coverage program;

(5) The keeping of all policies with commercial insurers and all records necessary and pertinent thereto in some safe and secure place;

(6) The keeping in some safe and secure place of all records, accounts, claims files, statistical studies and other such records and documents necessary and proper in the administration of the self-insurance program, when and if the Committee deems it proper to utilize same;

(7) The periodic preparation of reports as to the commercially procured insurance coverage part of the program which shall present the basic statistical-actuarial data pertaining to the experience of that part of the program and its component parts, which reports shall be public documents;

(8) Provide to the commercial insurance industry such information about bidding procedures as is required by the statutes of this State, so that any qualified commercial insurer may have an opportunity to offer its service to this State in the areas where the Committee has deemed it desirable to procure commercial coverage;

(9) Periodic comprehensive insurance surveys of program needs, and a continuing review of existing commercially procured insurance contracts, as well as analysis of commercial rates in terms of changing economic conditions, and periodic studies of commercial market conditions and developments;

(10) Such special investigations and reports as may be requested by the ~~Insurance Commissioner~~ Committee Chair;

(11) Technical assistance to the volunteer fire departments in the State concerning insurance matters relating to their operations. Such assistance shall be given only at the request of the president of a company; and ~~with the consent of the Insurance Commissioner.~~

(12) The implementation and monitoring of loss prevention activities.

Section 8. Amend § 6509, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6509. Insurance by other agencies of the State.

No other agency of this State, for which coverage is herein provided, shall be authorized to place any insurance, any law to the contrary notwithstanding, and all insurance for such agencies shall be placed by and through the Insurance Coverage Office.

Section 9. Amend § 6510, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6510. Existing insurance contracts.

Existing insurance contracts and any renewals thereof may continue in full force and effect unless and until otherwise provided by the Administrator ~~Director~~.

Section 10. Amend § 6520, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6520. Placement of commercial insurance.

When the ~~Committee~~ Administrator shall determine and declare it to be advisable to insure against a certain risk or risks with commercially procured insurance, with the approval of the Committee, then, as to such risk or risks, the Insurance Coverage Office shall provide for the placement of such insurance as shall be necessary with duly accredited and qualified commercial insurers. The purchase of all new insurance policies ~~of commercial insurance~~ and the renewal of all existing ~~commercial~~ policies shall be by open bid procedure under rules and regulations promulgated by the ~~Insurance Commissioner~~ Administrator calculated to permit the free forces of market competition to operate to the economic benefit of the state insurance coverage program.

Section 10. Amend § 6521, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6521. Payment of premiums on commercial insurance.

~~The Coverage Office shall demand and receive all bills for premiums to be paid, and shall present same to the Insurance Commissioner for approval and the approval of the other members of the Committee. After the Committee has approved said bills, the Commissioner shall present same for payment to the State Treasurer, who shall pay the same.~~ The estimated appropriation necessary for commercially procured insurance as authorized by §6520 for each fiscal year shall be determined by the Insurance Coverage Office and submitted to the Director of the Office of Management and Budget for review and consideration as one of the annual contingency budgets requested by the Office. Upon appropriation by the General Assembly the funds shall be utilized by the Administrator for the payment of premiums for coverages.

Section 11. Amend § 6522, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6522. Administration and records.

The administration of the commercially insured part of the state insurance coverage program shall be the responsibility of the Insurance Coverage Office which shall keep in some safe and secure place all policies of insurance and all records pertaining thereto and such other records, reports, studies, analysis and correspondence as is necessary to effectuate the efficient and economic administration of the program.

Section 12. Amend § 6530, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6530. Placement of self-insurance.

~~When the Committee shall determine and declare it to be advisable to insure against a certain risk or risks through a self insurance program, then as to such risk or risks there shall be established a State Self Insurance Fund, hereinafter in this chapter referred to as the Fund, which Fund shall be established pursuant to the hereinafter provided for schedule and through which Fund said risk or risks shall be insured for each year thereafter until the contrary is determined and declared to be advisable by the Committee or by subsequent legislation.~~

(a) When the Administrator shall determine and declare it to be advisable to insure against a certain risk or risks through a self-insurance program, then a request shall be made of the General Assembly in an

amount equal to anticipated claims and expenses for a Self-Insurance Fund Contingency Account, hereinafter referred to as the Fund.

(b) The Administrator shall be responsible for the administration of the Fund and the payment of claims and costs.

(c) In the event that the Committee shall elect to procure commercial insurance on risks which are self-insured, they may direct that the initial premium for such commercial policies covering such risk or risks shall be paid from the Fund.

Section 13. Amend § 6531, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6531. ~~[Repealed]. Capitalization of the State Self Insurance Fund.~~

~~(a) The Fund shall be capitalized in the following manner:~~

~~(1) The Fund shall be capitalized in the amount of \$2,000,000. Each year the General Assembly shall appropriate to the Fund an amount equal to the claims and expenses paid out from the Fund for the prior fiscal year less the income derived from the investments of the Fund during the same period.~~

~~(2) In the event that payment of losses from the Fund exceeds \$2,000,000 during any fiscal year, the General Assembly shall give prompt consideration to the enactment of appropriate special funding legislation. Funds derived from such special funding legislation shall be deposited in the Fund and shall be utilized for the payment of such losses.~~

~~(b) In the event that the Committee shall elect to procure commercially insurance on risks which are self insured, they may direct that the initial premium for such commercial policies covering such risk or risks shall be paid from the Fund.~~

Section 14. Amend § 6532, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6532. Payment of premium allocations.

~~The amount of the appropriation necessary to sustain the Fund at \$2,000,000 shall be computed by the Committee, under the formula provided in § 6531(a)(1) of this title for each fiscal year and made a part of the budget request of the Insurance Department as submitted by the Insurance Commissioner for the fiscal year, and upon approval by the General Assembly in the annual budget shall be paid to the Fund by the State Treasurer. However, in starting the self insurance program as to any particular risk, the Committee may direct that the funds theretofore allocated for the payment of commercial insurance premiums for commercial policies covering such risk or risks shall be paid into the Fund as the initial premium for such self insurance coverage, and upon such direction, as communicated to the State Treasurer by the Insurance Commissioner, the State Treasurer shall so reallocate such specified sum to the Fund. The estimated appropriation necessary for each fiscal year shall be determined by the Insurance Coverage Office and submitted to the Director of the Office of Management and Budget for review and consideration as one of the annual contingency budgets requested by the Office. Upon appropriation by the General Assembly, the funds shall be utilized for the purposes of paying coverages.~~

Section 15. Amend § 6535, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6535. ~~[Repealed]. Administration and custody of the State Self Insurance Fund.~~

~~The Director, subject to the supervision and control of the Insurance Commissioner, shall be the administrator of the Fund. The State Treasurer shall be custodian of the Fund.~~

Section 16. Amend § 6536, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6536. ~~[Repealed]. Investment of moneys in the Fund.~~

~~(a) The State Treasurer shall invest and reinvest such portion of the Fund as is not required to meet regular anticipated expenses in accordance with the investment guidelines established by the Cash Management Policy Board.~~

~~(b) All income from such investments shall be continued in the Fund to pay the obligations of the Fund and provide for its growth.~~

Section 17. Amend § 6538, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6538. Provisions for reinsurance.

The Committee, from to time, may determine the advisability of purchasing commercial reinsurance contracts as to any risk or risks covered by the Fund and direct the Insurance Coverage Office to place such insurance, in such amount as the Committee shall have determined to be most feasible, in the manner herein provided for the placement of other commercial insurance coverage.

Section 18. Amend § 6539, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6539. Adjusting claims and paying losses.

The Insurance Coverage Office shall have the responsibility of adjusting all claims and paying all losses in risks covered by the Fund, and shall carry out its duties in conformity with appropriate regulations promulgated for that purpose by the ~~Commissioner~~ Administrator, which regulations shall be in general conformity with the accepted practice in the commercial insurance industry in such matters, and shall be calculated to provide for prompt, efficient and equitable settlement procedures. The Insurance Coverage Office shall keep such records and files as shall be necessary and proper in its fulfillment of this obligation.

Section 19. Amend § 6540, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6540. Arbitration of disputes and litigation of claims.

(a) Any dispute between the Insurance Coverage Office and a state agency claimant, which cannot be amicably resolved, shall be referred to arbitration before an arbitrator selected by the Secretary of State. The expense of such arbitration will be borne by the disputants equally. The decision of the arbitrator will be final and binding upon the disputants.

(b) Any dispute between the Insurance Coverage Office and a claimant under the workers' compensation coverage, should same be covered by the Fund, which cannot be amicably resolved, shall be handled in the manner of a claim against a commercial insurer before the Industrial Accident Board with all normal rights of appeal.

(c) Any dispute between the Insurance Coverage Office and a claimant not otherwise covered in subsections (a) and (b) of this section, which cannot be amicably resolved, may be made the subject of litigation in any court of competent jurisdiction in this State.

Section 20. Amend § 6541, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6541. Inspections of insured property.

The Insurance Coverage Office shall have available to it the services of the State Fire Marshal and the State Fire Marshal's deputies for the purpose of inspecting self-insured real and personal property of the State, and may call upon the Fire Marshal and State Fire Marshal's deputies to conduct such inspections of such property as are reasonable and necessary to determine the risk involved in insuring same and to provide the basis for requests or suggestions as to how undesirable hazards may be corrected; and the Fire Marshal and the State Fire Marshal's deputies shall cooperate with the Insurance Coverage Office in this regard, conducting such investigations as are requested and reporting the results thereof to the Insurance Coverage Office together with such recommendations as the investigator shall deem to be appropriate.

All state agencies, officials and employees will render full cooperation to the Fire Marshal and the Insurance Coverage Office in these matters and shall promptly correct such hazards as are found to exist, and failure to do so shall be referred to the ~~Governor~~ Director of the Office of Management and Budget by the Insurance Coverage Office for such remedial executive action as the Governor shall deem appropriate.

Section 21. Amend § 6542, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions shown as strike through as follows:

§ 6542. Independent contractors.

The ~~Director~~ Administrator shall first employ all resources available in the Insurance Coverage Office, the Insurance Department, the office of the State Fire Marshal, the Justice Department, and the Auditor's Office before retaining independent contractors, but in the event that special expertise is required for the performance of the ~~Director's~~ Administrator's duties not otherwise available or not readily available to the ~~Director's~~ Administrator when required, then the ~~Director's~~ Administrator is authorized and directed to contract for the services of such independent contractors as shall be best equipped to render such services, including, but not limited to, accountants, actuaries, claims adjusters and investigators, attorneys and engineers, which contracts shall be on an ad hoc or per case basis, and for which the ~~Director's~~ Administrator is authorized to make payment by drafts upon the Fund, ~~subject to the approval of the Insurance Commissioner,~~ as an administrative expense of the Fund.

Approved July 01, 2014