
**Consumer Protection & Business
Committee**

HB 1266

Brief Description: Concerning email communication by the office of the insurance commissioner.

Sponsors: Representatives Santos, Corry and Reeves.

Brief Summary of Bill

- Establishes new procedures the Office of the Insurance Commissioner must follow to communicate with licensees by email.
- Creates a process by which licensees may obtain a refund of fines incurred for prior failures to respond to an email from the Office of the Insurance Commissioner.

Hearing Date: 1/20/23

Staff: Michelle Rusk (786-7153).

Background:

Communications with Licensees.

The Office of the Insurance Commissioner (Commissioner) oversees licensing for professions including insurance producers, title insurance agents, adjusters, and surplus line brokers. Licensees must maintain a place of business where they principally conduct transactions, and are required to provide a mailing address to the Commissioner and notify the Commissioner of any address changes within 30 days. Any notice or written communication from the Commissioner to a licensee that directly affects the person's license must be sent by mail to the licensee's last address of record.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Licensees must promptly reply in writing to an inquiry from the Commissioner, and a response is considered timely if received by the Commissioner within 15 business days from the licensee's receipt of the inquiry. A licensee's failure to timely respond violates the Insurance Code, and may subject the licensee to adverse action against their license and fines.

Summary of Bill:

Email Communications with Licensees.

Insurance producers, title insurance agents, adjusters, and surplus line producers are statutorily required to provide an email address to the Commissioner, and must inform the Commissioner of any change within 30 days. The Commissioner may send written communications to a licensee by email if:

- the communication is not statutorily required to be sent by mail;
- the person has affirmatively consented to receive emails from the Commissioner; and
- the email does not require a response; and if an email requires a response, the Commissioner must follow additional procedural email requirements.

Commissioner's Procedural Email Requirements.

When an email from the Commissioner requires a response, the Commissioner must:

- send no fewer than two emails with the subject line: "Response Required"; and
- prominently display in every email, in large font, a disclosure stating that failure to timely respond violates statute and subjects a person to fines and license revocation, and describing the requirements of a timely response.

Licensees must "timely respond" to an email from the Commissioner, and a response is considered timely if received by the Commissioner within 15 business days from the licensee's receipt of the inquiry. If the Commissioner follows required email procedures, and a licensee fails to respond in a timely manner, the licensee may be subject to fines or adverse action against their license only if:

- the Commissioner complied with all procedural email requirements;
- the Commissioner sent a third and final written inquiry by certified mail to a person's last mailing address on file with the Commissioner following the requirements above; and
- the Commissioner failed to receive a response within 15 business days of the licensee's receipt of the written inquiry.

If the Commissioner sends a licensee an email and is notified the email is undeliverable, the Commissioner must resend the notice once by mail to a person's last known address on record with the Commissioner.

Remedy Established.

A remedy is established for affected licensees to seek a refund of fines they incurred for email-based violations occurring before July 1, 2023. The following definitions are established:

- "Affected licensee" means any licensee who, prior to July 1, 2023, was penalized by the

Commissioner for failure to provide a timely response to an inquiry of the Commissioner that was only sent to the licensee by email.

- "Email-based violation" means a violation of a licensee's obligation to timely respond to an inquiry from the Commissioner, as this requirement existed prior to July 1, 2023, resulting from an affected licensee's failure to provide a timely response to an inquiry of the Commissioner where such inquiry was only sent to the affected licensee by email.

The Commissioner must develop and implement a process for affected licensees to petition the Commissioner for the removal of related disciplinary investigations and orders from the affected licensee's public disciplinary records as a result of an email-based violation. A licensee petitioning the Commissioner for removal must provide documentation demonstrating that disciplinary investigations and orders on the licensee's records were the result of a violation occurring prior to July 1, 2023.

Upon receipt of a petition, the Commissioner must immediately:

- remove any related disciplinary investigations and orders from the licensee's public disciplinary record;
- send a notice to the National Insurance Producer Registry (NIPR) stating the Commissioner took erroneous administrative action against the licensee and request that NIPR expunge its records of the administrative action for the affected licensee; and
- send the affected licensee a copy of the Commissioner's notice to NIPR.

The Commissioner must identify the amount of money collected as fines from affected licensees for email-based violations and refund the money to each affected licensee from the Commissioner's existing operating budget.

Appropriation: None.

Fiscal Note: Requested on January 19, 2023

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2023