

(Translation)

INSURANCE COMMISSION ACT, B.E. 2550 (2007)

**BHUMIBOL ADULYADEJ, REX.,
Given on the 28th Day of August, B.E. 2550;
Being the 62nd Year of the Present Reign.**

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on insurance commission.

Be it, therefore, enacted by the King, with the advice and consent of the National Legislative Assembly, as follows:

Section 1 This Act is called the "Insurance Commission Act, B.E. 2550 (2007)."

Section 2 This Act shall come into force on and from the day following the date of its publication in the Government Gazette.

Section 3 The Non-life Insurance Act, B.E. 2535 (1992), the Life Insurance Act, B.E. 2535 (1992), and the Protection for Motor Vehicle Accident Victims Act, B.E. 2535 (1992), as amended by the Protection for Motor Vehicle Accident Victims Act (No. 2), B.E. 2535 (1992), the Protection for Motor Vehicle Accident Victims Act (No. 3), B.E. 2540 (1997), and the Protection for Motor Vehicle Accident Victims Act (No. 4), B.E. 2550 (2007), as well as all Ministerial Regulations, notifications, rules, regulations, and orders issued under these Acts shall remain in force and effect insofar as they are not contrary to or inconsistent with the provisions of this Act.

For the purpose of implementing the Acts, Ministerial Regulations, notifications, rules, regulations, and orders under the first paragraph, certain terms therein shall be read as follows:

(1) In the Non-life Insurance Act, B.E. 2535 (1992):

the term "Minister of Commerce" in section 5 shall be read as the "Minister of Finance";

the term "Minister" in section 7 paragraph three, section 13, section 16, section 19, section 23, section 24, section 28, section 31, section 32, section 34, section 36, section 52, section 53, section 60, section 62, section 77, and section 88 shall be read as the "Insurance Commission";

the term "Director-General of the Department of Insurance" in section 4, and section 110 paragraph four, shall be read as the "Secretary-General of the Insurance Commission";

the term "Registrar" in section 20, section 21, section 22, section 37, section 38, section 39, section 44, section 46, section 47, section 48, section 49, section 50, section 57, section 63, section 64, section 66, section 68 paragraph two, and section 70 shall be read as the "Insurance Commission";

the term "Department of Insurance" in section 61, section 82, section 109, and section 110 shall be read as the "Office of Insurance Commission" ;

the term "board of directors" in section 31(17) shall be read as the "board of directors of the company;" and

the term "committee" in section 111 shall be read as the "settlement committee."

(2) In the Life Insurance Act, B.E. 2535 (1992):

the term "Minister of Commerce" in section 6 shall be read as the "Minister of Finance";

the term "Minister" in section 8 paragraph three, section 14, section 17, section 20, section 23, section 24, section 28, section 33, section 35, section 37, section 47, section 53, section 54, section 63, section 65, section 67, section 82, and section 93 shall be read as the "Insurance Commission";

the terms "Director-General of the Department of Insurance" in section 5 and section 116 shall be read as the "Secretary-General of the Insurance Commission";

the term "Registrar" in section 21, section 22, section 38, section 39, section 40, section 42, section 43, section 44, section 45, section 46, section 47, section 51, section 68, section 69, section 73 paragraph two, section 75, and section 77 shall be read as the "Insurance Commission";

the term "Department of Insurance" in section 66, section 87, section 115, and section 116 shall be read as the "Office of Insurance Commission";

the term "board of directors" in section 33(16) shall be read as the "board of directors of the company";

the term "committee" in section 57 shall be read as the "control committee";

the term "committee" in section 117 of the Life Insurance Act, B.E. 2535 (1992) shall be read as the "settlement committee."

(3) In the Protection for Motor Vehicle Accident Victims Act, B.E. 2535 (1992), as amended by the Protection for Motor Vehicle Accident Victims Act (No. 2), B.E. 2535 (1992), the Protection for Motor Vehicle Accident Victims Act (No. 3), B.E. 2540 (1997), and the Protection for Motor Vehicle Accident Victims Act (No. 4), B.E. 2550 (2007):

the term "Minister of Commerce" in section 5 shall be read as the "Minister of Finance";

the term "Minister" in section 14, section 19, section 26, section 30, and section 34 shall be read as the "Insurance Commission";

the term "Permanent Secretary of the Ministry of Commerce" in section 6 shall be read as the "Permanent Secretary of the Ministry of Finance";

the term "Director-General of the Department of Insurance" in section 10 bis paragraph six shall be read as the "Insurance Commission";

the term "Director-General of the Department of Insurance" in section 4, section 6, and section 10 bis paragraph three shall be read as the "Secretary-General of the Insurance Commission";

the term "Department of Insurance" in section 28, section 30, section 33, and section 34 shall be read as the "Office of Insurance Commission";

the term "representative of the Ministry of Finance" in section 6 shall mean a "representative of the Ministry of Commerce."

Section 4 In this Act,

"Commission" means the Insurance Commission.

"commission member" mean a member of the Commission.

"Office" means the Office of Insurance Commission.

"Secretary-General" means the Secretary-General of the Insurance Commission.

"insurance companies" means companies under the law on non-life insurance, and companies under the law on life insurance.

"undertaking of insurance business" means the undertaking of non-life insurance business under the law on non-life insurance, the undertaking of life insurance business under the law on life insurance, and the protection for motor vehicle accident victims under the law on the protection for motor vehicle accident victims.

"Minister" means the Minister being in charge and in control of the execution of this Act.

Section 5 The Minister of Finance shall be in charge and in control of the execution of this Act.

Chapter I Insurance Commission

Section 6 The Insurance Commission shall be established, consisting of the Permanent Secretary of the Ministry of Finance, as chairman, the Permanent Secretary of the Ministry of Commerce, the Secretary-General of the Consumer Protection Board, the Governor of the Bank of Thailand, the Secretary-General of the Office of the Securities and Exchange Commission, and at least six but no more than eight qualified persons appointed by the Minister, with the approval of the Cabinet, from the specialists in law, accountancy, business administration, finance, economics, or insurance, with no more than two persons in each field, as commission members.

The Secretary-General shall be a commission member and the secretary.

The selection of qualified persons to be appointed as commission members under paragraph one shall be in accordance with the regulations and procedures prescribed by the Cabinet and published in the Government Gazette.

Section 7 A qualified commission member must be a Thai national, and shall not have any of the following prohibited characteristics:

- (1) is declared bankrupt, or has been declared a dishonest bankrupt;
- (2) is an incompetent or quasi-incompetent person;
- (3) has been imprisoned by a final court judgment, notwithstanding the suspension of the sentence, except for an offense committed through negligence or a petty offense, or after completion of the punishment period, or the expiration of the period of suspended punishment or suspended sentence;
- (4) is a director, manager, or person with administrative or managerial power of an insurance company;
- (5) is an official, officer, or employee of a government agency or state enterprise, or any other state or local administration agency;
- (6) is or has been a political official, person holding political position, member of a local assembly, or local administrator, unless this person has vacated office for not less than one year;
- (7) is or has been a director or person holding any other position in a political party, or an officer of a political party, unless this person has vacated office for not less than one year;
- (8) has been terminated from employment, dismissed, or discharged by a government agency, state agency, state enterprise, or private entity on grounds of dishonesty in the performance of duties or gross misconduct.

Section 8 The qualified commission members shall hold office for a term of three years, and may be re-appointed but for no more than two consecutive terms.

Section 9 Where a qualified commission member retires from office due to the expiration of his term, a new qualified commission member shall be appointed within sixty days. While a new qualified commission member has not yet been appointed, the retiring member shall retain office to continue to perform the duties until a newly appointed member assumes the duties.

Section 10 Apart from retirement due to the expiration of his term, a qualified commission member shall be removed from his office upon:

- (1) death;
- (2) resignation;
- (3) disqualification or possession of any prohibited characteristic under section 7;
- (4) removal by the Cabinet due to inadequate or dishonest performance of duties, misconduct, or lack of ability.

Section 11 In the event that a qualified commission member vacates office before the expiration of his term, or in the event that a new qualified commission member is appointed when the tenure of the existing members has not yet expired, the newly appointed member shall retain office only for the remaining term of the members previously appointed.

Section 12 The Commission shall have the power and duty to lay down the policies, and regulate, promote, and develop the undertaking of insurance business, including the power and duty to:

- (1) prescribe the regulations, procedures, conditions, and guidelines for the undertaking of insurance business to be consistent with international standards;
- (2) prescribe the regulations, procedures, conditions, and guidelines for regulating, promoting, and developing the undertaking of insurance business;
- (3) provide opinions to support the consideration by the Minister or the Cabinet, in relation to the issuance or revocation of licenses, the issuance of Ministerial Regulations and notifications under the law on non-life insurance, law on life insurance, and law on the protection for motor vehicle accident victims, and other matters as assigned by the Minister;
- (4) announce the rate of contribution to be collected, with the approval of the Minister, under section 43;

- (5) prescribe the regulations and procedures for approving the determination of the rates of insurance premiums;
- (6) consider the appeals to administrative orders of the Secretary-General;
- (7) lay down the plans, strategies, and administrative guidelines of the Office;
- (8) issue the regulations on the organization, finance, personnel administration, general administration, procurement, internal audit, including aids and welfare of the Office;
- (9) approve the operating plan, expenditure plan, and annual expenditure budget of the Office;
- (10) control the administration and operations of the Office to be consistent with this Act;
- (11) perform any other acts and duties as prescribed by law to be under the authority and responsibility of the Commission.

If the regulations under (8) limit the authority of the Secretary-General to enter into juristic acts with third parties, they shall be published in the Government Gazette.

Section 13 The Commission shall be empowered to appoint committees to perform any acts as assigned by the Commission.

Section 14 The provisions regarding administrative orders and committees with the power of administrative consideration under the law on performance by the administration shall apply to the issuance of administrative orders, and the meetings of the Commission and committees, *mutatis mutandis*.

Section 15 Appeals of administrative orders of the Secretary-General, as the registrar under the law on non-life insurance, law on life insurance, and law on the protection for motor vehicle accident victims, shall be lodged with the Commission.

Section 16 The commission members and committee members shall receive benefits as prescribed by the Minister.

Chapter II

Office of Insurance Commission

Section 17 The Office of Insurance Commission shall be established as a state unit which is not a government organization or a state enterprise.
The Office shall be a juristic person.

Section 18 The Office shall have a head office in Bangkok or nearby province, and may set up branches or appoint agents elsewhere.

Section 19 The affairs of the Office shall not be subject to the labor protection law, labor relations law, social security law, and workmen's compensation law, provided that officers and employees of the Office shall receive benefits not less than those prescribed under the labor protection law, labor relations law, social security law, and workmen's compensation law.

Section 20 The Office shall have the power and duty to:

- (1) be responsible for administrative work of the Commission;
- (2) regulate, promote, and develop the undertaking of insurance business in accordance with the policies and resolutions of the Commission, as well as the regulations, procedures, conditions, and guidelines prescribed by the Commission;
- (3) conduct studies, investigations, analyses and research in order to promote, develop, and regulate the undertaking of insurance business;
- (4) own, have possession rights, and hold any property rights;
- (5) establish rights or conduct any juristic acts relating to property;
- (6) make agreements and cooperate with domestic and overseas organizations or agencies in relation to any affairs associated with the operations of the Office;

- (7) procure and provide funds to support the operations of the Office;
- (8) invest to gain interest in any businesses not related to insurance business according to the regulations prescribed by the Commission;
- (9) collect and receive contributions, surcharges, fees, dues, remuneration, or service charges in the operations;
- (10) prepare an annual report showing the achievements and obstacles in the operations of the Commission and the Office, and submit it to the Cabinet;
- (11) perform any other acts and duties as prescribed by law to be under the authority and responsibility of the Commission.

Section 21 The capital and assets for the operations of the Office consist of:

- (1) money and assets transferred under section 49;
- (2) funds provided by the Government as initial capital;
- (3) contributions under section 43;
- (4) surcharges under section 44;
- (5) fees, dues, remuneration, service charges, or operating income;
- (6) money or property donated by another person;
- (7) interest from money, or income derived from assets of the Office.

Section 22 All income received by the Office from its operations each year shall be vested in the Office, for use as operating expenditures and appropriate charges, such as maintenance and depreciation cost, remuneration for the Commission, committees, and officers, contributions to a welfare and aid fund, and reserves for expending in the affairs of the Office or for any other purposes.

The income under paragraph one is not subject to remittance to the Treasury as State income.

Section 23 The assets of the Office are not subject to execution of judgments, and no person may raise the statute of limitations as a defense against the Office in regard to its property.

Section 24 The Office shall have a Secretary-General who is appointed by the Minister, with the approval of the Cabinet, from the persons selected by the Commission.

Section 25 A person appointed as the Secretary-General shall be:

- (1) a Thai national;
- (2) not more than 65 years of age;
- (3) able to work full-time for the Office.

Section 26 A person with any of the following characteristics may not be the Secretary-General:

- (1) is declared bankrupt, or has been declared a dishonest bankrupt;
- (2) is an incompetent or quasi-incompetent person;
- (3) has been imprisoned by a final court judgment, notwithstanding the suspension of the sentence, except for an offense committed through negligence or petty offense, or after the completion of the punishment period, or the expiration of the period of suspended punishment or suspended sentence;
- (4) is a director, manager, or person with administrative or managerial power of an insurance company;
- (5) is an official, officer, or employee of a government agency or state enterprise, or any other state or local administration agency;
- (6) is or has been a political official, person holding political position, member of a local assembly, or local administrator, unless this person has vacated office for not less than one year;
- (7) is or has been a director or person holding any other position in a political party, or an officer of a political party, unless this person has vacated office for not less than one year;
- (8) has been terminated from employment, dismissed, or discharged by a government agency, state agency, state enterprise, or private entity on grounds of dishonesty in the performance of duties or gross misconduct.

Section 27 The salary rate and other benefits of the Secretary-General shall be determined by the Commission, with the approval of the Minister.

Section 28 The Secretary-General shall hold office for a term of four years.
The Secretary-General who vacates office due to the expiration of his term may be re-appointed, but may not retain office longer than two consecutive terms.

Section 29 Apart from retirement due to the expiration of his term, the Secretary-General shall be removed from his office upon:

- (1) death;
- (2) resignation;
- (3) disqualification under section 25, or possession of any prohibited characteristic under section 26;
- (4) being an interested person under section 36;
- (5) removal by the Commission due to inadequate or dishonest performance of duties, misconduct, or lack of ability.

Section 30 The Secretary-General shall be the supervisor of all officers and employees, and shall be responsible for the conduct of all affairs of the Office.

In managing the affairs of the Office, the Secretary-General must be responsible to the Commission.

Section 31 There shall be Deputy Secretary-Generals in the number as determined by the Commission, to assist the Secretary-General in the performance of duties as entrusted by the Secretary-General.

Section 32 The Secretary-General shall have the power and duty to:

- (1) recruit, appoint, remove, promote, degrade, cut salary or wage of, impose disciplinary measures on, or dismiss officers or employees, according to the regulations prescribed by the Commission, provided that in the case of officers who hold a position of Deputy Secretary-General, senior management members, and internal auditors, prior approval must be obtained from the Commission;
- (2) lay down the working rules of the Office, which shall not be contradictory to, or inconsistent with, the regulations or resolutions prescribed by the Commission.

Section 33 In performing his duties, the Secretary-General may empower any officer to act on his behalf in accordance with the regulations prescribed by the Commission.

The person empowered under the first paragraph shall have the same powers and duties as the Secretary-General in relation to the matters so entrusted.

Section 34 The Secretary-General shall represent the Office when dealing with activities related to third parties. The Secretary-General may empower any person to act on his behalf, in accordance with the regulations prescribed by the Commission.

Section 35 In case that there is no Secretary-General, or the Secretary-General is unable to perform his duty, the Commission shall appoint any Deputy Secretary-General to act in his stead. In case that there is no Deputy Secretary-General or the Deputy Secretary-Generals are unable to perform their duty, the Commission shall appoint an officer of the Office to act as the Secretary-General.

The acting Secretary-General under the first paragraph shall have the same powers and duties as the Secretary-General.

Section 36 The Secretary-General shall not be an interested person in a contract concluded with the Office, or any affair carried out for the Office, either directly or indirectly, except

for the holding of shares for the purpose of investment in good faith in a limited company or public limited company that has the interest therein, in the amount not exceeding the rate under the regulations prescribed by the Commission.

In case that the ascendant, spouse, descendant, or ascendant of the spouse, of the Secretary-General is an interested person as specified under the first paragraph, it shall be deemed that the Secretary-General has an interest in the affair of the Office.

The provisions under the first paragraph shall not apply to the case where the Secretary-General is assigned by the Commission to be a director in a limited company or public limited company in which the Office is a shareholder.

Section 37 Any juristic acts carried out in violation of section 36 shall not be binding on the Office.

Section 38 The Secretary-General who vacates office shall not hold any position in an insurance company, unless he has vacated office for not less than two years.

Chapter III Examination and Audit

Section 39 The Office shall set up and maintain its accounts according to international standards, and to be consistent with the accounting system laid down by the Ministry of Finance.

Section 40 The Office shall cause an audit to be conducted on a regular basis.

The Commission shall appoint no more than three qualified commission members to be audit committee members in order to provide opinions on the results of internal audits to the Commission.

In conducting an internal audit, the internal auditors shall report the results thereof directly to the audit committee.

The provisions regarding committees with the power of administrative consideration under the law on performance by the administration shall apply to the meetings of the audit committee, *mutatis mutandis*.

Section 41 The Office of the Auditor-General, or an independent auditor approved by the Office of the Auditor-General, shall be the auditor of the Office.

Section 42 The auditor shall report the results of an audit to the Commission for further submission to the Cabinet within 120 days from the end of each fiscal year. The Office shall publish the audited financial statements within 15 days from the date of the acknowledgment thereof by the Cabinet.

Chapter IV Contributions

Section 43 An insurance company shall remit a contribution to the Office every three months, for use as operating expenses of the Commission and the Office.

The contribution that must be remitted by an insurance company under the first paragraph shall be at the rate as announced by the Commission, with the approval of the Minister, taking into account the appropriate operating expenditures of the Commission, as well as the operating plan, spending plan, and annual expenditure budget of the Office, but not exceeding 0.5 percent of the insurance premiums which the insurance company receives from the insured during each three-month period. In case that the Commission deems it appropriate, the Commission, with the approval of the Minister, may announce temporary suspension of the remittance of contribution by insurance companies.

Section 44 An insurance company that fails to remit a contribution, or does not remit a contribution in full according to section 43, shall pay a surcharge at the rate of 2 percent per month of the outstanding contribution.

Chapter V Relationship with the Government

Section 45 The Minister shall have the power of general supervision over the affairs of the Office. In this regard, the Minister may order the Office to clarify facts, provide opinions, or submit reports, and shall be empowered to suspend any act of the Office that is deemed to be contrary to the government's policy.

In case that the Commission or the Office is obliged to submit a matter to the Cabinet, the Office shall propose the matter to the Minister for further submission to the Cabinet.

Penalty Provisions

Section 46 Whoever violates section 38 shall be liable to a fine not exceeding Baht 1,000,000.

Section 47 Any insurance company that fails to remit a contribution, or does not remit a contribution in full, shall be liable to a fine from Baht 100,000 up to Baht 1,000,000, and, in the case of continuous offense, to a further fine not exceeding Baht 100,000 per day for every consecutive day during which the violation continues.

Section 48 A settlement committee appointed by the Minister shall be empowered to settle out of court any offense under this Act.

The settlement committee appointed by the Minister under the first paragraph shall consist of three members, one of whom shall be an investigating officer under the Criminal Procedure Code.

Where a case has been settled by the committee, and the alleged offender has paid the fine as fixed within 30 days, such settlement of the case shall be regarded as final according to the Criminal Procedure Code.

Transitional Provisions

Section 49 All affairs, power and duties, property, budget, money of the Fund for the Development of Non-life Insurance Business, money of the Fund for the Development of Life Insurance Business, money of the Victim Compensation Fund, debts, rights, and obligations of the Department of Insurance, Ministry of Commerce, in relation to non-life insurance, life insurance, and protection for motor vehicle accident victims, which exist on the date this Act come into force, shall be transferred to the Office, except for the lawsuits and disciplinary action against officials or employees, and the budget in category of salaries, wages, and other payments made along with salaries of existing personnel, which shall be transferred to the Office of the Permanent Secretary of the Ministry of Commerce.

Section 50 When this Act comes into force, at the initial stage, the Commission shall consist of the Permanent Secretary of the Ministry of Finance, as chairman, the Permanent Secretary of the Ministry of Commerce, the Secretary-General of the Consumer Protection Board, the Governor of the Bank of Thailand, and the Secretary-General of the Office of the Securities and Exchange Commission, as commission members, and the person acting as the Director-General of the Department of Insurance, as commission member and secretary.

The Commission under the first paragraph, and the person acting as the Director-General of the Department of Insurance, shall perform the duties as the Commission and the Secretary-General under this Act on a temporary basis until the appointment of the Commission and the Secretary-General under this Act, which shall not exceed 90 days from the date this Act comes into force.

Section 51 Subject to section 52, the officials and employees of the Department of Insurance, Ministry of Commerce who hold office on the date this Act comes into force shall become officials and employees of the Office of the Permanent Secretary of the Ministry of Commerce, and shall perform their duties for the Office. This performance of duties shall be deemed to be the performance of duties for the Office of the Permanent Secretary of the Ministry of Commerce.

The officers or employees performing duties for the Office shall temporarily receive salaries or wages, including the rights and benefits, equal to those previously received until they are recruited and appointed to hold positions in the Office, provided that they shall not be appointed to positions with lower salaries or wages.

Section 52 The officials and employees under section 51 who voluntarily desire to become officials and employees of the Office shall submit written declaration of their intention to their supervisors within 60 days from the date this Act comes into force. Persons who fail to submit their declaration within the prescribed time shall return to work for the Office of the Permanent Secretary of the Ministry of Commerce.

The recruitment and appointment of officials and employees under the first paragraph to hold any positions in the Office shall be in accordance with the manpower plan, qualifications, and salary or wage rates prescribed by the Commission. However, officials or employees who are subject to lawsuit or disciplinary action may be recruited and appointed only after the end of that lawsuit or disciplinary action.

The budget in category of salaries, wages, and other payment made along with salaries of the officials and employees of the Office of the Permanent Secretary of the Ministry of Commerce, who are recruited and appointed as officers or employees of the Office under paragraph two, shall be transferred to the Office as from the date of the recruitment and appointment.

The recruitment and appointment of officials under this section shall be deemed to be the termination from government service due to revocation or dissolution of positions under the law on government pension or the law on government pension fund.

The recruitment and appointment of employees under this section shall be deemed to be the termination from work due to dissolution of positions by the government agency, or the termination of employment without fault by the government agency. These employees shall be entitled to pension according to the Ministry of Finance's rules on employee pension.

Countersigned by:
General Surayud Chulanont
Prime Minister

Remarks: The rationale for the promulgation of this Act is as follows. At present, the operation of insurance business has progressed rapidly, with a variety forms of insurance and several billion baht of funds circulating in the business each year. The number of insureds has also increased substantially. Therefore, the operation of insurance business is considered to be a type of financial transaction which directly affects the economic and financial system of the country, as well as the insureds who are consumers. An agency in charge of regulating the operation of insurance business must be versatile to be able to keep pace with the development of this business, and must be independent in order to regulate the insurance business according to insurance principles. At present, the regulation of insurance business is under the power and responsibility of the Department of Insurance, Ministry of Commerce, which does not correspond with the nature of the operation of insurance business. As the operation of insurance business is considered to be a type of financial transaction, the regulation of this business should be under the responsibility of the Ministry of Finance. Furthermore, as the Department of Insurance is a government agency, it is neither versatile nor independent in regulating the insurance business. For the efficient supervision of the operation of insurance business and the protection of the rights of the insureds, it is expedient to have a versatile and independent insurance commission specifically in charge of regulating the insurance business. Therefore, this Act must be enacted.