

5 1. "Profession" means the profession of certified public accountancy,
6 architecture, chiropractic, dentistry, *physical therapy*, *psychology*, professional
7 engineering, land surveying, landscape architecture, law, medicine and surgery,
8 optometry, osteopathy, osteopathic medicine and surgery, *accounting practitioner*,
9 podiatry, *speech pathology*, *audiology*, veterinary medicine, pharmacy and the
10 practice of nursing.

Approved May 28, 1976

CHAPTER 1209

MEMBERSHIP SALES EXCLUSION

H. F. 362

AN ACT relating to the exclusion of banks from membership sales licensing requirements of the Code.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred three point two (503.2), unnumbered
2 paragraph one (1), Code 1975, is amended to read as follows:

3 The term "association" when used in this chapter shall mean any person, firm,
4 company, partnership, association, or corporation other than building and loan
5 associations, *state and national banks*, insurance companies and associations, and
6 corporations and co-operative associations subject to the provisions of chapters
7 497, 498 and 501, which sell, offer for sale or issue to the public generally
8 memberships or certificates of membership entitling the holder thereof to
9 purchase merchandise, materials, equipment or services on a discount or cost-plus
10 basis.

Approved March 1, 1976

CHAPTER 1210

INSURANCE GUARANTY ASSOCIATION

H. F. 1483

AN ACT relating to the uniform guaranty associaton

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred fifteen B point two (515B.2), subsection three
2 (3), unlettered paragraph two (2), Code 1975, is amended by striking the
3 paragraph and inserting in lieu thereof the following:

4 Covered claim shall not include any amount due any reinsurer, insurer,
5 insurance pool or underwriting association, as subrogation recoveries or otherwise
6 nor shall covered claim include any amount due an attorney or adjustor as fees
7 for services rendered to the insolvent insurer. This paragraph shall not prevent
8 any person from filing such excluded claim with the insolvent insurer or its
9 receiver, but such claim shall not be asserted against the insured of the insolvent
10 insurer except to the extent that such claim exceeds the coverage of the policy
11 issued by the insolvent insurer.

1 SEC. 2. Section five hundred fifteen B point two (515B.2), subsection four (4),
2 Code 1975, is amended to read as follows:

3 4. "Insurer" means an insurer licensed to transact insurance business in this
4 state under either chapter 515 or chapter 520, either at the time the policy was
5 issued or when the insured event occurred. It shall not include county or state
6 mutual assessment associations licensed under chapter 518 or chapter 518A, or
7 fraternal beneficiary societies, orders or associations licensed under chapter 512,
8 or corporations operating nonprofit service plans under chapter 514, or life
9 insurance companies or life, accident or health associations licensed under
10 chapter 508 or chapter 510, *or those professions under chapter 519.*

1 SEC. 3. Section five hundred fifteen B point five (515B.5), subsection one (1),
2 paragraph c, Code 1975, is amended to read as follows:

3 c. Assess member insurers amounts necessary to pay the obligations of the
4 association under paragraph "a" of this subsection subsequent to an insolvency,
5 the expenses of handling covered claims subsequent to an insolvency, the cost of
6 examinations under section 515B.10, and other expenses authorized by this
7 chapter. The assessment of each member insurer shall be in the proportion that
8 the net direct written premiums of the member insurer for the preceding calendar
9 year bear to the net direct written premiums of all member insurers for the
10 preceding calendar year. Each member insurer shall be notified of the assessment
11 not later than thirty days before it is due. No member insurer may be assessed in
12 any year an amount greater than two percent of that member insurer's net direct
13 written premiums for the preceding calendar year. If the maximum assessment,
14 together with the other assets of the association, does not provide in any one year
15 an amount sufficient to make all necessary payments, the funds available shall be
16 prorated and the unpaid portion shall be paid as soon as funds become available.
17 The association may exempt or defer, in whole or in part, the assessment of any
18 member insurer if the assessment would cause the member insurer's financial
19 statement to reflect amounts of capital or surplus less than the minimum amounts
20 required for a certificate of authority by any jurisdiction in which the member
21 insurer is authorized to transact insurance. Each member insurer *servicing as a*
22 *servicing facility pursuant to this section* may set off against any assessment,
23 authorized payments made on covered claims and expenses incurred in the
24 payment of such claims by the member insurer. *In addition, the association shall*
25 *have the authority to levy an administrative assessment of not more than fifty dollars*
26 *per year per member insurer on a non pro rata basis, which assessment shall be*
27 *credited against any future insolvency assessment. Such assessment shall be used to*
28 *pay authorized expenses not directly attributable to any particular insolvency or*
29 *insolvent insurer. All overdue and unpaid assessments shall draw interest at the rate of*
30 *seven percent per annum.*

1 SEC. 4. Section five hundred fifteen B point five (515B.5), subsection one (1),
2 paragraph d, Code 1975, is amended to read as follows:

3 d. Investigate claims brought against the fund and adjust, compromise, settle,
4 *defend*, and pay covered claims to the extent of the association's obligation and
5 deny all other claims.

1 SEC. 5. Section five hundred fifteen B point five (515B.5), subsection two (2),
2 Code 1975, is amended by striking paragraph g, and inserting in lieu thereof the
3 following:

4 g. If at any time the board of directors finds that the amount assessed for any
5 insolvency exceeds the actual and projected liabilities of that insolvency, it may
6 refund such excess to member insurers in the same proportion that each
7 contributed to the original assessment or assessments. Any assessments or refunds
8 of any member insurer in amounts not to exceed twenty-five dollars may, at the
9 discretion of the board of directors, be waived.

1 SEC. 6. Section five hundred fifteen B point eight (515B.8), subsection two (2),
2 Code 1975, is amended to read as follows:

3 2. The receiver, liquidator, or statutory successor of an insolvent insurer shall
4 be bound by settlements of covered claims by the association or a similar
5 organization in another state. The court having jurisdiction shall grant such
6 claims priority ~~equal to that to which the claimant would have been entitled in~~
7 ~~the absence of this chapter against the assets of the insolvent insurer, including the~~
8 ~~deductible portion thereof, against the assets of the insolvent insurer over all other~~
9 ~~claims not having statutory or secured priority.~~ The expenses of the association or
10 similar organization in handling claims shall be accorded the same priority as the
11 liquidator's expenses.

1 SEC. 7. Section five hundred fifteen B point nine (515B.9), subsection one (1),
2 Code 1975, is amended to read as follows:

3 1. Any person having a claim against his *or her* insurer, under any provision in
4 his *or her* insurance policy, which is also a covered claim shall be required to
5 exhaust first his *or her* right under the policy. ~~Any amount payable on a covered~~
6 ~~claim under this chapter shall be reduced by the amount of recovery under the~~
7 ~~claimant's insurance policy. Any amount recovered or recoverable by a person under~~
8 ~~another insurance policy shall be credited against the policy limits of the policy of the~~
9 ~~insolvent insurer before computing the amount of any covered claim. For purposes of~~
10 ~~this section, another insurance policy means a policy issued by any insurance~~
11 ~~company, whether a member insurer or not, which policy insures against any of the~~
12 ~~types of risks set forth in section five hundred fifteen point forty-eight (515.48) of the~~
13 ~~Code, except those types of risks set forth in section five hundred fifteen point forty-~~
14 ~~eight (515.48), subsection five (5), paragraph a, of the Code, and except those types of~~
15 ~~risks set forth in chapters five hundred eight (508) and five hundred fourteen (514) of~~
16 ~~the Code.~~

1 SEC. 8. Section five hundred fifteen B point sixteen (515B.16), Code 1975, is
2 amended by striking the section and inserting in lieu thereof the following:

3 **515B.16 Stay of proceedings.** All proceedings to which the insolvent insurer
4 is a party or in which it is obligated to defend a party shall be stayed from the
5 date of the insolvency to and including the date set as the deadline for the filing
6 of claims against the insolvent insurer or its receiver. However, upon application,
7 the court having jurisdiction of the receivership, may lengthen or shorten the
8 period, either as to all claims or as to any particular claim.

1 SEC. 9. Chapter five hundred fifteen B (515B), Code 1975, is amended by
2 adding the following new section:

3 **NEW SECTION. Timely filing of claims.** Notwithstanding any other provision
4 of this chapter, a covered claim shall not include any claim filed with the
5 association after the final date set by the court for the filing of claims against the
6 insolvent insurer or its receiver. However the association may waive the
7 requirement of this section when in its discretion the claim was not timely
8 presented due to circumstances beyond the control of the person having the
9 claim.

Approved May 20, 1976