

CHAPTER 1101
BLACK LUNG EXPOSURE
H.F. 2001

AN ACT relating to the length of exposure in the last employment to the hazards of pneumoconiosis under the workers' compensation law.

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

Section 1. Section 85A.10, Code 1985, is amended to read as follows:

85A.10 LAST EXPOSURE – EMPLOYER LIABLE.

Where ~~If~~ compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of ~~such~~ the disease, shall be ~~is~~ liable therefor for the compensation. The notice of injury and claim for compensation as hereinafter required shall be given and made to ~~such~~ the employer, ~~provided, that in case of pneumoconiosis, the only employer liable shall be the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of not less than sixty days as required under this chapter.~~

Sec. 2. This Act applies to claims for compensation in cases of pneumoconiosis filed on or after the effective date of this Act.

Approved April 18, 1986

CHAPTER 1102
INSURANCE HOLDING COMPANIES
H.F. 2390

AN ACT relating to the regulation of insurance holding companies and providing for penalties.

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

Section 1. Section 521A.1, Code 1985, is amended by adding the following new subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 4. "Domestic insurer" means an insurer organized or created under the laws of this state except an insurer excluded under subsection 6.

Sec. 2. Section 521A.1, subsection 6, Code 1985, is amended to read as follows:

~~6 7.~~ A "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but ~~shall~~ does not include ~~any securities broker performing no more than the usual and customary broker's function~~ a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

Sec. 3. Section 521A.2, subsection 1, paragraph h, Code 1985, is amended to read as follows:

h. Ownership and management of assets which the parent corporation could itself own and manage. However, the aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph shall not exceed the limitations applicable to the investments by the insurer.

Sec. 4. Section 521A.2, subsection 3, paragraph a, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed fifty percent of the insurer's surplus as regards policyholders, provided that if after such the investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such the investments, investments in domestic or foreign insurance subsidiaries shall be excluded and both of the following shall be included:

Sec. 5. Section 521A.2, subsection 3, paragraph b, Code 1985, is amended by striking the paragraph.

Sec. 6. Section 521A.2, subsection 3, paragraph d, Code 1985, is amended to read as follows:

d. With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, provided that than permitted pursuant to paragraphs "a", "b*", and "c". However, after such the investment the insurer's surplus as regards policyholders will shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Sec. 7. Section 521A.2, subsection 3, paragraph e, Code 1985, is amended by striking the paragraph.

Sec. 8. Section 521A.2, subsection 5, Code 1985, is amended to read as follows:

5. QUALIFICATION OF INVESTMENT - WHEN DETERMINED. Whether any investment pursuant to subsection 3 of this section meets the applicable requirements thereof of the subsection is to be determined immediately after such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the date they were made before the investment is made by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, excluding dividends.

Sec. 9. Section 521A.3, subsection 1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

For purposes of this section a domestic insurer shall include any other person controlling a domestic insurer unless such the other person is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, for purposes of this section "person" does not include a securities broker holding, in the usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of a person which controls an insurance company.

Sec. 10. Section 521A.3, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein in which funds were or are to be obtained for any such purpose including a pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing such the consideration, provided, however, that where. However, if a source of such the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such the statement so requests.

Sec. 11. Section 521A.3, subsection 2, paragraph 1, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~Such additional~~ Additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest.

Sec. 12. Section 521A.4, subsection 1, Code 1985, is amended to read as follows:

1. REGISTRATION. ~~Every~~ An insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to ~~disclosure~~ registration requirements and standards which are substantially similar to those contained in this section and section 521A.5, subsection 1, paragraph "a", and are adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. ~~Any~~ The insurer shall also file a copy of the summary of its registration statement as required by subsection 4 in each state in which that insurer is authorized to do business if requested to do so by the commissioner of that state. An insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration and annually thereafter by March 31 of each year for the previous calendar year unless the commissioner for good cause shown extends the time for registration, and then within such the extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by ~~such~~ the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

Sec. 13. Section 521A.4, subsection 2, paragraphs b and c, Code 1985, are amended to read as follows:

b. The identity and relationship of every member of the insurance holding company system.

c. The following agreements in force, relationships subsisting, and transactions currently outstanding or which have occurred during the last calendar year between such the insurer and its affiliates:

(1) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(2) Purchases, sales, or exchanges of assets.

(3) Transactions not in the ordinary course of business.

(4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

(5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

(6) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(7) Dividends and other distributions to shareholders.

Sec. 14. Section 521A.4, subsection 2, Code 1985, is amended by adding the following new lettered paragraph d and relettering the subsequent paragraph:

NEW LETTERED PARAGRAPH. d. A pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system.

Sec. 15. Section 521A.4, subsection 3, Code 1985, is amended to read as follows:

3. MATERIALITY. ~~No information~~ Information need not be disclosed on the registration statement filed pursuant to subsection 2 of this section if such the information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of the thirty-first day of December next preceding shall December 31 are not be deemed material for purposes of this section.

Sec. 16. Section 521A.4, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. SUMMARY OF REGISTRATION STATEMENT. All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the next preceding registration statement.

Sec. 17. Section 521A.4, Code 1985, is amended by adding the following new subsection 5 and renumbering the subsequent subsections:

NEW SUBSECTION. 5. INFORMATION OF INSURERS. Any person within an insurance holding company system subject to registration is required to provide complete and accurate information to an insurer if the information is reasonably necessary to enable the insurer to comply with this chapter.

Sec. 18. Section 521A.4, subsection 10, Code 1985, is amended to read as follows:

10. VIOLATIONS. The failure to file a registration statement or ~~any amendment thereto~~ a summary of the registration statement required by this section within the time specified for such the filing shall be is a violation of this section.

Sec. 19. Section 521A.5, subsection 1, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

1. TRANSACTIONS WITHIN A HOLDING COMPANY SYSTEM AFFECTING DOMESTIC INSURERS.

a. Material transactions by registered insurers with their affiliates are subject to the following standards:

- (1) The terms shall be fair and reasonable.
- (2) Charges or fees for services performed shall be reasonable.
- (3) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary and consistently applied insurance accounting practices.
- (4) The books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions.
- (5) After any dividends or distributions to shareholder affiliates, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

b. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions between each other involving amounts equal to or exceeding the greater of five percent of the insurer's admitted assets or twenty-five percent of the surplus as regards policyholders as of the next preceding December 31, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

- (1) Sales.
- (2) Purchases.
- (3) Exchanges.
- (4) Loans or extensions of credit.
- (5) Guarantees.
- (6) Investments.
- (7) Loans or extensions of credit to a person who is not an affiliate, if the domestic insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the domestic insurer making the loans or extensions of credit.

c. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions, unless the domestic insurer notifies the commissioner in writing of

its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

(1) All reinsurance agreements which in the aggregate will or may require as consideration the net transfer of assets to or by the domestic insurer in an amount, as of the next preceding December 31, exceeding twenty-five percent of statutory surplus.

(2) Any material transactions specified by rule which the commissioner determines may adversely affect the interests of the domestic insurer's policyholders.

d. This subsection does not authorize or permit any transactions which in the case of an insurer would be otherwise contrary to law.

e. A domestic insurer shall not enter into transactions which are part of a plan or series of like transactions with a person or persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that such separate transactions were entered into over a twelve-month period for that purpose, the commissioner may exercise the authority under section 521A.10.

f. The commissioner, in reviewing transactions pursuant to paragraphs "b" and "c", shall consider whether the transactions comply with the standards set forth in paragraph "a".

g. A domestic insurer shall notify the commissioner within thirty days of an investment of the insurer in a corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

Sec. 20. Section 521A.5, subsection 3, unnumbered paragraphs 1 and 2, Code 1985, are amended to read as follows:

~~No~~ A domestic insurer subject to registration under section 521A.4 shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until either thirty days after the commissioner has received notice of the declaration thereof of the payment and has not within such the period disapproved such the payment, or the commissioner shall have approved such the payment within such the thirty-day period.

For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of either ten percent of such the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding December 31, or the net gain from operations of such the insurer, if such the insurer is a life insurer, or the net investment income if such the insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding December 31, but shall not include pro rata distributions of any class of the insurer's own securities. In determining whether a dividend or distribution is extraordinary, an insurer may carry forward income or gain from operations from the previous two calendar years that has not already been paid out as dividends.

Sec. 21. Section 521A.6, subsection 1, Code 1985, is amended to read as follows:

1. POWER OF COMMISSIONER. Subject to the limitation contained in this section and in addition to the powers which the commissioner has under chapter 507 relating to the examination of insurers, the commissioner shall may also have the power to order any an insurer registered under section 521A.4 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as shall be reasonably necessary to ascertain the financial condition or legality of conduct of such the insurer or to determine compliance with this chapter. In the event such If the insurer fails to comply with such the order, the commissioner shall have the power to may examine such the affiliates to obtain such the information.

Sec. 22. Section 521A.6, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 23. Section 521A.10, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

521A.10 SANCTIONS AND PENALTIES.

1. If the commissioner finds after notice and hearing that a person subject to registration under section 521A.4 failed without just cause to file a registration statement as required in this chapter, the person shall be required to pay a penalty of one thousand dollars for each day's delay. The penalty shall be recovered by the commissioner and paid into the state general fund. The maximum penalty under this section is ten thousand dollars. The commissioner may reduce the penalty if the person demonstrates that the imposition of the penalty would constitute a financial hardship to the person.

2. If it appears to the commissioner that an insurer subject to this chapter has engaged in a transaction or entered into a contract which is subject to 521A.5 and which would not have been approved had approval been requested, the commissioner may order the insurer to immediately cease and desist any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void any contracts and restore the status quo if the commissioner finds that action is in the best interest of the policyholders, creditors, or the public.

3. If it appears to the commissioner that an insurer or a director, officer, agent, or employee of an insurer has committed a willful violation of this chapter, the commissioner may institute criminal proceedings against the insurer or the responsible director, officer, agent, or employee in the district court for the county in which the principal office of the insurer is located, or if the insurer has no office in this state, then in the district court for Polk county. An insurer or individual who willfully violates this chapter is guilty of a class "D" felony.

Sec. 24. NEW SECTION. 521A.11A RECOVERY.

1. Subject to subsections 2 through 4, if an order for liquidation, conservation, or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order may recover on behalf of the insurer either of the following if made within one year preceding the filing of the petition for liquidation, conservation, or rehabilitation:

a. From a parent corporation, holding company, affiliate, or other person who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock.

b. Any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the insurer or a subsidiary of the insurer to a director, officer, agent, or employee.

2. A distribution is not recoverable if the parent holding company, affiliate, or other person shows that when the distribution was paid it was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

3. A parent corporation, holding company, affiliate, or other person who otherwise controlled the insurer or affiliate at the time the distributions were paid is liable only up to the amount of distributions or payments under subsection 1 that the person received. A person who otherwise controlled the insurer at the time the distributions were declared is liable only up to the amount of distributions the person would have received if the person had been paid immediately. If two or more persons are liable with respect to the same distributions, each shall be separately liable for their distributive share.

4. The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

5. To the extent that a person liable under subsection 3 is insolvent or otherwise fails to pay claims due from the person pursuant to this section, the person's parent corporation, holding company, affiliate, or other person who otherwise controlled it at the time the distribution was

paid, is separately liable for the share of any resulting deficiency in the amount recovered from the parent corporation, holding company, affiliate, or other person who otherwise controlled it.

Approved April 18, 1986

CHAPTER 1103
BONDED WAREHOUSE TARIFFS
H.F. 2446

AN ACT relating to the insurance and tariff provisions for bonded warehouses for agricultural products.

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

Section 1. Section 543.15, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, notwithstanding the insurance requirements set forth in this section, a licensed warehouse may exclude from the insurance coverage stored grain to which title is fully vested in the United States government or any of its subdivisions or agencies, provided that the licensed warehouse has on file with the United States government or any of its subdivisions or agencies a current and accepted uninsured storage rate under the provisions of their uniform grain storage agreement. The licensed warehouse shall file a copy of the current uninsured tariff rate with the commission immediately upon acceptance of the uninsured rate by the United States government or any of its subdivisions or agencies.

Sec. 2. Section 543.28, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

543.28 TARIFF RATES.

A warehouse operator shall, at the time of application for a license, file a tariff with the commission which shall contain rates to be charged for receiving, storage, and load-out of grain. The tariff shall be posted in a conspicuous place at the place of business of the licensee in a form prescribed by the commission and shall become effective at the time the license becomes effective.

Storage charges shall commence on the date of delivery to the warehouse. Storage, receiving, or load-out charges other than those specified in the tariff may be made if the charge is required by the terms of a written contract with the United States government or any of its subdivisions or agencies.

Grain deposited with the warehouse for the sole purpose of processing and redelivery to the depositor is subject only to the charges listed under the grain bank section of the tariff. Drying and cleaning of grain shall not be construed as processing.

A tariff may be amended at any time and is effective immediately, except that grain in store on the effective date of a storage charge increase does not assume the increased rate until the subsequent anniversary date of deposit. Any decrease in storage rates shall be effective immediately and shall be applicable to all grain in store on the effective date of the decrease.

A warehouse operator may file with the commission and publish the supplemental tariff applicable only to grain meeting special descriptive standards or characteristics as set forth in the supplemental tariff. A supplemental tariff shall be in a form prescribed by the commission and be posted adjacent to the warehouse tariff.

All tariff charges shall be nondiscriminatory within classes.

Approved April 18, 1986