

CHAPTER 1112**INSURANCE INDUSTRY REGULATION***H.F. 2307*

AN ACT relating to the regulation of the state's insurance industry and the administration of the insurance division of the department of commerce.

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

DIVISION I

Section 101. Section 505.12, Code 1987, is amended to read as follows:

505.12 LIFE INSURANCE — ANNUAL REPORT.

Before the first day of ~~August~~ September the commissioner of insurance shall make an annual report to the governor of the general conduct and condition of the life insurance companies doing business in the state, and include therein an aggregate of the estimated value of all outstanding policies in each of the companies; and in connection therewith prepare a separate abstract thereof as to each company, and of all the returns and statements made to the commissioner by them.

Sec. 102. Section 505.13, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The commissioner shall annually cause the preparation and printing of a report to be delivered to the governor. The report shall contain information from the statements required of insurance companies, other than life insurance companies, organized or doing business in the state. The reports shall be delivered on or before the first day of ~~August~~ September each year.

Sec. 103. Section 508.13, Code 1987, is amended to read as follows:

508.13 ANNUAL CERTIFICATE OF AUTHORITY.

On receipt of the deposit provided in section 511.8, subsection 16, and the statement, and the statement and evidence of investment of foreign companies, all of which shall be renewed annually, by the first day of March, the commissioner of insurance shall issue a certificate setting forth the corporate name of the company, its home office, that it has fully complied with the laws of the state and is authorized to transact the business of life insurance for the ensuing year, which certificate shall expire on the first day of ~~May~~ June of the ensuing year, or sooner upon thirty days' notice given by the commissioner, of the next annual valuation of its policies. Such certificate shall be renewed annually, upon the renewal of the deposit and statement by a domestic company, or of the statement and evidence of investment by a foreign company, and compliance with the conditions above required, and be subject to revocation as the original certificate.

Sec. 104. **NEW SECTION. 509A.15 CERTIFICATION OF SELF-INSURANCE PLANS.**

1. Within thirty days following the end of a self-insurance plan's fiscal year, the governing body shall file with the commissioner of insurance a certificate of compliance. The certificate of compliance shall be accompanied by a filing fee of one hundred dollars. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

a. That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

b. That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. The actuarial opinion shall be issued by a fellow of the society of actuaries.

c. That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and

the percentage of participants filing written complaints, in the prior fiscal year.

d. That the governing body has contracted or otherwise arranged with a third party for plan administration.

2. The commissioner shall by rule require the maintenance of confidentiality of information held by the plan administrator.

3. The failure of the governing body to provide the certificate of compliance required by subsection 1, or the failure of the governing body or plan administrator to abide by a requirement of the plan, this chapter, or applicable rule, is grounds for action against the plan, including cause for disapproval or discontinuance of the plan.

Sec. 105. Section 512.29, Code 1987, is amended to read as follows:

512.29 CERTIFICATE OF AUTHORITY — FEES.

If the commissioner shall approve the articles and also the bylaws or rules, the commissioner shall issue to the society, order, or association a certificate of authority, authorizing it to transact business within this state for a period of one year from the first day of ~~May~~ June of the year of its issue, for which certificate and all proceedings in connection therewith, there shall be paid to the commissioner a fee of ~~twenty-five~~ one hundred dollars, and for each annual renewal thereof a like fee shall be paid.

Sec. 106. Section 512A.3, Code 1987, is amended to read as follows:

512A.3 INCORPORATION MANDATORY.

Before a benevolent association shall operate in this state it shall first incorporate in accordance with the laws of this state, and the articles of incorporation and bylaws shall be submitted to the commissioner. If the commissioner finds they conform to the requirements of the law and all rules and regulations promulgated under this chapter, the commissioner shall approve the articles of incorporation and file them with the secretary of state. Every benevolent association at the time of its incorporation shall submit its general plan of operation to the commissioner and if the commissioner finds it conforms to the requirements of the law and all reasonable rules and regulations promulgated under this chapter, the commissioner shall issue a license to expire on the first day of ~~May~~ June after issuance. ~~Said~~ The license shall be renewed from year to year upon application of the association, if the commissioner finds from examination that it has conformed to the requirements of all laws and regulations applicable thereto.

Sec. 107. Section 515.42, Code 1987, is amended to read as follows:

515.42 TENURE OF CERTIFICATE — RENEWAL — EVIDENCE.

Such certificate of authority shall expire on the first day of ~~May~~ June next succeeding its issue, and shall be renewed annually so long as such company shall transact business in accordance with the requirements of law; a copy of which certificate, when certified to by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original.

Sec. 108. Section 518.15, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Such associations shall pay the same expenses of any examination made or ordered to be made by the commissioner of insurance and the same fees for the annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire ~~May~~ June 1 of the year following the date of issue.

Sec. 109. Section 519.9, Code 1987, is amended to read as follows:

519.9 FEES.

Such a mutual insurance corporation shall pay the same fees for admission into the state, for annual reports, and for annual certificates of authority as are required to be paid by domestic mutual companies organized and doing business under chapter 515; such certificate shall expire ~~May~~ June 1 of the year following the date of its issue.

Sec. 110. Section 520.12, Code 1987, is amended to read as follows:

520.12 CERTIFICATE OF AUTHORITY.

Upon compliance with the requirements of this chapter, the commissioner of insurance shall issue a certificate of authority or a license to the attorney, authorizing the attorney to make such contracts of insurance, which license shall specify the kind or kinds of insurance and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. ~~Such license shall be renewed annually upon a showing that the standard of solvency required herein has been maintained, and that all fees and taxes required have been paid~~ The certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually as long as the company transacts business in accordance with the requirements of law.

DIVISION II

Sec. 201. Section 87.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, which enters have entered into an agreement under chapter 28E for the purpose of establishing a self-insured group plan program for the payment of workers' compensation and benefits are exempt from taxation under section 432.1.

Sec. 202. Section 87.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities and counties, or both, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

Sec. 203. Section 508C.11, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. In a liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. ~~If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.~~

Sec. 204. Section 508C.12, subsection 1, paragraph b, Code Supplement 1987, is amended to read as follows:

b. Report to the board of directors when the commissioner has taken any of the actions set forth in paragraph "a" or has received a report from any other commissioner indicating that any such action has been taken in another state a member insurer is impaired or insolvent. Reports to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

Sec. 205. Section 511.8, subsection 10, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Real estate in this state which is necessary for the accommodation of the company or association as a home office or in the transaction of its business. In the erection of buildings for such purposes, there may be added rooms for rent. Before the company or association invests any of its funds in accordance with this paragraph it shall first obtain the consent of the ~~executive council of this state~~ commissioner. The maximum amount which a company or association shall be permitted to invest in accordance with these provisions shall not exceed ten percent of the legal reserve. However, a stock company may invest such portion of its paid-up capital, in addition to ten percent of the legal reserve, as is not held to constitute a part of its legal reserve, under section 508.36, and the total legal reserve of the company shall be equal to or exceed the amount of its paid-up capital stock.

Sec. 206. Section 511.24, subsection 6, Code 1987, is amended by striking the subsection.

Sec. 207.

1. Chapter 510, Code 1987, is repealed.
2. Sections 507.5 and 515.43, Code 1987, are repealed.

DIVISION III

Sec. 301. Section 507.1, Code 1987, is amended to read as follows:

507.1 "COMPANY" DEFINED.

The word "company" as As used in this chapter, shall mean "company" means all companies or associations organized under the provisions of chapters 508, 511, 512, 512A, 514, 514B, 515, 515C, 518A, associations subject to the provisions of chapters 518 and 520, and all companies or associations admitted or seeking to be admitted to this state under the provisions of any of the chapters herein referred to.

Sec. 302. Section 507.8, Code 1987, is amended to read as follows:

507.8 PAYMENT BY COMPANY.

The commissioner shall upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the companies examined, and upon failure or refusal of any company examined to pay such bill or bills, the same may be recovered in an action brought in the name of the state ~~under the direction of the executive council~~, and the commissioner may also revoke the certificate of authority of such company to transact business within this state.

Sec. 303. Section 511.24, subsection 5, Code 1987, is amended to read as follows:

5. For every copy of any paper filed, fifty cents per folio, and for certifying and affixing the official seal to any paper filed with the division, ~~five~~ ten dollars.

Sec. 304. Section 515.128, subsection 5, Code 1987, is amended to read as follows:

5. For every copy of any paper filed, fifty cents per folio, and for certifying and affixing the official seal to any paper filed with the division, ~~five~~ ten dollars.

Sec. 305. Section 520.19, Code 1987, is amended to read as follows:

520.19 ANNUAL TAX — FEES.

In lieu of all other taxes, licenses, charges, and fees whatsoever, such attorney shall pay annually to the director of the department of revenue and finance, or a depository designated by the director of the department of revenue and finance, on account of the transaction of such business in this state, pay to the commissioner the same fees as are paid by mutual companies

transacting the same kind of business, and an annual tax of two percent, if a domestic reciprocal organization, and two percent, if a foreign reciprocal organization, calculated upon the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, after deducting therefrom returns, or cancellations, and all amounts returned to subscribers or credited to their accounts as savings, and the amount returned upon canceled policies and rejected applications covering property situated or on business done within this state.

DIVISION IV

Sec. 401. Section 515.11, Code 1987, is amended to read as follows:

515.11 PROHIBITED LOANS.

No part of the capital referred to shall be directly or indirectly loaned to any officer, ~~or~~ director, stockholder, or employee of the company or to a relative of any officer or director of the company.

Sec. 402. Section 515.35, subsection 4, paragraph n, subparagraph (1), Code 1987, is amended to read as follows:

(1) A company organized under this chapter may invest up to ~~one~~ two percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

Sec. 403. Section 515.49, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.49 LIMITATION ON RISKS.

A company shall not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its surplus to policyholders unless one of the following applies:

1. The excess is reinsured in some other good and reliable company licensed to sell insurance in this state.

2. The excess is reinsured by a group of individual unincorporated insurers who are authorized to sell insurance in at least one state of the United States and who possess assets which are held in trust for the benefit of the American policyholders in the sum of not less than fifty million dollars, and a certificate of such reinsurance shall be furnished to the insured.

3. The excess is reinsured with a company which has, with respect to the ceding insurer, created a trust fund, made a deposit, or obtained letters of credit, on terms satisfactory to the commissioner.

Sec. 404. Section 515.80, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

515.80 FORFEITURE OF POLICIES — NOTICE.

No policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall be forfeited, suspended, or canceled for nonpayment of any premium, assessment, or installment provided for in the policy, or in any note or contract for the payment thereof, unless within thirty days prior to, or on or after the maturity thereof, the company serves notice in writing upon the insured that the premium, assessment, or installment is due or to become due, stating the amount, and the amount necessary to pay the customary short rates, up to the time fixed in the notice when the insurance will be suspended, forfeited, or canceled, which shall not be less than thirty days after service of the notice, which may be made in person, or by sending by certified mail a letter addressed to the insured at the insured's post office as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding. A post office department receipt of certified mailing shall be proof of receipt of the registered mailing. However, notice of cancellation of a workers' compensation policy due to nonpayment of the premium may be made in person, or by mail, as otherwise provided, but need not be served by certified mail.

Sec. 405. Section 515.81, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

515.81 CANCELLATION OF POLICY — NOTICE TO INSURED OR MORTGAGEE.

Unless otherwise provided in section 515.81A or 515.81B, at any time after the maturity of a premium, assessment, or installment provided for in the policy, or any note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of any policy or contract of insurance, the insured may pay to the company the customary short rates and costs of action, if one has been commenced or judgment rendered thereon, and may, if the insured so elects, have the policy and all contracts or obligations connected therewith, whether in judgment or otherwise, canceled, and all such policy and contracts shall be void; and in case of suspension, forfeiture, or cancellation of any policy or contract of insurance, the insured shall not be liable for any greater amount than the short rates earned at the date of such suspension, forfeiture, or cancellation and the costs of action provided for in this section. The policy may be canceled by the insurance company by service of notice in writing upon the insured which notice shall fix the date of cancellation which shall be not less than ten days after service of the notice. The service of notice may be made in person, or by mailing the notice to the insured at the insured's post office address as given in or upon the policy, or to another address given to the company in writing by the insured. A post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice. If the policy is canceled by the insurance company, the insurer may retain only the pro rata premium, and if the initial cash premium, or any part thereof, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured and ten days' notice to the mortgagee, or other person to whom the policy is made payable, if any, without tendering any part or portion of the premium, anything to the contrary in the policy notwithstanding.

Sec. 406. NEW SECTION. 515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR CONTRACTS.

1. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, which has not been previously renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

2. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, which has been renewed or which has been in effect for more than sixty days shall not be canceled unless at least one of the following conditions occurs:

- a. Nonpayment of premium.
- b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.
- c. Actions by the insured which substantially change or increase the risk insured.
- d. Determination by the commissioner that the continuation of the policy will jeopardize the insurer's solvency or will constitute a violation of the law of this or any other state.
- e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a policy or contract term or condition.

3. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, may be canceled at any time if the insurer loses reinsurance coverage which provides coverage to the insurer for a significant portion of the underlying risk insured and if the commissioner determines that cancellation because of loss of reinsurance coverage is justified. In determining whether a cancellation because of loss of reinsurance coverage is justified, the commissioner shall consider all of the following factors:

- a. The volatility of the premiums charged for reinsurance in the market.

- b. The number of reinsurers in the market.
 - c. The variance in the premiums for reinsurance offered by the reinsurers in the market.
 - d. The attempt by the insurer to obtain alternate reinsurance.
 - e. Any other factors deemed necessary by the commissioner.
4. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

Sec. 407. NEW SECTION. 515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR CONTRACTS.

An insurer shall not fail to renew a commercial line policy or contract of insurance except by notice to the insured as provided in this section. Nonrenewal of a commercial line policy or contract includes a decision by the insurer not to renew the policy or contract, an increase in the premium of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract. However, a premium charge which is assessed after the beginning date of the policy period for which the premium is due shall not be deemed a premium increase for the purpose of this section.

A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal.

DIVISION V

Sec. 501. Section 506.2, Code 1987, is amended to read as follows:

506.2 SALE OF SECURITIES RESTRICTED.

Neither the securities in an a domestic insurance company, nor securities in a holding company, one of the purposes of which is to organize, purchase, or otherwise acquire control of an a domestic insurance company, nor membership in an association in process of organization shall be sold or solicited until such company or association, and the promoters thereof, shall have first complied with all of the statutory provisions regulating the organization of such companies and associations, and also have secured from the commissioner of insurance a certificate indicating full compliance with the provisions of this chapter.

Sec. 502. Section 507C.20, Code Supplement 1987, is amended to read as follows:

507C.20 DISSOLUTION OR SALE OF INSURER.

The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this state at the time

the commissioner applies for a liquidation order. The court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent. However, dissolution may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason. Notwithstanding the above, upon application by the commissioner and following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses to do business, despite the entry of an order of liquidation. The sale may be made on terms and conditions the court deems appropriate including, but not limited to, the placing of the proceeds of the sale of the corporate entity and licenses into a trust for the benefit of policyholders and creditors with proceeds to be distributed in the manner set forth in section 507C.42. However, the order approving the sale shall provide that the proceeds of the sale shall become part of the assets of the liquidation estate, to be distributed in the manner set forth in section 507C.42, and that the corporate entity and its licenses shall thereafter be free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation.

Sec. 503. Section 508.12, Code 1987, is amended to read as follows:

508.12 FOREIGN COMPANIES MAY BECOME DOMESTIC REDOMESTICATION OF INSURERS.

Any company An insurer which is organized under the laws of any other state or country, and which has been is admitted to do business in this state for the purpose of writing insurance authorized by this chapter; upon may become a domestic insurer by complying with section 491.33 and with all of the requirements of law relative to the organization and licensing of a domestic insurance companies and to the execution, filing, recording and publishing of notice of incorporation and payment of corporation fees by like domestic corporations, insurer of the same type and by designating its principal place of business at a place in this state, and; upon payment to the commissioner of insurance of a transfer tax in a sum equal to twenty-five percent of the premium tax paid pursuant to the provisions of chapter 432 for the last calendar year immediately preceding its becoming a domestic corporation or the sum of ten thousand dollars, whichever is the lesser but not less than one thousand dollars; may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

The certificates of authority, agent's appointments and licenses, rates, and other items which are in existence at the time any insurer transfers its corporate domicile to this state, pursuant to this section, shall continue in full force and effect upon such transfer. For purposes of existing authorizations and all other corporate purposes, the insurer is deemed the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the company or its new location unless so ordered by the commissioner of insurance.

Sec. 504. Section 515B.1, Code 1987, is amended to read as follows:

515B.1 SCOPE.

This chapter shall apply to all kinds of direct insurance authorized to be written by an insurer licensed to operate in this state under chapter 515 or chapter 520, except life, title, surety, fidelity, disability including accident and health, credit, mortgage guaranty, ocean marine insurance, financial guaranty or other forms of insurance offering protection against investment risk, automobile warranty coverage, or insurance written pursuant to 15 U.S.C. § 3901 et seq., or any transaction which, although denominated as insurance, does not result in the transfer of an insurance risk.

Sec. 505. Section 515B.2, subsection 3, paragraph b, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The claim is one by an insured for damage to property permanently located in this state.

Sec. 506. Section 515B.2, subsection 3, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

"Covered claim" does not include an amount due any reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, or indemnity recoveries or otherwise; a portion of a claim that is within an insured's deductible or self-insured retention; a claim for unearned premium calculated on a retrospective basis, experience-rated plan, or premium subject to adjustment after termination of the policy; an amount due an attorney, adjuster, or witness as fees for services rendered to the insolvent insurer; a fine, penalty, interest, or punitive or exemplary damages; or a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of two hundred thousand dollars or more. A claim under a liability policy shall be considered to be a covered claim if as of the deadline set for the filing of claims against the insolvent insurer or its liquidator, the insured is a debtor in a liquidation bankruptcy under 11 U.S.C. § 701 et seq. This paragraph does not prevent a person from presenting a noncovered claim to the insolvent insurer or its liquidator, but the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that it is outside the coverage of the policy issued by the insolvent insurer.

Sec. 507. Section 515B.5, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation if the insured does so within thirty days of the determination. This obligation includes only the amount of a covered claim which is in excess of one hundred dollars and less than three hundred thousand dollars for all damages arising out of any one accident, occurrence, or incident regardless of the number of persons making claims. If the policy of the insolvent insurer contained an aggregate limit, the association shall not be obligated for more than three hundred thousand dollars on an aggregate basis. However, the association shall pay the full amount of a covered claim arising out of a workers' compensation policy. In addition, the association is not liable for an amount in excess of the specified limits of a policy lesser of three hundred thousand dollars or the policy limits, regardless of the theory under which or the type of damages for which the association is alleged to be liable.

Sec. 508. Section 515B.9, subsection 2, Code 1987, is amended to read as follows:

2. A person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first party claim for damage to property with a permanent location, recovery shall be first sought from the association of the location of the property. If the claim is a workers' compensation claim, recovery shall be first sought from the association of the residence of the claimant. ~~A person shall not recover any amount of the person's claim against the insured in excess of the amount recovered or recoverable from the association except to the extent the claim exceeds the policy limits of the insolvent insurer.~~ Any sums recovered from any other guaranty association or equivalent organization shall be subtracted from the maximum liability of the association under section 515B.5, subsection 1, paragraph "a".

Sec. 509. NEW SECTION. 515B.18 PROHIBITED ADVERTISING.

A person shall not advertise or publish, in connection with the sale of an insurance policy, that claims under the insurance policy are subject to this chapter or will be paid by the Iowa insurance guaranty association.

Sec. 510. Section 518A.1, subsection 1, paragraph d, Code 1987, is amended to read as follows:

d. Any automobile or aircraft or other vehicle, including loss, expense, or liability resulting from the ownership, maintenance, or use thereof, but shall not include, ~~by county mutuals,~~ insurance against bodily injury to the person.

DIVISION VI

Sec. 601. Section 515D.5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Notwithstanding the provisions of ~~section 515.81~~ ~~no sections 515.80 through 515.81A~~, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least twenty days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of ~~section sections 515.80 and 515.81A~~ at least ten days prior to the date of cancellation. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided ~~herein~~ in this chapter.

Sec. 602. Section 515D.7, unnumbered paragraph 1, Code 1987, is amended to read as follows:

~~No~~ Notwithstanding the provisions of sections 515.80 through 515.81B, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than twenty days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

Sec. 603. NEW SECTION. 508.39 DIVIDENDS.

The directors or managers of a stock company, incorporated under the laws of this state, shall make no dividends except from the earned profits arising from their business, which shall not include contributed capital or contributed surplus.

Sec. 604. NEW SECTION. 514F.3 PREFERRED PROVIDERS.

The commissioner of insurance shall adopt rules for preferred provider contracts and organizations, both those that limit choice of specific provider and those that do not. The rules adopted shall include, but not be limited to, the following subjects: preferred provider arrangements and participation requirements, health benefit plans, and civil penalties.

DIVISION VII

Sec. 701. Section 294.16, Code 1987, is amended to read as follows:

294.16 ANNUITY CONTRACTS.

At the request of an employee through contractual agreement a school district may purchase group or individual annuity contracts for employees, from an insurance organization or mutual fund the employee chooses that is authorized to do business in this state and through

an Iowa-licensed insurance agent or from a securities dealer, salesperson, or mutual fund registered in this state that the employee selects, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code of 1954, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. ~~If an existing tax sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall submit a letter of intent by registered mail to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's or representative's own company at least thirty days prior to any action. This letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.~~

Sec. 702. Section 521.5, Code 1987, is amended to read as follows:

521.5 COMMISSION TO HEAR PETITION.

For the purpose of hearing and determining such petition, a commission consisting of the ~~governor, commissioner of insurance, and attorney general~~ is hereby created. ~~In the inability of the governor to act, the secretary of state may act in the governor's stead.~~

Sec. 703. Section 523C.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 5. "Reserve account agreement" means an agreement entered into between a licensed service company and a depository under section 523C.11.

NEW SUBSECTION. 6. "Depository" means an institution designated by the commissioner as an authorized custodian for purposes of sections 523C.5 and 523C.11.

NEW SUBSECTION. 7. "Custodian" means an institution meeting the requirements established by the commissioner which institution has entered into a custodial agreement or reserve account agreement with a licensed service company.

NEW SUBSECTION. 8. "Custodial agreement" means an agreement entered into between a licensed service company and a custodian under section 523C.5.

NEW SUBSECTION. 9. "Custodial account" means an account established by agreement between a licensed service company and a custodian under section 523C.5.

Sec. 704. Section 523C.3, subsection 2, paragraph b, Code 1987, is amended to read as follows:

b. A surety bond or a copy of custodial agreement as provided in section 523C.5.

Sec. 705. Section 523C.5, Code 1987, is amended to read as follows:

523C.5 REQUIRED BOND.

To assure the faithful performance of obligations under residential service contracts issued and outstanding in this state, a service company shall, prior to the issuance or renewal of a license, file with the commissioner a surety bond in the amount of one hundred thousand dollars, which has been issued by an authorized surety company and approved by the commissioner as to issuer, form, and contents or establish a custodial account in the amount of one hundred thousand dollars at an authorized depository. The bond or custodial account shall not be canceled or be subject to cancellation unless thirty days' advance notice in writing is filed with the commissioner. Notwithstanding the ~~provisions of chapter 17A, if a bond or custodial account is canceled for any reason and a new bond or notice that a new custodial account has been established in the required amount is not received by the commissioner on or before the effective date of cancellation,~~ the license of the service company is automatically revoked as of the date the bond or custodial account ceases to be in effect. A service company whose license is revoked under this section may file an application for a new license pursuant to section 523C.3.

The bond or custodial account posted by a service company pursuant to this section shall be for the benefit of, and subject to recovery thereon by any residential service contract holder sustaining actionable injury due to the failure of the service company to faithfully perform its obligations under a residential service contract because of insolvency of the service company.

If a service company ceases to do business in this state and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond or custodial account shall be released.

The commissioner may by rule designate institutions authorized to act as a depository under this section and establish requirements for custodians, custodial agreements, custodial accounts, or the method of valuing noncash assets held in a custodial account which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

Sec. 706. Section 523C.6, unnumbered paragraph 2, Code 1987, is amended to read as follows:

For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves, but excluding assets held in a custodial account under section 523C.5, computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.

Sec. 707. Section 523C.11, subsection 1, Code 1987, is amended to read as follows:

1. A service company shall maintain in an independent depository a reserve account containing cash or marketable securities in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued in this state, if any, and for less actual expenditures for services rendered under those contracts.

Sec. 708. Section 523C.11, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The commissioner may by rule designate institutions authorized to act as a depository under this section and may establish requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

Approved April 26, 1988

CHAPTER 1113

OPEN ENROLLMENT IN CONTIGUOUS SCHOOL DISTRICTS

S.F. 323

AN ACT to provide a procedure for parents or guardians to enroll their children in the public schools of contiguous school districts and providing for the implementation of administrative rules and an effective date.

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

Section 1. NEW SECTION. 282.18 OPEN ENROLLMENT.

It is the intent of the general assembly to allow a pupil with special and exceptional needs to enroll in a district contiguous to the pupil's resident district if the contiguous district offers coursework or programs, not already available to the pupil, that would meet the needs of the pupil.

1. Except as provided in subsection 2, for the school year commencing July 1, 1990, and each succeeding school year, a parent or guardian residing in a school district may be allowed to