

of two years and are eligible for reelection to a four-year term.

3. The terms of all members of extension councils in existence on the effective date of this Act shall expire on December 31, 1990.

Sec. 10. EFFECTIVE DATE.

This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 6, 1990

CHAPTER 1150

LEGAL EXPENSE INSURANCE

S.F. 332

AN ACT relating to legal expense insurance by regulating the sale of contracts providing reimbursement for legal expenses in consideration of a specified payment for a period of time, establishing a premium tax, and providing penalties.

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

Section 1. NEW SECTION. 515F.1 PURPOSES.

This chapter shall be liberally interpreted in order to do the following:

1. Encourage the development of effective and economically sound methods for making legal services more readily available.
2. Protect the interests of the users of legal services and of the public of this state with a minimum of restriction on experimentation with new forms of organization, administration, or benefits.
3. Place the risk inherent in experimentation by new plans on promoters rather than on the consumers.
4. Permit and encourage the provision of legal services through persons other than professional insurers subject to practical and reasonable financial and regulatory requirements.
5. Permit and encourage fair and effective competition among the various systems of financing legal services.
6. Maintain a high level of quality and conformity to professional standards in the performance of legal services.

Sec. 2. NEW SECTION. 515F.2 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Commissioner" means the commissioner of insurance.
2. "Insurer" means any person who obtains a certificate of authority under this chapter.
3. "Legal insurance" means the assumption of a contractual obligation to provide specified legal services or reimbursements for legal expenses in consideration of a specified payment for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for the beneficiaries, in such a manner that the total cost incurred by assuming the obligation is to be spread directly or indirectly among a group of persons. "Contractual obligation" as used in this subsection includes any arrangement giving rise to a reasonable expectation of an enforceable right. "Legal insurance" does not include the provision of or reimbursement for legal services incidental to other insurance coverages.

The following are not considered insurance or legal insurance under the insurance laws of this state:

- a. A retainer contract made with an individual client with the fee based on an estimate of the nature and amount of services that will be provided to the specific client, or a similar

contract made with a group of clients involved in the same or closely related legal matter, such as a class action.

b. A plan providing limited benefits on simple legal matters on an informal basis, not involving a legally binding promise, in the context of an employment, educational, or similar relationship.

c. Legal services provided through unions or employee associations to their members in matters relating to simple legal matters on an informal basis.

d. Legal services provided through an agency of the federal or state government or governmental subdivision to its employees.

Sec. 3. NEW SECTION. 515F.3 AUTHORIZATION REQUIRED.

1. A person shall not transact the business of legal insurance in this state without first obtaining a certificate of authority from one of the following sources:

a. Under this chapter.

b. Under the general laws pertaining to insurance.

2. A person may apply to the commissioner for and obtain a certificate of authority to transact the business of legal insurance in compliance with this chapter. This section does not by itself enlarge the powers of any corporation given by its articles of incorporation or charter, but does authorize a corporation formed under the general business, insurance, or general non-profit corporation laws of this state to include in its powers the authority to transact legal insurance.

3. An application shall be in a form prescribed by the commissioner. If the applicant is not domiciled in this state, the application must be accompanied by a power of attorney duly executed by the applicant appointing the commissioner, and the commissioner's duly authorized deputies, as the true and lawful attorneys of the applicant in and for this state, upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this state may be served.

Sec. 4. NEW SECTION. 515F.4 CONDITIONS FOR ISSUING CERTIFICATE OF AUTHORITY.

Upon receipt of an application for a certificate of authority, the commissioner shall issue or deny a certificate pursuant to this chapter within thirty days of the application, which may be extended for an additional thirty days by notice to the applicant prior to the expiration of the first thirty days. A certificate of authority shall be issued upon payment of the application fee prescribed in section 515F.18 of this chapter, if the commissioner is satisfied that all of the following conditions are met:

1. The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and of good reputation.

2. The applicant demonstrates the willingness and ability to assure that the promised benefits can be provided. In making this determination the commissioner shall consider so far as applicable all of the following:

a. The adequacy of capital and surplus considered in relation to the other items in this section.

b. Any agreement with lawyers for the provision of legal services.

c. The financial soundness of the applicant's arrangements for legal services and the schedule of rates proposed to be used in connection with the arrangements for legal services.

d. Any agreement with another person authorized under this chapter, an insurer licensed under the general insurance laws to do business in this state, a reinsurer eligible under the laws or rules of this state to provide reinsurance, or an agency of the federal or state government for insuring the payment of the cost of legal services or the provision for automatic applicability of an alternative coverage if the insurer is unable to perform its obligations.

e. Any surety bond or deposit of cash or securities as a guarantee that the obligations will be duly performed.

f. If the applicant is licensed as an insurer under other insurance laws of this state, whether the applicant has complied with the requirements of those laws.

Sec. 5. NEW SECTION. 515F.5 REGULATION OF POLICY FORMS AND RATES.

1. a. A contractual obligation for legal insurance shall be evidenced by a policy or master policy. Legal insurance may be written on an individual, group, blanket, or franchise basis. Each person insured under a group policy must be issued a certificate of coverage. A legal insurance policy or certificate of any kind shall not be issued or delivered in this state unless and until a copy of the policy or master policy and certificate of coverage has been filed with and approved by the commissioner.

b. The policy or master policy and certificate of coverage must meet all of the following requirements:

(1) A policy or master policy must contain a detailed list and description of the legal services promised or the legal matters for which expenses are to be reimbursed and the amount of reimbursement.

(2) A policy or certificate under a master policy must indicate prominently the name of the insurer and the full address of its principal place of business.

(3) A certificate issued under a group policy may summarize the terms of the master contract but must contain a full and clear statement of the benefits provided.

c. The commissioner may disapprove the form of a policy, master policy, or certificate of coverage if the commissioner finds that it fails any of the following:

(1) Does not meet the requirements of subsection "b".

(2) Is unfair, unfairly discriminatory, misleading, obscure, or encourages misrepresentation or misunderstanding of the contract, including cases where the form does any of the following:

(a) Provides coverage or benefits that are too restricted to achieve the purposes for which the policy is designed.

(b) Fails to attain a reasonable degree of readability, simplicity, and conciseness.

(c) Is misleading, deceptive, or obscure because of its physical aspects such as format, typography, style, color, or organization.

(3) Provides coverage or benefits or contains other provisions that would endanger the solvency of the insurer.

(4) Is contrary to law.

2. a. Rate filing and rate review procedures applicable to this chapter shall be those set out in chapter 515A and supporting rules.

b. The rates of a legal expense insurer must meet all of the following requirements:

(1) The rates must be established and justified in accordance with generally accepted insurance principles, including but not limited to the experience or judgment of the insurer making the rate filing or actuarial computations.

(2) The rates shall not be excessive, inadequate, or unfairly discriminatory. Rates are not unfairly discriminatory because they are averaged broadly among persons insured under group, franchise, or blanket policies.

c. The commissioner may by written order, suspend, or modify the requirements of filing for any risk, group, or class of risk, the rates for which cannot practically be filed before they are used.

3. If the commissioner determines that a form reviewed under subsection 1 or a schedule of rates reviewed under subsection 2 complies with the requirements of this section, the commissioner shall approve the form or schedule within thirty days, which may be extended for an additional thirty days, by notice in writing to the person making the filing prior to the expiration of the first thirty days. If the commissioner disapproves a filing the commissioner shall notify the person making the filing in writing specifying the reasons for disapproval. A hearing shall be granted within thirty days after a request in writing by any person aggrieved by the decision of the commissioner. The commissioner may, after notice and hearing, disapprove any rate that has been previously approved.

4. The commissioner may require the submission of any information deemed by the commissioner to be relevant and reasonably necessary to determine whether to approve or disapprove a filing made pursuant to subsection 1, 2, or 4.

Sec. 6. NEW SECTION. 515F.6 SEPARATE ACCOUNTS.

Except for employee welfare benefit plans regulated under the federal Employee Retirement Income Security Act, a person transacting the business of legal insurance and any business other than insurance shall transact legal insurance wholly through a segregated account in accordance with all of the following requirements:

1. The segregated account must satisfy the financial requirements for issuance of a certificate of authority.

2. Except as provided in subsections 6 and 7, the income and assets attributable to the segregated account shall always remain identifiable within the account but unless the commissioner so orders, the assets need not be kept physically separate from other assets of the person. The income, gains, and losses, whether or not realized, from assets attributable to the segregated account shall be credited to or charged against the account without regard to other income, gains, or losses of the person.

3. Except as provided in subsection 4, assets attributable to a segregated account shall not be chargeable with any liabilities arising out of any other business of the person, nor shall any assets not attributable to the account be chargeable with any liabilities arising out of the account.

4. The segregated account shall be deemed an insurer within the meaning of chapter 507C. Claims remaining unpaid after completion of the liquidation under section 507C.42 shall be liens on the interests of shareholders, if any, in all of the person's assets that are not liquidated.

5. Assets allocated to segregated accounts are the property of the person, which is not and shall not hold itself out to be a trustee of the assets.

6. A person may allocate a portion or part of a particular asset to the segregated account.

7. The person may by an identifiable act transfer assets to or from the segregated account if both of the following conditions are satisfied:

a. The terms are fair and reasonable.

b. The books, accounts, and records of each party are maintained so as to clearly and accurately disclose the precise nature and details of the transaction.

Sec. 7. NEW SECTION. 515F.7 MANAGEMENT AND EXCLUSIVE CONTRACTS.

1. An insurer shall not enter into any exclusive agency contract or management contract, unless the contract is first filed with the commissioner and not disapproved under this section within thirty days after filing, or such reasonable extended period as the commissioner may specify by notice within the thirty days.

2. The commissioner shall disapprove a contract under subsection 1 if the commissioner finds that any of the following conditions exist:

a. The contract subjects the insurer to excessive charges.

b. The contract extends for an unreasonable period of time.

c. The contract does not contain fair and adequate standards of performance.

d. The persons empowered under the contract to manage the insurer are not sufficiently trustworthy, competent, experienced, or free from conflict of interest to manage the insurer with due regard for the interests of its insureds, creditors, or the public.

e. The contract contains provisions which impair the interests of the insurer's insureds, creditors, or the public in this state.

Sec. 8. NEW SECTION. 515F.8 ANNUAL REPORT.

An insurer shall annually, on or before the first day of March, file with the commissioner a report verified by at least two principal officers. The report shall be on forms prescribed by the commissioner and shall include all of the following:

1. A financial statement of the insurer's legal insurance business including all of the following:

a. Its balance sheet.

b. Its receipts and disbursements for the preceding year.

2. Any material changes in the information submitted pursuant to section 515F.4.

3. Information about the number of persons protected and terminated as may be required by the commissioner.

4. Other information relating to the performance of the insurer as is necessary to enable the commissioner to enforce and administer this chapter.

Sec. 9. NEW SECTION. 515F.9 RESERVES.

An insurer must maintain the reserves necessary for the sound operation of the business including unearned premium reserves. The amount and manner of calculating these reserves shall be determined by rule by the commissioner in accordance with section 515F.17.

Sec. 10. NEW SECTION. 515F.10 INVESTMENT OF ASSETS.

The investable funds generated through the transaction of the business of legal insurance by a person who is not licensed to transact other lines of insurance shall be invested in securities or other investments permitted by the laws of this state for the investment of assets of life insurance or in such other securities or investments as the commissioner permits.

Sec. 11. NEW SECTION. 515F.11 TRADE PRACTICES.

Chapter 507B applies to persons transacting the business of legal insurance except as the chapter is inconsistent with an express provision of this chapter.

Sec. 12. NEW SECTION. 515F.12 LICENSING OF AGENTS.

The commissioner may, in accordance with section 515F.17 adopt reasonable rules to provide for the licensing of agents transacting or selling legal expense insurance.

Sec. 13. NEW SECTION. 515F.13 EXAMINATIONS.

1. The commissioner shall make an examination of the affairs of any insurer as often as deemed necessary for the protection of the interest of the people of this state.

2. Section 507.8 shall apply to examinations conducted pursuant to subsection 1.

Sec. 14. NEW SECTION. 515F.14 PROFESSIONAL ETHICS.

The commissioner shall report to the Iowa state bar association committee on professional ethics and conduct pursuant to the provisions of supreme court rule 118 any information which the commissioner considers to be of substance, relating to possible violations of the code of professional responsibility.

Sec. 15. NEW SECTION. 515F.15 REVOCATION OF CERTIFICATE OF AUTHORITY.

The commissioner may suspend, revoke, or refuse to renew any certificate of authority to a person transacting the business of legal insurance pursuant to section 522.3.

Sec. 16. NEW SECTION. 515F.16 SUPERVISION, REHABILITATION, AND LIQUIDATION.

Chapter 507C shall apply to a person transacting the business of legal insurance under the provisions of this chapter.

Sec. 17. NEW SECTION. 515F.17 ADOPTION OF RULES.

The commissioner may adopt pursuant to chapter 17A such reasonable rules as are necessary or proper to carry out the provisions of this chapter.

Sec. 18. NEW SECTION. 515F.18 FEES.

A person subject to this chapter shall pay to the commissioner the fees required by sections 511.24 and 515.128.

Sec. 19. NEW SECTION. 515F.19 TAXATION.

Legal insurance premiums shall be taxable under the provisions of section 432.1.

Sec. 20. NEW SECTION. 515F.20 PUBLIC DOCUMENTS.

An application, filing, or report required under this chapter is a public document.

Sec. 21. NEW SECTION. 515F.21 UNAUTHORIZED INSURANCE.

Subject to the provisions of this chapter, chapter 507A shall apply to a person transacting the business of legal insurance.

Sec. 22. NEW SECTION. 515F.22 APPLICABILITY OF GENERAL INSURANCE LAW TO INSURANCE COMPANIES.

The provisions of the state's general insurance laws apply generally to legal insurance offered by an insurer licensed to write other kinds of insurance; provided that legal insurance sold by such an insurer under a certificate of authority obtained under this chapter shall be regulated by the provisions of sections 515F.1 through 515F.5, 515F.7, 515F.12, 515F.14, 515F.17, and 515F.19 instead of the corresponding sections of the general insurance law.

Sec. 23. NEW SECTION. 515F.23 APPLICABILITY OF GENERAL INSURANCE LAW TO ALL LEGAL INSURERS — HEARINGS AND APPEALS.

1. An order or rule of the commissioner issued under this chapter shall be subject to the provisions of the state's general insurance laws and the provisions of the administrative procedures Act, chapter 17A, relating to hearings and appeals.

2. Except as otherwise provided in this chapter, the provisions of the general insurance law shall not apply to insurers authorized to transact the business of legal insurance under this chapter.

Sec. 24. NEW SECTION. 515F.24 TRANSITION PROVISION.

A person transacting the business of legal insurance as of the effective date of this Act shall submit an application for a certificate of authority under section 515F.4 within ninety days of the effective date of this Act and the applicant may continue to operate until the commissioner acts upon the application. If an application is denied under section 515F.4, the applicant shall be treated as a legal insurer whose certificate of authority has been revoked.

Approved April 6, 1990

CHAPTER 1151
HANDICAPPED PARKING
S.F. 2244

AN ACT relating to parking fines, handicapped parking spaces, and handicapped identification devices and providing an effective date.

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

Section 1. Section 321.34, subsection 7, Code Supplement 1989, is amended to read as follows:

7. **HANDICAPPED PLATES.** The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, or pickup, who is a handicapped person, or who is the parent or guardian of a child who resides with the parent or guardian owner and who is a handicapped person, as defined in section 321L.1, may, upon written application to the department, order handicapped registration plates designed by the department bearing the international symbol of accessibility. The handicapped registration plates shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148, 149, 150, or 150A, or a chiropractor licensed under chapter 151, written on the physician's or chiropractor's stationery, stating the nature of the applicant's or the applicant's child's handicap and such additional information as required by rules