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FILED MAR 15 1989

SENATE FILE 445
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 167)

Passed Senate, Date 3-23-89 (p.988) Passed House, Date _____
Vote: Ayes 46 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

Motion to Reconsider
3-23-89 (p.993)
The motion prevailed
Ayes 46 Nays 3
Bill Repealed Senate
Ayes 45 Nays 0
A BILL FOR

1 An Act relating to insurance by requiring the payment of interest
2 on certain delayed claim settlements, making failure to pay
3 interest on claim settlements when required an unfair claim
4 settlement practice subject to penalties, authorizing certain
5 administrative penalties, providing a uniform standard for
6 cancellation notices in personal property lines of insurance,
7 providing for the repeal of requirements to attach
8 applications to policies, altering notice of cancellation
9 provisions for nonrenewal of commercial umbrella or excess
10 policies or contracts, distinguishing nonadmitted and
11 unauthorized insurance companies, and imposing surplus
12 requirements on county mutual associations.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SP 445

DIVISION I

1
2 Section 1. Section 507B.4, subsection 9, paragraph f, Code
3 1989, is amended to read as follows:

4 f. Not attempting in good faith to effectuate prompt, fair
5 and equitable settlements of claims in which liability has
6 become reasonably clear, or failing to include interest on the
7 payment of claims when required under section 511.38.

8 Sec. 2. Section 508.14, Code 1989, is amended to read as
9 follows:

10 508.14 VIOLATION BY DOMESTIC COMPANY.

11 Upon a failure of any a company organized under the laws of
12 this state to make the deposit provided in section 511.8,
13 subsection 16, or file the statement in the time herein
14 stated, or to file in a timely manner any financial statement
15 required by rule of the commissioner of insurance, the
16 commissioner of insurance shall notify the attorney general of
17 the default, who shall at once apply to the district court of
18 the county where the home office of such the company is
19 located for an order requiring the company to show cause, upon
20 reasonable notice, to be fixed by the court, why its business
21 shall not be discontinued. If, upon the hearing, no
22 sufficient cause is shown, the court shall decree its
23 dissolution. In lieu of a district court action authorized by
24 this section, the commissioner may impose an administrative
25 penalty of three hundred dollars upon the company.

26 Sec. 3. Section 508.15, Code 1989, is amended to read as
27 follows:

28 508.15 VIOLATION BY FOREIGN COMPANY.

29 Companies organized and chartered by the laws of a foreign
30 state or country, failing to file the evidence of investment
31 and statement within the time fixed, or failing to timely file
32 any financial statement required by rule of the commissioner
33 of insurance, shall forfeit and pay the sum of three hundred
34 dollars, to be collected in an action in the name of the state
35 and paid to the treasurer of state for deposit in the general

1 fund of the state, and their right to transact further new
 2 business in this state shall immediately cease until the
 3 requirements of this chapter have been fully complied with.

4 DIVISION II

5 Sec. 4. NEW SECTION. 511.38 INTEREST IN DELAYED CLAIMS
 6 PAYMENTS.

7 1. When an insurance policy provides for the payment of
 8 its proceeds to a beneficiary upon the death of an individual
 9 and, without the written consent of the beneficiary, the
 10 company fails or refuses to pay the proceeds within thirty
 11 days after receipt of satisfactory proof of death, the company
 12 shall pay interest on the proceeds or any amount of the
 335-13 proceeds not paid within the thirty days.

14 2. The interest owed on any amount of the proceeds of a
 15 policy under this section shall be computed from the date of
 16 receipt of the proof of death. The rate of interest shall be
 17 the higher of either of the following:

18 a. The effective rate of interest charged by the company
 19 on policy loans under section 511.36 on the date of receipt of
 20 proof of death.

335-21 b. The rate equal to the coupon issue yield equivalent, as
 22 determined by the United States secretary of the treasury, of
 23 the average accepted auction price for the last auction of
 24 fifty-two week United States treasury bills settled
 25 immediately prior to the date of receipt of proof of death.

26 Sec. 5. Section 515.65, Code 1989, is amended to read as
 27 follows:

28 515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

29 The commissioner of insurance shall withhold the
 30 commissioner's certificate or permission of authority to do
 31 business from a company neglecting or failing to comply with
 32 this chapter. ~~In-addition,~~-a A company organized or
 33 authorized under this chapter which fails to file the annual
 34 statement referred to in section 515.63 or any other financial
 35 statement required by rule of the commissioner, in the time

1 required shall pay and forfeit an administrative penalty in an
2 the amount of three hundred dollars to be collected in the
3 name of the state for the use of the state general fund. The
4 company's right to transact further new business in this state
5 shall immediately cease until the company has fully complied
6 with this chapter.

7 DIVISION III

8 Sec. 6. Section 515.80, Code 1989, is amended by striking
9 the section and inserting in lieu thereof the following:

10 515.80 FORFEITURE OF POLICIES -- NOTICE.

11 A policy or contract of insurance, unless otherwise
12 provided in section 515.81A or 515.81B, provided for in this
13 chapter shall not be forfeited, suspended, or canceled except
14 by notice to the insured as provided in this chapter. A
15 notice of cancellation is not effective unless mailed or
16 delivered by the insurer to the named insured at least twenty
17 days prior to the effective date of cancellation, or, where
18 cancellation is for nonpayment of any premium, assessment, or
19 installment provided for in the policy, or in any note or
20 contract for the payment thereof, at least ten days prior to
21 the date of cancellation. The notice may be made in person,
22 or by sending by certified mail a letter addressed to the
23 insured at the insured's address as given in or upon the
24 policy, anything in the policy, application, or a separate
25 agreement to the contrary notwithstanding. A post office
26 department certificate of mailing is proof of receipt of the
27 registered mailing. However, notice of cancellation of a
28 workers' compensation policy due to nonpayment of the premium
29 may be made in person, or by mail, as otherwise provided, but
30 need not be served by certified mail.

31 No insurer shall fail to renew a policy except by notice to
32 the insured as provided in this chapter. A notice of
33 intention not to renew is not effective unless mailed or
34 delivered by the insurer to the named insured at least thirty
35 days prior to the expiration date of the policy. A post

1 office department certificate of mailing to the named insured
2 at the address shown in the policy is proof of receipt of such
3 mailing.

4 If the reason does not accompany the notice of cancellation
5 or nonrenewal, the insurer shall, upon receipt of a timely
6 request by the named insured, state in writing the reason for
7 cancellation or nonrenewal.

8 Sec. 7. Section 515.81, Code 1989, is amended to read as
9 follows:

10 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR
11 MORTGAGEE.

12 Unless otherwise provided in section 515.81A or 515.81B, at
13 any time after the maturity of a premium, assessment, or
14 installment provided for in the policy, or any note or
15 contract for the payment thereof, or after the suspension,
16 forfeiture, or cancellation of any policy or contract of
17 insurance, the insured may pay to the company the customary
18 short rates and costs of action, if one has been commenced or
19 judgment rendered thereon, and may, if the insured so elects,
20 have the policy and all contracts or obligations connected
21 therewith, whether in judgment or otherwise, canceled, and all
22 such policy and contracts shall be void; and in case of
23 suspension, forfeiture, or cancellation of any policy or
24 contract of insurance, the insured shall not be liable for any
25 greater amount than the short rates earned at the date of such
26 suspension, forfeiture, or cancellation and the costs of
27 action provided for in this section. ~~The policy may be~~
28 ~~canceled by the insurance company by service of notice in~~
29 ~~writing upon the insured which notice shall fix the date of~~
30 ~~cancellation which shall be not less than ten days after~~
31 ~~service of the notice. -- The service of notice may be made in~~
32 ~~person, or by mailing the notice to the insured at the~~
33 ~~insured's post office address as given in or upon the policy,~~
34 ~~or to another address given to the company in writing by the~~
35 ~~insured. -- A post office department receipt of certified or~~

1 ~~registered-mailing-shall-be-deemed-proof-of-receipt-of-the~~
2 ~~notice-~~ If the policy is canceled by the insurance company,
3 the insurer may retain only the pro rata premium, and if the
4 initial cash premium, or any part thereof, has not been paid,
5 the policy may be canceled by the insurance company by giving
6 notice to the insured as provided for in section 515.80 and
7 ten days' notice to the mortgagee, or other person to whom the
8 policy is made payable, if any, without tendering any part or
9 portion of the premium, anything to the contrary in the policy
10 notwithstanding.

11 Sec. 8. NEW SECTION. 515.81C CANCELLATION OR NONRENEWAL
12 OF COMMERCIAL UMBRELLA OR EXCESS POLICIES OR CONTRACTS.

13 1. As used in this section, "umbrella or excess insurance
14 policy" means a commercial line policy or contract of
15 insurance providing liability or property coverage over one or
16 more underlying policies or over a specified amount of self-
17 insured retention. Umbrella or excess insurance policy
18 includes policies or contracts written over an umbrella or
19 excess insurance policy or policies.

20 2. An umbrella or excess insurance policy which has not
21 previously been renewed may be canceled by the insurer if it
22 has been in effect for less than sixty days at the time notice
23 of cancellation is mailed or delivered.

24 3. An umbrella or excess insurance policy which has been
25 renewed or which has been in effect for sixty or more days
26 shall not be canceled by the insurer, except as provided in
27 section 515.81A, subsections 2 and 3, except by notice to the
28 insured as required by this section or unless at least one of
29 the following conditions occurs:

30 a. A material change in the limits, scope of coverage, or
31 exclusions in one or more of the underlying policies.

32 b. Cancellation or nonrenewal of one or more of the
33 underlying policies where the policies are not replaced
34 without lapse.

35 c. A reduction in the financial rating or grade of one or

1 more of the insurers insuring one or more of the underlying
2 policies based on an evaluation by a recognized financial
3 rating organization.

4 4. A notice of cancellation is not effective unless mailed
5 by certified mail or delivered to the named insured and any
6 loss payee at least ten days prior to the effective date of
7 cancellation. A notice of cancellation shall include the
8 reason for cancellation of the umbrella or excess insurance
9 policy. A post office department certificate of mailing to
10 the named insured at the address shown in the umbrella or
11 excess policy is proof of receipt of the mailing; however,
12 such a certificate of mailing is not required if cancellation
13 is for nonpayment of premium.

14 5. An insurer shall not fail to renew an umbrella or
15 excess insurance policy except by notice to the insured as
16 provided in this section; however, an insurer may condition
17 renewal of an umbrella or excess insurance policy upon
18 requirements relating to the underlying policy or policies.
19 If the requirements are not satisfied as of the expiration
20 date of the umbrella or excess insurance policy, or thirty
21 days after mailing or delivery of the notice, whichever is
22 later, the conditional renewal notice shall be deemed to be an
23 effective notice of nonrenewal. This subsection does not
24 apply if the insurer has offered to renew or if the insured
25 fails to pay a premium due or any advance premium required by
26 the insurer for renewal.

27 6. A notice of nonrenewal is not effective unless mailed
28 by certified mail or delivered to the named insured and any
29 loss payee at least forty-five days prior to the expiration
30 date of the umbrella or excess insurance policy. If the
31 insurer fails to meet the notice requirements of this
32 subsection the insured has the option of continuing the policy
33 for the remainder of the notice period plus an additional
34 thirty days at the premium rate of the existing umbrella or
35 excess policy. A post office department certificate of

1 mailing to the named insured at the address shown in the
2 umbrella or excess policy is proof of receipt of the mailing.
3 7. Section 515.81A and 515.81B are not applicable to
4 umbrella or excess insurance policies except as provided in
5 subsection 3.

6 DIVISION IV

7 Sec. 9. Section 515.147, Code 1989, is amended to read as
8 follows:

9 515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

10 ~~Nothing-contained-in-this~~ This chapter shall-be-construed
11 to does not prevent a licensed resident agent of this state
12 from procuring insurance in certain ~~unauthorized~~ nonadmitted
13 insurers ~~providing-that~~ if such insurance is restricted to the
14 type and kind of insurance authorized by this chapter and the
15 agent makes oath to the commissioner of insurance in ~~such~~ the
16 form ~~as-is~~ prescribed by the commissioner that the agent has
17 made diligent effort to place ~~said~~ the insurance in authorized
18 insurers and has either exhausted the capacity of all
19 authorized insurers or has been unable to obtain the desired
20 insurance in insurers licensed to transact business in this
21 state. The procuring of any such contracts of insurance in
22 ~~unauthorized~~ nonadmitted insurers makes such insurers liable
23 for, and the agent shall pay, the taxes on such premiums as if
24 ~~such~~ the insurer were duly authorized to transact business in
25 the state. A sworn report of all business transacted by
26 agents of this state in ~~such-unauthorized~~ nonadmitted insurers
27 shall be made to the commissioner of insurance on or before
28 March 1 of each year for the preceding calendar year, on ~~such~~
29 the form as the commissioner of insurance ~~may-require,~~ such
30 requires. The report shall be accompanied by a remittance to
31 cover the taxes thereon. Any An agent who makes the oath as
32 above provided, pays the taxes on the premiums, and files the
33 report above provided, ~~shall~~ has not be-deemed-to-have written
34 such contracts of insurance unlawfully, and ~~such-agent-shall~~
35 is not be personally liable for ~~such~~ the contracts.

1 Sections 6 and 7 alter the required period for notice of
2 cancellation for homeowners' insurance to parallel similar
3 time limits for automobile insurance.

4 Section 8 provides special rules for notice of cancellation
5 or nonrenewal of commercial umbrella or excess policies.

6 Sections 9 and 10 adopt the national association of
7 insurance commissioners' terminology and usage for
8 "nonadmitted" surplus lines carriers, by substituting
9 "nonadmitted" for "unauthorized".

10 Section 11 imposes a new minimum surplus requirement upon
11 county mutuals and gives the mutuals three years in which to
12 comply.

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SENATE FILE 445

S-3315

- 1 Amend Senate File 445 as follows:
2 1. Page 2, line 13, by inserting after the word
3 "days" the following: ", provided, however, if the
4 policy requires a beneficiary to survive for a
5 designated period after the death of the insured, the
6 company shall pay interest on the proceeds or any
7 amount of the proceeds not paid within thirty days
8 after the designated period".
9 2. Page 2, by striking lines 21 through 25, and
10 inserting the following:
11 "b. The effective rate of interest paid by the
12 company on death proceeds left on deposit with the
13 company.
14 3. A payment of interest shall not be required
15 under this section in any case in which the
16 beneficiary elects to receive the proceeds under the
17 policy by any means other than a lump sum payment."
18 3. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3315 FILED MARCH 20, 1989

adopted 3-23-89 (p. 988)

SENATE FILE 445

S-3399

- 1 Amend Senate File 445 as follows:
2 1. Page 6, by striking line 35 through page 7,
345 → 3 line 3 and inserting the following: "excess policy."
By TOM MANN, JR.

S-3399 FILED MARCH 23, 1989

*ADOPTED, RECONSIDERED, AMENDED, & ADOPTED
3-23-89 (p. 988) 3-23-89 (p. 997)*

SENATE FILE 445

S-3405

- 1 Amend the amendment, S-3399, to Senate File 445 as
2 follows:
3 1. Page 1, line 3, by striking the figure "3" and
4 inserting the following: "2".

By MICHAEL E. GRONSTAL

S-3405 FILED MARCH 23, 1989

ADOPTED 3-23-89 (p. 997)

House Small bus + comm.

SENATE FILE 445
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 167)

(AS AMENDED AND PASSED BY THE SENATE MARCH 23, 1989)

_____ - New Language by the Senate

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to insurance by requiring the payment of interest
2 on certain delayed claim settlements, making failure to pay
3 interest on claim settlements when required an unfair claim
4 settlement practice subject to penalties, authorizing certain
5 administrative penalties, providing a uniform standard for
6 cancellation notices in personal property lines of insurance,
7 providing for the repeal of requirements to attach
8 applications to policies, altering notice of cancellation
9 provisions for nonrenewal of commercial umbrella or excess
10 policies or contracts, distinguishing nonadmitted and
11 unauthorized insurance companies, and imposing surplus
12 requirements on county mutual associations.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 445

DIVISION I

1
2 Section 1. Section 507B.4, subsection 9, paragraph f, Code
3 1989, is amended to read as follows:

4 f. Not attempting in good faith to effectuate prompt, fair
5 and equitable settlements of claims in which liability has
6 become reasonably clear, or failing to include interest on the
7 payment of claims when required under section 511.38.

8 Sec. 2. Section 508.14, Code 1989, is amended to read as
9 follows:

10 508.14 VIOLATION BY DOMESTIC COMPANY.

11 Upon a failure of any a company organized under the laws of
12 this state to make the deposit provided in section 511.8,
13 subsection 16, or file the statement in the time herein
14 stated, or to file in a timely manner any financial statement
15 required by rule of the commissioner of insurance, the
16 commissioner of insurance shall notify the attorney general of
17 the default, who shall at once apply to the district court of
18 the county where the home office of such the company is
19 located for an order requiring the company to show cause, upon
20 reasonable notice, to be fixed by the court, why its business
21 shall not be discontinued. If, upon the hearing, no
22 sufficient cause is shown, the court shall decree its
23 dissolution. In lieu of a district court action authorized by
24 this section, the commissioner may impose an administrative
25 penalty of three hundred dollars upon the company.

26 Sec. 3. Section 508.15, Code 1989, is amended to read as
27 follows:

28 508.15 VIOLATION BY FOREIGN COMPANY.

29 Companies organized and chartered by the laws of a foreign
30 state or country, failing to file the evidence of investment
31 and statement within the time fixed, or failing to timely file
32 any financial statement required by rule of the commissioner
33 of insurance, shall forfeit and pay the sum of three hundred
34 dollars, to be collected in an action in the name of the state
35 and paid to the treasurer of state for deposit in the general

1 fund of the state, and their right to transact further new
2 business in this state shall immediately cease until the
3 requirements of this chapter have been fully complied with.

4 DIVISION II

5 Sec. 4. NEW SECTION. 511.38 INTEREST IN DELAYED CLAIMS
6 PAYMENTS.

7 1. When an insurance policy provides for the payment of
8 its proceeds to a beneficiary upon the death of an individual
9 and, without the written consent of the beneficiary, the
10 company fails or refuses to pay the proceeds within thirty
11 days after receipt of satisfactory proof of death, the company
12 shall pay interest on the proceeds or any amount of the
13 proceeds not paid within the thirty days, provided, however,
14 if the policy requires a beneficiary to survive for a
15 designated period after the death of the insured, the company
16 shall pay interest on the proceeds or any amount of the
17 proceeds not paid within thirty days after the designated
18 period.

19 2. The interest owed on any amount of the proceeds of a
20 policy under this section shall be computed from the date of
21 receipt of the proof of death. The rate of interest shall be
22 the higher of either of the following:

23 a. The effective rate of interest charged by the company
24 on policy loans under section 511.36 on the date of receipt of
25 proof of death.

26 b. The effective rate of interest paid by the company on
27 death proceeds left on deposit with the company.

28 3. A payment of interest shall not be required under this
29 section in any case in which the beneficiary elects to receive
30 the proceeds under the policy by any means other than a lump
31 sum payment.

32 Sec. 5. Section 515.65, Code 1989, is amended to read as
33 follows:

34 515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

35 The commissioner of insurance shall withhold the

1 commissioner's certificate or permission of authority to do
2 business from a company neglecting or failing to comply with
3 this chapter. ~~In addition,--~~ A company organized or
4 authorized under this chapter which fails to file the annual
5 statement referred to in section 515.63 or any other financial
6 statement required by rule of the commissioner, in the time
7 required shall pay and forfeit an administrative penalty in an
8 the amount of three hundred dollars to be collected in the
9 name of the state for the use of the state general fund. The
10 company's right to transact further new business in this state
11 shall immediately cease until the company has fully complied
12 with this chapter.

13 DIVISION III

14 Sec. 6. Section 515.80, Code 1989, is amended by striking
15 the section and inserting in lieu thereof the following:

16 515.80 FORFEITURE OF POLICIES -- NOTICE.

17 A policy or contract of insurance, unless otherwise
18 provided in section 515.81A or 515.81B, provided for in this
19 chapter shall not be forfeited, suspended, or canceled except
20 by notice to the insured as provided in this chapter. A
21 notice of cancellation is not effective unless mailed or
22 delivered by the insurer to the named insured at least twenty
23 days prior to the effective date of cancellation, or, where
24 cancellation is for nonpayment of any premium, assessment, or
25 installment provided for in the policy, or in any note or
26 contract for the payment thereof, at least ten days prior to
27 the date of cancellation. The notice may be made in person,
28 or by sending by certified mail a letter addressed to the
29 insured at the insured's address as given in or upon the
30 policy, anything in the policy, application, or a separate
31 agreement to the contrary notwithstanding. A post office
32 department certificate of mailing is proof of receipt of the
33 registered mailing. However, notice of cancellation of a
34 workers' compensation policy due to nonpayment of the premium
35 may be made in person, or by mail, as otherwise provided, but

1 need not be served by certified mail.

2 No insurer shall fail to renew a policy except by notice to
3 the insured as provided in this chapter. A notice of
4 intention not to renew is not effective unless mailed or
5 delivered by the insurer to the named insured at least thirty
6 days prior to the expiration date of the policy. A post
7 office department certificate of mailing to the named insured
8 at the address shown in the policy is proof of receipt of such
9 mailing.

10 If the reason does not accompany the notice of cancellation
11 or nonrenewal, the insurer shall, upon receipt of a timely
12 request by the named insured, state in writing the reason for
13 cancellation or nonrenewal.

14 Sec. 7. Section 515.81, Code 1989, is amended to read as
15 follows:

16 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR
17 MORTGAGEE.

18 Unless otherwise provided in section 515.81A or 515.81B, at
19 any time after the maturity of a premium, assessment, or
20 installment provided for in the policy, or any note or
21 contract for the payment thereof, or after the suspension,
22 forfeiture, or cancellation of any policy or contract of
23 insurance, the insured may pay to the company the customary
24 short rates and costs of action, if one has been commenced or
25 judgment rendered thereon, and may, if the insured so elects,
26 have the policy and all contracts or obligations connected
27 therewith, whether in judgment or otherwise, canceled, and all
28 such policy and contracts shall be void; and in case of
29 suspension, forfeiture, or cancellation of any policy or
30 contract of insurance, the insured shall not be liable for any
31 greater amount than the short rates earned at the date of such
32 suspension, forfeiture, or cancellation and the costs of
33 action provided for in this section. ~~The policy may be~~
34 ~~canceled by the insurance company by service of notice in~~
35 ~~writing upon the insured which notice shall fix the date of~~

1 cancellation which shall be not less than ten days after
2 service of the notice. The service of notice may be made in
3 person, or by mailing the notice to the insured at the
4 insured's post office address as given in or upon the policy,
5 or to another address given to the company in writing by the
6 insured. A post office department receipt of certified or
7 registered mailing shall be deemed proof of receipt of the
8 notice. If the policy is canceled by the insurance company,
9 the insurer may retain only the pro rata premium, and if the
10 initial cash premium, or any part thereof, has not been paid,
11 the policy may be canceled by the insurance company by giving
12 notice to the insured as provided for in section 515.80 and
13 ten days' notice to the mortgagee, or other person to whom the
14 policy is made payable, if any, without tendering any part or
15 portion of the premium, anything to the contrary in the policy
16 notwithstanding.

17 Sec. 8. NEW SECTION. 515.81C CANCELLATION OR NONRENEWAL
18 OF COMMERCIAL UMBRELLA OR EXCESS POLICIES OR CONTRACTS.

19 1. As used in this section, "umbrella or excess insurance
20 policy" means a commercial line policy or contract of
21 insurance providing liability or property coverage over one or
22 more underlying policies or over a specified amount of self-
23 insured retention. Umbrella or excess insurance policy
24 includes policies or contracts written over an umbrella or
25 excess insurance policy or policies.

26 2. An umbrella or excess insurance policy which has not
27 previously been renewed may be canceled by the insurer if it
28 has been in effect for less than sixty days at the time notice
29 of cancellation is mailed or delivered.

30 3. An umbrella or excess insurance policy which has been
31 renewed or which has been in effect for sixty or more days
32 shall not be canceled by the insurer, except as provided in
33 section 515.81A, subsections 2 and 3, except by notice to the
34 insured as required by this section or unless at least one of
35 the following conditions occurs:

1 a. A material change in the limits, scope of coverage, or
2 exclusions in one or more of the underlying policies.

3 b. Cancellation or nonrenewal of one or more of the
4 underlying policies where the policies are not replaced
5 without lapse.

6 c. A reduction in the financial rating or grade of one or
7 more of the insurers insuring one or more of the underlying
8 policies based on an evaluation by a recognized financial
9 rating organization.

10 4. A notice of cancellation is not effective unless mailed
11 by certified mail or delivered to the named insured and any
12 loss payee at least ten days prior to the effective date of
13 cancellation. A notice of cancellation shall include the
14 reason for cancellation of the umbrella or excess insurance
15 policy. A post office department certificate of mailing to
16 the named insured at the address shown in the umbrella or
17 excess policy is proof of receipt of the mailing; however,
18 such a certificate of mailing is not required if cancellation
19 is for nonpayment of premium.

20 5. An insurer shall not fail to renew an umbrella or
21 excess insurance policy except by notice to the insured as
22 provided in this section; however, an insurer may condition
23 renewal of an umbrella or excess insurance policy upon
24 requirements relating to the underlying policy or policies.
25 If the requirements are not satisfied as of the expiration
26 date of the umbrella or excess insurance policy, or thirty
27 days after mailing or delivery of the notice, whichever is
28 later, the conditional renewal notice shall be deemed to be an
29 effective notice of nonrenewal. This subsection does not
30 apply if the insurer has offered to renew or if the insured
31 fails to pay a premium due or any advance premium required by
32 the insurer for renewal.

33 6. A notice of nonrenewal is not effective unless mailed
34 by certified mail or delivered to the named insured and any
35 loss payee at least forty-five days prior to the expiration

1 date of the umbrella or excess insurance policy. If the
2 insurer fails to meet the notice requirements of this
3 subsection the insured has the option of continuing the policy
4 for the remainder of the notice period plus an additional
5 thirty days at the premium rate of the existing umbrella or
6 excess policy.

7 7. Section 515.81A and 515.81B are not applicable to
8 umbrella or excess insurance policies except as provided in
9 subsection 3.

10

DIVISION IV

11 Sec. 9. Section 515.147, Code 1989, is amended to read as
12 follows:

13 515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

14 ~~Nothing contained in this~~ This chapter ~~shall be construed~~
15 ~~to does not~~ prevent a licensed resident agent of this state
16 from procuring insurance in certain unauthorized nonadmitted
17 insurers ~~providing that~~ if such insurance is restricted to the
18 type and kind of insurance authorized by this chapter and the
19 agent makes oath to the commissioner of insurance in ~~such~~ the
20 form ~~as is~~ prescribed by the commissioner that the agent has
21 made diligent effort to place ~~said~~ the insurance in authorized
22 insurers and has either exhausted the capacity of all
23 authorized insurers or has been unable to obtain the desired
24 insurance in insurers licensed to transact business in this
25 state. The procuring of any such contracts of insurance in
26 unauthorized nonadmitted insurers makes such insurers liable
27 for, and the agent shall pay, the taxes on such premiums as if
28 ~~such~~ the insurer were duly authorized to transact business in
29 the state. A sworn report of all business transacted by
30 agents of this state in ~~such unauthorized~~ nonadmitted insurers
31 shall be made to the commissioner of insurance on or before
32 March 1 of each year for the preceding calendar year, on ~~such~~
33 the form as the commissioner of insurance ~~may require, such~~
34 requires. The report shall be accompanied by a remittance to
35 cover the taxes thereon. Any An agent who makes the oath as

1 above provided, pays the taxes on the premiums, and files the
2 report above provided, ~~shall~~ has not be-deemed-to-have written
3 such contracts of insurance unlawfully, and ~~such-agent-shall~~
4 is not be personally liable for ~~such~~ the contracts.

5 Sec. 10. Section 515.148, Code 1989, is amended to read as
6 follows:

7 515.148 BANNED COMPANIES.

8 No An agent shall not knowingly place insurance, either
9 directly or through an intermediary broker, in insurers who
10 are insolvent or unsound financially; and ~~in-no-event~~ shall an
11 agent not place or renew any insurance with ~~unauthorized~~
12 nonadmitted insurers found by the commissioner of insurance to
13 have failed or refused to furnish in ~~such~~ the manner ~~as-is~~
14 provided in section 515.149, information reasonably showing
15 the ability or willingness of ~~such~~ the insurers to satisfy
16 obligations undertaken with respect to insurance issued by
17 them.

18 DIVISION V

19 Sec. 11. NEW SECTION. 518.24 SURPLUS.

20 An association organized under this chapter shall at all
21 times maintain a surplus of not less than fifty thousand
22 dollars or one-tenth of one percent of the gross property risk
23 in force, whichever is greater. Reinsurance sufficient to
24 protect the financial stability of the company shall also be
25 required. The insurance commissioner may require additional
26 reinsurance if necessary to protect the policyholders of the
27 company. An association authorized to transact business in
28 this state prior to July 1, 1989, shall meet this requirement
29 not later than July 1, 1992.

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RIFE, CH.
KINLEY
PRIEBE

SSB 167
Commerce

SENATE FILE 475
BY (PROPOSED DEPARTMENT OF
COMMERCE/DIVISION OF
INSURANCE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to insurance by authorizing certain
2 administrative penalties, providing a uniform standard for
3 cancellation notices in personal property lines of insurance,
4 providing for the repeal of requirements to attach
5 applications to policies, distinguishing nonadmitted and
6 unauthorized insurance companies, providing for lump sum
7 payment of workers' compensation and other benefits for
8 purchase of an annuity or other periodic payment plan,
9 requiring certain claimants to exhaust rights available under
10 other policies prior to and as a credit against the Iowa
11 insurance guarantee association, and imposing surplus
12 requirements on county mutual associations.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

2 Section 1. Section 508.14, Code 1989, is amended to read
3 as follows:

4 508.14 VIOLATION BY DOMESTIC COMPANY.

5 Upon a failure of any a company organized under the laws of
6 this state to make the deposit provided in section 511.8,
7 subsection 16, or file the statement in the time herein
8 stated, or to file in a timely manner any financial statement
9 required by rule of the commissioner of insurance, the
10 commissioner of insurance shall notify the attorney general of
11 the default, who shall at once apply to the district court of
12 the county where the home office of ~~such~~ the company is
13 located for an order requiring the company to show cause, upon
14 reasonable notice, to be fixed by the court, why its business
15 shall not be discontinued. If, upon the hearing, no
16 sufficient cause is shown, the court shall decree its
17 dissolution. In lieu of a district court action authorized by
18 this section, the commissioner may impose an administrative
19 penalty of three hundred dollars upon the company.

20 Sec. 2. Section 508.15, Code 1989, is amended to read as
21 follows:

22 508.15 VIOLATION BY FOREIGN COMPANY.

23 Companies organized and chartered by the laws of a foreign
24 state or country, failing to file the evidence of investment
25 and statement within the time fixed, or failing to timely file
26 any financial statement required by rule of the commissioner
27 of insurance, shall forfeit and pay the sum of three hundred
28 dollars, to be collected in an action in the name of the state
29 and paid to the treasurer of state for deposit in the general
30 fund of the state, and their right to transact further new
31 business in this state shall immediately cease until the
32 requirements of this chapter have been fully complied with.

33 Sec. 3. Section 515.65, Code 1989, is amended to read as
34 follows:

35 515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

1 The commissioner of insurance shall withhold the
2 commissioner's certificate or permission of authority to do
3 business from a company neglecting or failing to comply with
4 this chapter. ~~In addition,~~ a A company organized or
5 authorized under this chapter which fails to file the annual
6 statement referred to in section 515.63 or any other financial
7 statement required by rule of the commissioner, in the time
8 required shall pay and forfeit an administrative penalty in an
9 the amount of three hundred dollars to be collected in the
10 name of the state for the use of the state general fund. The
11 company's right to transact further new business in this state
12 shall immediately cease until the company has fully complied
13 with this chapter.

14 Sec. 4. Section 515.80, Code 1989, is amended by striking
15 the section and inserting in lieu thereof the following:

16 515.80 FORFEITURE OF POLICIES -- NOTICE.

17 A policy or contract of insurance, unless otherwise
18 provided in section 515.81A or 515.81B, provided for in this
19 chapter shall not be forfeited, suspended, or canceled except
20 by notice to the insured as provided in this chapter. A
21 notice of cancellation is not effective unless mailed or
22 delivered by the insurer to the named insured at least twenty
23 days prior to the effective date of cancellation, or, where
24 cancellation is for nonpayment of any premium, assessment, or
25 installment provided for in the policy, or in any note or
26 contract for the payment thereof, at least ten days prior to
27 the date of cancellation. The notice may be made in person,
28 or by sending by certified mail a letter addressed to the
29 insured at the insured's address as given in or upon the
30 policy, anything in the policy, application, or a separate
31 agreement to the contrary notwithstanding. A post office
32 department certificate of mailing is proof of receipt of the
33 registered mailing. However, notice of cancellation of a
34 workers' compensation policy due to nonpayment of the premium
35 may be made in person, or by mail, as otherwise provided, but

1 need not be served by certified mail.

2 No insurer shall fail to renew a policy except by notice to
3 the insured as provided in this chapter. A notice of
4 intention not to renew is not effective unless mailed or
5 delivered by the insurer to the named insured at least thirty
6 days prior to the expiration date of the policy. A post
7 office department certificate of mailing to the named insured
8 at the address shown in the policy is proof of receipt of such
9 mailing.

10 If the reason does not accompany the notice of cancellation
11 or nonrenewal, the insurer shall, upon receipt of a timely
12 request by the named insured, state in writing the reason for
13 cancellation or nonrenewal.

14 Sec. 5. Section 515.81, Code 1989, is amended to read as
15 follows:

16 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR
17 MORTGAGEE.

18 Unless otherwise provided in section 515.81A or 515.81B, at
19 any time after the maturity of a premium, assessment, or
20 installment provided for in the policy, or any note or
21 contract for the payment thereof, or after the suspension,
22 forfeiture, or cancellation of any policy or contract of
23 insurance, the insured may pay to the company the customary
24 short rates and costs of action, if one has been commenced or
25 judgment rendered thereon, and may, if the insured so elects,
26 have the policy and all contracts or obligations connected
27 therewith, whether in judgment or otherwise, canceled, and all
28 such policy and contracts shall be void; and in case of
29 suspension, forfeiture, or cancellation of any policy or
30 contract of insurance, the insured shall not be liable for any
31 greater amount than the short rates earned at the date of such
32 suspension, forfeiture, or cancellation and the costs of
33 action provided for in this section. ~~The policy may be~~
34 ~~canceled by the insurance company by service of notice in~~
35 ~~writing upon the insured which notice shall fix the date of~~

1 cancellation-which-shall-be-not-less-than-ten-days-after
2 service-of-the-notice.--The-service-of-notice-may-be-made-in
3 person,-or-by-mailing-the-notice-to-the-insured-at-the
4 insured's-post-office-address-as-given-in-or-upon-the-policy,
5 or-to-another-address-given-to-the-company-in-writing-by-the
6 insured.--A-post-office-department-receipt-of-certified-or
7 registered-mailing-shall-be-deemed-proof-of-receipt-of-the
8 notice. If the policy is canceled by the insurance company,
9 the insurer may retain only the pro rata premium, and if the
10 initial cash premium, or any part thereof, has not been paid,
11 the policy may be canceled by the insurance company by giving
12 notice to the insured as provided for in section 515.80 and
13 ten days' notice to the mortgagee, or other person to whom the
14 policy is made payable, if any, without tendering any part or
15 portion of the premium, anything to the contrary in the policy
16 notwithstanding.

17 DIVISION III

18 Sec. 6. Section 515.147, Code 1989, is amended to read as
19 follows:

20 515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

21 ~~Nothing-contained-in-this~~ This chapter shall-be-construed
22 to does not prevent a licensed resident agent of this state
23 from procuring insurance in certain ~~unauthorized~~ nonadmitted
24 insurers ~~providing-that~~ if such insurance is restricted to the
25 type and kind of insurance authorized by this chapter and the
26 agent makes oath to the commissioner of insurance in ~~such~~ the
27 form ~~as-is~~ prescribed by the commissioner that the agent has
28 made diligent effort to place ~~said~~ the insurance in authorized
29 insurers and has either exhausted the capacity of all
30 authorized insurers or has been unable to obtain the desired
31 insurance in insurers licensed to transact business in this
32 state. The procuring of any such contracts of insurance in
33 ~~unauthorized~~ nonadmitted insurers makes such insurers liable
34 for, and the agent shall pay, the taxes on such premiums as if
35 ~~such~~ the insurer were duly authorized to transact business in

1 the state. A sworn report of all business transacted by
2 agents of this state in ~~such-unauthorized~~ nonadmitted insurers
3 shall be made to the commissioner of insurance on or before
4 March 1 of each year for the preceding calendar year, on ~~such~~
5 the form as the commissioner of insurance ~~may-require;~~ ~~such~~
6 requires. The report shall be accompanied by a remittance to
7 cover the taxes thereon. ~~Any~~ An agent who makes the oath as
8 above provided, pays the taxes on the premiums, and files the
9 report above provided, ~~shall~~ has not ~~be-deemed-to-have~~ written
10 such contracts of insurance unlawfully, and ~~such-agent-shall~~
11 is not be personally liable for ~~such~~ the contracts.

12 Sec. 7. Section 515.148, Code 1989, is amended to read as
13 follows:

14 515.148 BANNED COMPANIES.

15 No An agent shall not knowingly place insurance, either
16 directly or through an intermediary broker, in insurers who
17 are insolvent or unsound financially; and ~~in-no-event~~ shall ~~an~~
18 agent not place or renew any insurance with ~~unauthorized~~
19 nonadmitted insurers found by the commissioner of insurance to
20 have failed or refused to furnish in ~~such~~ the manner ~~as-is~~
21 provided in section 515.149, information reasonably showing
22 the ability or willingness of ~~such~~ the insurers to satisfy
23 obligations undertaken with respect to insurance issued by
24 them.

25 DIVISION IV

26 Sec. 8. Section 515B.5, subsection 1, Code 1989, is
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. h. Request that all future payments of
29 workers' compensation weekly benefits, medical expenses, or
30 other payments pursuant to chapter 85, 85A, 85B, 86, or 87 be
31 commuted to a present lump sum, upon the payment of which,
32 either to the claimant or to a licensed insurer for purchase
33 of an annuity or other periodic payment plan for the benefit
34 of the claimant, the employer and the association shall be
35 discharged from all further liability for the workers'

1 compensation claim. Notwithstanding section 85.45, any future
2 payment of medical expenses, weekly compensation benefits, or
3 other payment by the association under this chapter pursuant
4 to chapter 85, 85A, 85B, 86, or 87 shall be deemed an undue
5 expense, hardship, or inconvenience upon the employer for
6 purposes of a full commutation pursuant to section 85.45,
7 subsection 2, and the industrial commissioner shall fix the
8 lump sum of the probable future medical expenses and weekly
9 compensation benefits capitalized at their present value upon
10 the basis of interest at the rate provided in section 535.3
11 for court judgments and decrees.

12 Sec. 9. Section 515B.9 subsection 1, Code 1989, is amended
13 to read as follows:

14 1. Any A person having a claim under another policy, which
15 claim arises out of the same facts which give rise to a
16 covered claim, shall be first required to exhaust the person's
17 right under the policy. Any amount recovered or recoverable
18 by a person under another insurance policy shall be credited
19 against the liability of the association under section 515B.5,
20 subsection 1, paragraph "a". For purposes of this section,
21 "another insurance" policy means a policy issued by any
22 insurance company, whether a member insurer or not, which if
23 the policy insures against any of the types of risks set forth
24 in section 515:48, except those types of risks set forth in
25 section 515:48, subsection 5, paragraph "a" insured by an
26 insurance company licensed under chapter 515, 516A, or 520, or
27 comparable statutes of another state, and except those types
28 of risks set forth in chapters 508 and 514.

29

DIVISION V

30 Sec. 10. NEW SECTION. 518.24 SURPLUS.

31 An association organized under this chapter shall at all
32 times maintain a surplus of not less than fifty thousand
33 dollars or one-tenth of one percent of the gross property risk
34 in force, whichever is greater. Reinsurance sufficient to
35 protect the financial stability of the company shall also be

1 required. The insurance commissioner may require additional
2 reinsurance if necessary to protect the policyholders of the
3 company. An association authorized to transact business in
4 this state prior to July 1, 1989, shall meet this requirement
5 not later than July 1, 1992.

6 DIVISION VI

7 Sec. 11. Sections 515.94 and 515.95, Code 1989, are
8 repealed.

9 EXPLANATION

10 This bill makes numerous changes to the mechanics of
11 insurance regulation in a variety of circumstances.

12 Sections 1 through 3 provide for administrative penalties
13 for untimely filings of financial statements with the
14 insurance commissioner.

15 Sections 4 and 5 alter the required period for notice of
16 cancellation for homeowners' insurance to parallel similar
17 time limits for automobile insurance.

18 Sections 6 and 7 adopt the national association of
19 insurance commissioners' terminology and usage for
20 "nonadmitted" surplus lines carriers, by substituting
21 "nonadmitted" for "unauthorized".

22 Sections 8 and 9 alter the manner of presentation of claims
23 to the association in workers' compensation cases.

24 Section 10 imposes a new minimum surplus requirement upon
25 county mutuals and gives the mutuals three years in which to
26 comply.

27 Section 11 eliminates the requirement that the application
28 be attached to the policy when it is issued by repealing Code
29 sections 515.94 and 515.95.

30 BACKGROUND STATEMENT

31 SUBMITTED BY THE AGENCY

32 Division I (sections 1 through 3) changes insurers' filing
33 requirements and imposes penalties for untimely filings. All
34 insurers are required to file not only annual financial
35 statements, by statute, but also quarterly financial

1 statements, by rule of the commissioner of insurance. (see:
2 191 Iowa Admin. Code section 5.3). However, a fine for late
3 filing is provided only for the annual statement. The result
4 is that some insurers are not filing their quarterly
5 statements in a timely manner, some in a flagrantly untimely
6 manner. Provision for a fine for this contingency is needed
7 and provided for by division I of this bill.

8 Division II is sections 4 through 5.

9 Iowa Code sections 515.80 and 515.81 govern cancellation of
10 primarily personal lines coverages, i.e., homeowners
11 insurance. Presently, the periods of notice of cancellation
12 differ from those for personal automobile insurance for
13 comparable reasons--nonpayment of premium, for instance. This
14 change makes the notice period the same for both kinds of
15 personal lines insurance and will thereby lessen the confusion
16 on the part of the public which presently exists.

17 Division III is bill sections 6 and 7.

18 Presently, approved surplus lines carriers in Iowa are
19 referred to as "unauthorized insurers". This is confusing
20 because surplus lines insurers do receive authorization to do
21 business in Iowa; "unauthorized" implies without lawful
22 sanction. The NAIC model Surplus Lines Act uses the
23 terminology "non-admitted" insurer for a surplus lines insurer
24 and this is adopted. Division III adopts the NAIC terminology
25 and usage.

26 Division IV is sections 8 and 9. Liquidators set dates by
27 which all claims must be paid and will not honor claims based
28 on reserved, but unpaid amounts. As a result, the Association
29 could lose a part of its claim against the liquidator.

30 Division IV would allow the Association to pay its full
31 liability, based on the present value, then present its full
32 claim to the liquidator.

33 Division V is section 10. Presently, "county mutuals"
34 (e.g., insurers under chapter 518) are subject to no minimum
35 surplus requirements which provide an indispensable buffer to

1 the insurer in the event of unanticipated losses. This
2 division remedies the situation while also giving existing
3 county mutuals three years in which to obtain the required
4 surplus.

5 Division VI repeals sections requiring that when a policy
6 is issued, the application must be attached to the policy. In
7 a computer age, this is increasingly an impractical
8 requirement and serves no useful purpose.

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