

CHAPTER 132**INSURANCE REGULATION***H.F. 506*

AN ACT relating to the regulation of the insurance business conducted in the state by the insurance division of the department of commerce.

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

Section 1. Section 505.13, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

505.13 OTHER INSURANCE — REPORTS BY THE DIVISION.

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 each year.

2. The commissioner shall semiannually cause the preparation and printing of a report to be delivered to the general assembly on or before the thirty-first day of July and the thirty-first day of December each year. The report shall contain information on the state of the insurance business and any impending problems foreseen by the commissioner which would affect the insurance business conducted in the state or the regulation of that insurance business by the division.

Sec. 2. NEW SECTION. 505.15 ACTUARIAL STAFF.

The commissioner may appoint a staff of actuaries as necessary to carry out the duties of the division. The actuarial staff shall:

1. Perform analyses of rate filings.
2. Perform audits of submitted loss data.
3. Conduct rate hearings and serve as expert witnesses.
4. Prepare, review, and dispense data on the insurance business.
5. Assist in public education concerning the insurance business.
6. Identify any impending problem areas in the insurance business.
7. Assist in examinations of insurance companies.

Sec. 3. Section 515.80, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.80 CANCELLATION OF POLICY OR CONTRACT.

1. A policy or contract of 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 which has been renewed or which has been in effect for more than sixty days may 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 would jeopardize the insurer's solvency or would 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 policy or contract of 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 for loss of reinsurance coverage is justified, the commissioner shall consider 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 policy or contract of 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.

5. This section applies to all forms of property and casualty insurance written pursuant to this chapter.

Sec. 4. Section 515.81, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.81 NONRENEWAL OF POLICY OR CONTRACT.

An insurer shall not fail to renew a policy or contract of insurance except by notice to the insured as provided in this section. Nonrenewal of a 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 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.

Sec. 5. Section 515A.4, subsection 1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of ~~the~~ this chapter, the commissioner shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include ~~(a)~~ the experience or judgment of the insurer or rating organization making the filing, ~~(b)~~ its interpretation of any statistical data it relies upon, ~~(c)~~ the experience of other insurers or rating organizations, or ~~(d)~~ any other relevant factors. A filing and any supporting information shall be open to public inspection ~~after the~~ upon filing ~~becomes~~

~~effective~~. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

Sec. 6. NEW SECTION. 515A.20 DEFINITIONS.

As used in sections 515A.21 through 515A.25 unless the context otherwise requires:

1. "Market" means the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including, but not limited to, consideration of coverage, policy terms, rate classifications, and underwriting. A geographic component is a geographical area in which buyers have a reasonable degree of access to the insurance product through sales outlets or other marketing mechanisms.

2. "Competitive market" means a market for which an order is in effect pursuant to section 515A.22 that a reasonable degree of competition does exist.

3. "Noncompetitive market" means a market which has not been found to be competitive pursuant to section 515A.22.

Sec. 7. NEW SECTION. 515A.21 SCOPE OF APPLICATION.

Section 515A.20 and sections 515A.22 through 515A.25 apply to all forms of casualty insurance except those described in sections 515A.11 and 515A.15, and those excluded by section 515A.2.

Sec. 8. NEW SECTION. 515A.22 COMPETITIVE MARKET.

1. A noncompetitive market is presumed to exist unless the commissioner determines after a hearing that a reasonable degree of competition exists in the market and the commissioner issues an order to that effect. Such an order shall not become effective until sixty days after the date of the order and shall expire not later than one year thereafter unless the commissioner renews the order. Any affected insurer or insured may petition for a hearing on the renewal of an order relating to competitive status.

2. In determining whether a reasonable degree of competition exists, the commissioner shall consider relevant factors of workable competition pertaining to the market structure, market performance, and market conduct, and the practical opportunities available to consumers in the market to obtain pricing and other consumer information and to compare and obtain insurance from competing insurers. Such factors may include, but are not limited to, the following:

- a. The size and number of insurers actually engaged in the market.
- b. The profitability for insurers generally in the market segment and whether that profitability is unreasonably high.
- c. The price variance on premiums offered in the market.
- d. The availability of consumer information concerning the product and sales outlets or other sales mechanisms.
- e. The efforts of insurers to provide consumer information.
- f. Consumer complaints regarding the market generally.

Sec. 9. NEW SECTION. 515A.23 NONCOMPETITIVE MARKET.

Unless the commissioner has determined a market to be competitive, the provisions of sections 515A.1 through 515A.19 apply.

Sec. 10. NEW SECTION. 515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

1. Subject to the exception specified in section 515A.4, subsection 5, a competitive filing shall become effective when filed and shall be deemed to meet the requirements of section 515A.3 as long as the filing remains in effect unless it is disapproved upon review by the commissioner.

2. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information which are used in this state. The rates and supplementary rate information shall be filed not later than fifteen days after the effective date of the rates.

3. In a competitive market, if the commissioner finds that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty days prior to the effective date of the rates all the rates and supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

Sec. 11. NEW SECTION. 515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE MARKET.

1. If the commissioner believes that an insurer's rate filing in a competitive market violates the requirements of section 515A.3, the commissioner may require the insurer to file supporting information. If after reviewing the supporting information the commissioner continues to believe that the filing violates section 515A.3, the commissioner shall notify the insurer of the insurer's right to petition for a hearing on any subsequent order relating to the filing.

2. The commissioner may disapprove prefiled rates that have not become effective. However, the commissioner shall notify the insurer whose rates have been disapproved of the insurer's right to petition for a hearing on the disapproval within thirty days after the disapproval.

3. If the commissioner disapproves a filing in a competitive market, the commissioner shall issue an order specifying the reasons the filing fails to meet the requirements of section 515A.3. For rates in effect at the time of disapproval, the commissioner shall inform the insurer within a reasonable period of time the date when further use of the rates for policies or contracts of insurance is prohibited. The order shall be issued within thirty days of disapproval, or within thirty days of a hearing on the disapproval if a hearing is held. The order may include a provision for premium adjustment for the period after the effective date of the order for policies or contracts in effect on the date of the order.

4. Whenever an insurer has filed no legally effective rates as a result of the commissioner's disapproval of a filing, the commissioner shall on request of the insurer work with the insurer to develop interim rates for the insurer that are sufficient to protect the interest of all parties and the commissioner may order that a specified portion of the premium be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately. The commissioner may waive distribution if the commissioner determines that the amount involved would not warrant such action.

Approved May 15, 1987

CHAPTER 133

DECLARATIONS OF VALUE ON TRANSFERS BY FEDERAL AGENCIES AND INSTRUMENTALITIES

H.F. 590

AN ACT relating to the declaration of value on the transfer of property by certain federal agencies and instrumentalities.

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

Section 1. Section 428A.1, unnumbered paragraph 2, Code 1987, is amended to read as follows:

At the time each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. A declaration of value is not required