

PROPERTY AND CASUALTY INSURANCE

CHAPTER 20

PROPERTY AND CASUALTY INSURANCE

[Prior to 10/22/86, Insurance Department[510]]

DIVISION I

FORM AND RATE REQUIREMENTS

191—20.1(505,509,514A,515,515A,515F) General filing requirements.

20.1(1) Insurance companies required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Insurance companies must comply with the division's requirements, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF Web site at www.serff.org.

20.1(2) No rate filing shall include any adjustment designed to recover underwriting or operating losses incurred out of state. Upon request by the commissioner, insurers doing business in Iowa shall segregate in their rate filings data from any state identified by the commissioner, and the filings shall include a certification that no portion of any rate increase is designed to recover underwriting or operating losses incurred in another state.

191—20.2(505) Objection to filing.

20.2(1) Any insured or established organization with one or more insureds among its members that has an objection to a form filing may submit to the insurance commissioner a written request for a hearing on the filing. A request for a hearing must be filed within 20 days after the filing has been received by the commissioner.

20.2(2) Within 20 days after receipt of the request for a hearing, the commissioner will hold a hearing to consider the objection to the filing. The commissioner will provide not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner may suspend or postpone the effective date of the filing pending the hearing. Upon consideration of the information received at the hearing, the commissioner may determine whether or not to approve the filing.

191—20.3(515,515A,515C,518,518A,520) Letter of transmittal. Rescinded IAB 10/25/06, effective 11/29/06.

191—20.4(505,509,514A,515,515A,515F) Policy form filing.

20.4(1) Each policy form, endorsement, application and agreement modifying the provisions of policies must bear an identification form number. This form number must be in the lower left-hand corner unless uniform or authentic forms are used.

20.4(2) Rescinded IAB 2/19/14, effective 3/26/14.

20.4(3) A form filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt.

[ARC 1334C, IAB 2/19/14, effective 3/26/14]

191—20.5(515A) Rate or manual rule filing.

20.5(1) Every insurer shall determine and file its final rates with the commissioner pursuant to provisions of Iowa Code chapter 515F, except for insurers of workers' compensation who are specifically excluded by Iowa Code section 515F.5 and residual market mechanisms.

a. Advisory organizations may file on behalf of their member and subscriber companies prospective loss costs, supplementary rate information and supporting information as defined in Iowa Code section 515F.2. Advisory organization filings shall be filed and made effective in accordance with

the provisions of Iowa Code sections 515F.4 to 515F.6 or 515F.23 to 515F.25 that apply to the filing and approval of rates and supplementary rating information.

b. An insurer may satisfy its obligation to make rate filings by becoming a participating insurer of a licensed advisory organization that makes reference filings of advisory prospective loss costs and by authorizing the commissioner to accept such filings on its behalf. The insurer's rates shall be the prospective loss costs filed by the advisory organization which have been put into effect in accordance with 20.5(1) "a," combined with the loss cost adjustments which are filed in accordance with this paragraph.

c. An insurer may satisfy its obligation to make filings of supplementary rating information by becoming a participating insurer of a licensed advisory organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, subject to any modifications filed by the insurer.

d. If an insurer has previously filed forms modifying coverage provided by the applicable advisory organization forms, such fact should be noted in the rate filing.

20.5(2) Rate filings shall reflect that due consideration has been given to the factors enumerated in Iowa Code section 515F.4(1), and shall be accompanied by supporting statistical exhibits. In addition, each filing shall note the date of the last revision of rates affecting this coverage and briefly describe the nature of that revision.

20.5(3) Insurers making filings in their own behalf and advisory organizations shall identify each page filed by printing, typing or stamping their own name thereon.

20.5(4) If a company filing rates used the manuals of an advisory organization in its filings, any portion of the manuals of the organization which will not be followed by the filing must be clearly shown as deleted or amended by use of an appropriately numbered exception page.

20.5(5) For residual market mechanisms, insurers making filings in their own behalf shall identify the submission as an independent filing or a deviation from the bureau filing. A deviation filing is a submission which represents modification of a form or rate or rule previously filed by an authorized rating organization or advisory organization on behalf of its member and subscriber companies. If an insurer has previously filed forms modifying coverage provided by the applicable standard or bureau forms, such fact should be noted in the rate filing.

191—20.6(515A) Exemption from filing requirement.

20.6(1) An insurer requesting, pursuant to Iowa Code section 515F.5(4), suspension or modification of the requirement of filing of a rate shall provide the commissioner with a full explanation for the proposed exemption from the filing requirement together with any actuarial data available and shall furnish the commissioner with any additional material the commissioner may desire.

20.6(2) If the commissioner finds that a proposed rate represents a classification for which credible and homogeneous statistical experience does not exist and cannot be analyzed using standard actuarial techniques to produce a statistically significant average rate for the individual risks within the classification, the commissioner may exempt the proposed rate from the filing requirement.

20.6(3) An insurer shall maintain statistical records of the experience and expenses attendant upon the risks covered by any rate exempted by the commissioner from the filing requirement. The insurer may supplement statistical information with information filed with the commissioner by an advisory organization.

This rule is intended to implement Iowa Code section 515A.4(6).

191—20.7(515E) Risk retention and purchasing groups. Rescinded IAB 11/22/06, effective 12/27/06.

191—20.8(515F) Rate filings for crop-hail insurance. Rate filings for crop-hail insurance shall be submitted on or before January 31 of each calendar year. Each company may file one set of rates per policy plan per calendar year which shall remain in effect throughout the current crop year. In the absence

of a new filing, rates on file from the previous year will remain in effect. Each filing shall be accompanied by a cover letter, synopsis sheet and supporting data which justify the filed rate.
[ARC 2227C, IAB 10/28/15, effective 12/2/15]

191—20.9(515F) Licensing advisory organization. Rescinded IAB 3/28/07, effective 5/2/07.

191—20.10(515F) Exemptions. Rescinded IAB 3/28/07, effective 5/2/07.

191—20.11(515) Exemption from form and rate filing requirements.

20.11(1) The following lines of insurance shall be exempt from the form filing requirements of Iowa Code section 515.102:

- Aircraft hull and aviation liability
- Difference-in-conditions
- Kidnap-ransom
- Manuscript policies and endorsements issued to not more than two insureds in Iowa
- Political risk
- Reinsurance
- Terrorism
- War risk
- Weather insurance

20.11(2) Insurers shall be exempt from filing rates for the lines of insurance exempted in 20.11(1).

20.11(3) An insurer shall within 30 days of request provide the commissioner with any of the information which is exempted from form and rate filing requirements.

[ARC 1125C, IAB 10/16/13, effective 11/20/13]

191—20.12(515,515F) Use of credit history in underwriting and making of rates for personal automobile and homeowners policies. Rescinded IAB 11/24/04, effective 12/29/04.

191—20.13 to 20.40 Reserved.

These rules are intended to implement Iowa Code chapter 515F and Iowa Code section 515.109.

DIVISION II
IOWA FAIR PLAN ACT

191—20.41(515,515F) Purpose. This division is intended to implement and interpret 2003 Iowa Acts, chapter 119, for the purpose of establishing procedures and requirements for a mandatory risk-sharing facility for basic property insurance coverage. This division is also intended to encourage improvement of and reasonable loss prevention measures for properties located in Iowa and to further orderly community development.

191—20.42(515,515F) Scope. This division shall apply to all insurers licensed to write property insurance in Iowa.

191—20.43(515,515F) Definitions.

“*Basic property insurance*” means insurance against direct loss to property as defined in the standard fire policy and extended coverage, vandalism, and malicious mischief endorsements; homeowners insurance; and such other coverage or classes of insurance as may be added to the FAIR Plan by the commissioner. Basic property insurance shall include:

1. Coverage provided in the customary fire policy and in the customary extended coverage and builders risk endorsements.
2. Coverage against loss or damage by burglary or theft, or both.
3. Coverage at least equivalent to that provided in a modified coverage form homeowners policy.

“*Habitational risk*” means:

1. Dwellings, permanent or seasonal, designed for occupancy by not more than four families or containing not more than four apartments.
2. Private outbuildings used in connection with any of the risks described in “1.”
3. Trailer homes at a fixed location.
4. Household and personal property in risks described in “1” to “3.”
5. Tenants’ contents in dwellings or apartment houses.

“*Iowa FAIR Plan*” or “*the Plan*” means the nonprofit, unincorporated mandatory risk-sharing facility established by this division to provide for basic property insurance.

“*Location*” means a single building and its contents, or contiguous buildings and their contents, under one ownership.

“*Manufacturing risks*” means those risks eligible to be written under the customary manufacturing business interruption policy forms approved by the commissioner. The following are not considered manufacturing risks:

1. Dry cleaning and laundering—Carpet, rug, furniture, or upholstery cleaning; diaper service or infants’ apparel laundries; dry cleaning; laundries; linen supply.
2. Installation, servicing and repair—Electrical equipment; electronic equipment; glazing; household furnishings and appliances; office machines; plumbing, heating and air conditioning; protective systems for premises, vaults and safes.
3. Laboratories—Blood banks; dental laboratories; medical or X-ray laboratories.
4. Duplicating or similar services—Blueprinting and photocopying services; bookbinding; electrotyping; engraving; letter service (mailing or addressing companies); linotype or hand composition; lithographing; photo engraving; photo finishing; photographers (commercial).
5. Warehousing—Cold storage (locker establishments); cold storage warehouse; furniture or general merchandise warehouse.
6. Miscellaneous—Barber shops; beauty parlors; cemeteries; dog kennels; electroplating; equipment rental (not contractors’ equipment); film and tape rental; funeral directors; galvanizing, tinning, detinning; radio broadcasting, commercial wireless and television broadcasting; taxidermists; telephone or telegraph companies; textiles (bleaching, dyeing, mercerizing or finishing of property of others); veterinarians and veterinary hospitals.

“*Motor vehicles*” means vehicles which are self-propelled.

“*Weighted premiums written*” means:

1. Gross direct premiums less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits, with respect to property in this state excluding premiums on risks insured under the Plan, for basic property insurance, for homeowners multiple peril policies, for farm dwelling policies and for the basic property insurance premium components of all other multiple peril policies.
2. In addition, 100 percent of the premiums obtained for homeowners multiple peril policies shall be added to 100 percent of the premiums obtained for basic property insurance and the basic property insurance premium components of all other multiple peril policies. The basic year for the computation shall be the first preceding calendar year.

191—20.44(515,515F) Eligible risks.

20.44(1) All risks at a fixed location shall be eligible for inspection and considered for insurance under the Plan except motor vehicles, inland marine risks, and manufacturing risks as defined above.

20.44(2) The maximum limits of coverage for the type of basic property insurance for customary fire and extended coverage which may be placed under the Plan are those established by the governing committee from time to time.

20.44(3) The maximum limits of coverage for the type of basic property insurance for burglary and theft which may be placed under the Plan are those established by the governing committee from time to time.

20.44(4) The maximum limits of coverage for the type of basic property insurance for homeowners coverage which may be placed under the Plan are those established by the governing committee from time to time.

191—20.45(515,515F) Membership.

20.45(1) Every insurer licensed to write one or more components of basic property insurance shall be considered a member of the Plan. Any other insurer may, upon application to and approval by the governing committee, become a member.

20.45(2) An insurer's membership terminates when the insurer is no longer authorized to write basic property insurance in Iowa, but the effective date of termination shall be the last day of the fiscal year of the Plan in which termination occurs. Any insurer so terminated shall continue to be governed by the provisions of this division until the insurer completes all of its obligations under the Plan.

20.45(3) Any voluntary insurer member may terminate its membership only as of the last day of the fiscal year of the Plan by giving written notice to the Plan 30 days prior to the last day of the fiscal year of the Plan. The governing committee upon a majority vote may terminate the membership of a voluntary insurer. Any such terminated member shall continue to be governed by the provisions of this division until the insurer completes all of its obligations under the Plan.

20.45(4) Subject to the approval of the commissioner, the governing committee may charge a reasonable annual membership fee.

191—20.46(515,515F) Administration.

20.46(1) The Plan shall be administered by the governing committee, subject to supervision of the commissioner, and operated by a manager appointed by the governing committee.

20.46(2) The governing committee shall consist of seven members, each of whom shall serve for a period of one year or until a successor is elected or designated. Each member shall have one vote.

191—20.47(515,515F) Duties of the governing committee.

20.47(1) The governing committee shall meet as often as may be required to perform the general duties of the administration of the Plan, or on the call of the commissioner. Four members of the committee present or by proxy shall constitute a quorum. Members of the committee who choose to appoint a proxy shall give a written proxy to the person elected to act as proxy. The written proxy shall then be filed with the governing committee, thus ensuring the validity of the proxy's actions as the governing committee performs its duties.

20.47(2) The governing committee shall be empowered to appoint a manager, who shall serve at the pleasure of the committee, to budget expenses, levy assessments, disburse funds, and perform all other duties of the Plan. The adoption of or substantive changes in pension plans or employee benefit programs for the manager and staff shall be subject to approval of the governing committee.

20.47(3) The governing committee may designate, with the approval of the commissioner, a rate service organization as defined in Iowa Code chapter 515F, to make inspections as required under the Plan and to perform such other duties as may be authorized by the governing committee.

20.47(4) The manager shall annually prepare an operating budget which shall be subject to approval of the governing committee.

20.47(5) The governing committee shall submit to the commissioner periodic reports setting forth information as the commissioner may request. On or before April 1 of each year, the governing committee shall submit a report summarizing any new programs or reforms in operation undertaken during the preceding calendar year in order to comply with any new legislation, regulations or directives affecting the Plan. This report shall contain a statistical tabulation on business written in accordance with the Plan.

20.47(6) The governing committee shall separately code all policies written by the Plan so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the Plan.

20.47(7) The governing committee shall authorize the manager to file rates, surcharge schedules and forms for prior approval by the commissioner.

20.47(8) The governing committee shall prepare such agreements and contracts as may be necessary for the execution of this division consistent with its provisions.

191—20.48(515,515F) Annual and special meetings.

20.48(1) There shall be an annual meeting of the insurers on a date fixed by the governing committee at which time members may be chosen.

20.48(2) A special meeting shall be called by the governing committee within 40 days after receipt of written request from any ten insurers, not more than one of which may be in a group under the same management or ownership.

20.48(3) The time and place of all meetings shall be reasonable. Twenty days' notice of an annual or special meeting shall be given in writing by the governing committee to all insurers defined above. Four members present in person or by proxy shall constitute a quorum. Voting by proxy shall be permitted.

20.48(4) Any matter not inconsistent with the law or this division may be proposed and voted upon at any special meeting of the committee. Notice of any such proposal shall be mailed to each insurer not less than 20 days prior to the final date fixed by the committee for voting thereon.

191—20.49(515,515F) Application for insurance.

20.49(1) Any person who has an insurable interest in an eligible risk in property permitted to be written in the Plan and who has received within the last six months a notice of rejection, nonrenewal or cancellation from an insurer may apply for insurance by the Plan.

20.49(2) An inspection need not be made if the governing committee determines that insurance can be provided for specified classes of risks on the basis of representations of the applicant or insurance producer.

20.49(3) The Plan may bind coverage. The Plan may wait until receipt of the inspection report or receipt of additional underwriting information before determining whether to bind coverage. Coverage will be bound by the Plan by acknowledgement to the producer.

191—20.50(515,515F) Inspection procedure.

20.50(1) The inspection by the Plan shall be without cost to the applicant.

20.50(2) The manner and scope of the inspection shall be prescribed by the Plan with the approval of the commissioner.

20.50(3) An inspection report shall be made for each property inspected covering pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. Representative photographs may be taken during the inspection to indicate the pertinent features of building, construction, maintenance, occupancy, and surrounding property.

20.50(4) After the inspection, a copy of the completed inspection report and any relevant photographs shall be kept on file by the Plan. The report shall include a description of any deficient physical condition changes proposed by the inspector. A copy of the inspection report shall be made available to the applicant or producer upon request.

191—20.51(515,515F) Procedure after inspection and receipt of application.

20.51(1) After receipt of the application, the inspection report, and any additional underwriting information requested from the applicant, the Plan shall within five business days complete and send to the applicant an action report advising the applicant of one of the following:

a. That the risk is acceptable. If the inspection reveals substandard conditions, appropriate charges may be imposed, but the report shall specify the improvements necessary for removal of each such charge.

b. That the risk is declined unless reasonable improvements noted in the action report are made by the applicant and confirmed by reinspection.

c. That the risk is declined because it fails to meet reasonable underwriting standards as set forth in 191—20.52(515,515F). Reasonable underwriting standards as set forth in 191—20.52(515,515F) shall not include neighborhood or area location or any environment hazard beyond the control of the property owner.

20.51(2) If the risk is accepted, the action report shall advise the applicant of:

- a.* The amount of coverage the Plan agrees to write.
- b.* The amount of coverage the Plan agrees to write if specified improvements are made.
- c.* The amount of coverage the Plan agrees to write only if a large or special deductible is agreed to by the applicant.

20.51(3) If the risk is accepted, the Plan, upon receipt of the premium, shall deliver the policy to the applicant or to the licensed producer designated by the applicant for delivery to the applicant. The Plan shall remit the commissions to the licensed producer designated by the applicant.

191—20.52(515,515F) Reasonable underwriting standards for property coverage.

20.52(1) The following characteristics may be used in determining whether a risk is acceptable for property coverage. Where there is more than one cause for declination, all causes shall be listed and complied with before the property may be accepted for insurance purposes.

a. Physical condition of property; however, the mere fact that a property does not satisfy all current building code specifications will not, of itself, suffice as a reason for declination.

b. The property's present use as extended vacancy or extended unoccupancy of the property for 60 consecutive days. Properties that are vacant or unoccupied for more than 60 days may be insured while rehabilitation or reconstruction work is actively in process, meaning that the insured or owner should make monthly progress in order to complete the rehabilitation or reconstruction within a one-year time frame.

c. Other specific characteristics of ownership, condition, occupancy or maintenance that violate the law and that result in substantial increased exposure to loss. Any circumstance considered under this paragraph must relate to the peril insured against.

d. Physical condition of buildings which results in an outstanding order to vacate, in an outstanding demolition order or in being declared unsafe in accordance with the applicable law.

e. One or more of the conditions for nonrenewal as listed in 191—20.54(515,515F) currently exist. The Plan shall upon notice that conditions at the buildings have changed consider new application for coverage.

f. Vandalism and malicious mischief coverage shall not be provided for a dwelling or commercial property where the property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12-month period, or three or more such losses in the immediately preceding 24-month period.

g. Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

h. Any other guidelines which have been approved by the commissioner.

20.52(2) Reserved.

[ARC 8624B, IAB 3/24/10, effective 4/28/10]

191—20.53(515,515F) Reasonable underwriting standards for liability coverage.

20.53(1) The following characteristics may be used in determining whether a risk is acceptable for liability insurance on homeowner policies:

a. Broken, cracked, uneven or otherwise faulty steps, porches, decks, sidewalks, patios and similar areas.

b. Downspouts or drains which discharge onto sidewalks or driveways.

c. Unsafe conditions including inadequate lighting of stairways.

d. Animals known to be vicious or animals that have caused a liability claim.

e. Swimming pools or private ponds not fenced in accordance with local regulations.

f. Unsafe, or the absence of, handrails.

g. Junk cars, empty refrigerators, trampolines or other potentially dangerous objects in the yard which are an attraction to children.

h. Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

i. Any other guidelines which have been approved by the commissioner.

20.53(2) Liability insurance shall only be provided as contained in the Iowa FAIR Plan homeowners policy.

20.53(3) Liability insurance shall not be provided for risks with any of the deficiencies set forth in paragraphs 20.53(1) “a” through “g,” as disclosed by the application or inspection, until the deficiencies have been corrected.

20.53(4) Liability insurance may not be provided where there is a business operating at the insured location, unless the applicant has in force a business liability policy with limits of at least \$100,000 per occurrence providing premises liability coverage.

20.53(5) Liability insurance shall not be provided where the applicant owns three or more horses or other riding animals, unless the applicant has in force a liability policy with limits of at least \$100,000 per occurrence providing coverage for the ownership and use of the horses or other riding animals.

191—20.54(515,515F) Cancellation; nonrenewal and limitations; review of eligibility.

20.54(1) The Plan shall not cancel or refuse to renew a policy issued by the Plan except for the following reasons:

a. Facts as confirmed by inspection or investigation which would have been grounds for nonacceptance of the risk by the Plan had they been known to the Plan at the time of acceptance.

b. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable pursuant to paragraphs “j” and “k.”

c. Nonpayment of premiums.

d. At least 65 percent of the rental units in the building are unoccupied, and the insured has not received prior approval from the Plan of a rehabilitation program which necessitates a high degree of unoccupancy.

e. Unrepaired damage exists and the insured has stated that repairs will not be made, or such time has elapsed as clearly indicates that the damage will not be repaired. The elapsed time under this paragraph is a length of time over 60 days where the damage remains unrepaired, unless there are known to be extenuating circumstances.

f. After a loss, permanent repairs have not been commenced within 60 days following payment of the claim, unless there are known to be extenuating circumstances. The 60-day period starts upon acceptance of payment of the claim.

g. Property has been abandoned for 90 days or more.

h. There is good cause to believe, based on reliable information, that the building will be burned for the purpose of collecting the insurance on the property. The removal of damaged salvageable items, such as normally permanent fixtures, from the building shall be considered under this paragraph when the insured can provide no reasonable explanation for such removal.

i. A named insured or loss payee or other person having a financial interest in the property being convicted of the crime of arson or a crime involving a purpose to defraud an insurance company. The fact that an appeal has been entered shall not negate the use of this paragraph.

j. The property has been subject to more than two losses, each loss amounting to at least \$500 or 1 percent of the insurance in force, whichever is greater, in the immediately preceding 12-month period, or more than three such losses in the immediately preceding 24-month period, provided that the cause of such losses is due to the conditions which are the responsibility of the owner named insured or due to the actions of any person defined as an insured under the policy.

k. Theft frequency in which there have been more than two thefts, each loss amounting to at least \$500, in a 12-month period.

l. Material misrepresentation in any statement to the Plan.

m. On homeowners policies, excessive theft or liability losses. If a given property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12-month period, or three or more such losses in the immediately preceding 24-month period, the Plan may convert the homeowners policy to a dwelling policy without vandalism and malicious mischief coverage.

20.54(2) The Plan shall terminate all insurance contracts in accordance with Iowa Code sections 515.125, 515.127, and 515.128.

20.54(3) At the completion of 36 months of coverage and prior to the completion of 48 months, each risk shall be reviewed for its eligibility for coverage in the voluntary market. The risk shall be submitted by the Plan to the producer of record, if any, for a search of the voluntary market. If the producer resubmits the risk to the Plan, the risk must be resubmitted with a new application and a written statement from the producer that a search of the voluntary market was performed.

[ARC 8624B, IAB 3/24/10, effective 4/28/10]

191—20.55(515,515F) Assessments.

20.55(1) Participation and assessments by and upon each insurer in the Plan for losses and expenses in connection with Plan business shall be levied and assessed by the governing committee of the Plan on the basis of participation factors determined annually, giving effect to the proportion which such insurer's weighted premiums written bears to the aggregate weighted premiums written by all insurers in the Plan.

20.55(2) De minimis assessments. Any assessment of less than \$20 shall not be billed to an insurer, but will be accumulated as a deferred assessment until the cumulative amount deferred is at least \$20.

20.55(3) Late payment fee. Assessments shall be due and payable when billed. If any member fails to pay an assessment within 60 days after it is due, the insurer shall pay interest from the billing date at the rate of 1.5 percent per month. In the event that an insurer fails to pay any applicable late payment fee with an assessment, the amount of such unpaid late payment fee will be included in the amount of the insurer's next assessment.

20.55(4) Credits for voluntary writings. The Plan may develop a voluntary writing credit policy, subject to approval by the commissioner. Credits may be used as offsets to member company assessments made by the Plan.

191—20.56(515,515F) Commission.

20.56(1) Commission to the licensed producer designated by the applicant shall be 10 percent of all policy premiums. The Plan shall not license or appoint producers.

20.56(2) In the event of cancellation of a policy, or if an endorsement is issued which requires the premium to be returned to the insured, the producer shall refund proportionally to the Plan commissions on the return premium at the same rate at which such commissions were originally paid.

191—20.57(515,515F) Public education. In cooperation with the insurance commissioner, the Plan shall undertake a continuing education program with insurers, producers and consumers about the Plan's insurance program and its availability. All insurers and producers shall cooperate fully in the continuing education program. Such continuing education program will include the publication and distribution of literature:

1. Describing the Plan and its general operation;
2. Explaining the possible cost savings of obtaining insurance in the voluntary market; and
3. Advising of the availability of rate comparison charts.

191—20.58(515,515F) Cooperation and authority of producers.

20.58(1) Each insurer shall require its licensed producers to cooperate fully in the accomplishment of the intents and purposes of the Plan.

20.58(2) Licensed insurance producers shall not act as agents for the Plan.

20.58(3) Licensed insurance producers shall not do any of the following:

- a.* Bind coverage for the Plan.
- b.* Alter or change policies issued by the Plan.

- c. Settle losses of the Plan.
- d. Act on behalf of the Plan or commit the Plan to any course of action.

20.58(4) Licensed insurance producers shall assist applicants who need to apply for coverage under the Plan, and shall submit applications that meet the requirements under rule 191—20.49(515,515F). Producers shall follow the rules and procedures of the Plan.

191—20.59(515,515F) Review by commissioner. The governing committee shall report to the commissioner the name of any insurer or producer which fails to comply with the provisions of the Plan or with any rules prescribed thereunder by the governing committee or to pay within 30 days any assessment levied.

191—20.60(515,515F) Indemnification. Each person serving on the governing committee or any of its subcommittees, each member of the Plan, and the manager and each officer and employee of the Plan shall be indemnified by the Plan against all cost, settlement, judgment, and expense actually and necessarily incurred by that person in connection with the defense of any action, suit, or proceeding in which that person is made a party by reason of that person's being or having been a member of the governing committee or a member or manager or officer or employee of the Plan, except in relation to matters as to which that person has been judged in an action, suit, or proceeding to be liable by reason of willful misconduct in the performance of that person's duties as a member of the governing committee or as a member, manager, officer or employee of the Plan. This indemnification shall not apply to any loss, cost or expense on insurance policy claims under the Plan. Indemnification under this rule shall not be exclusive of other rights to which the member, manager, officer, or employee may be entitled as a matter of law.

191—20.61 to 20.69 Reserved.

These rules are intended to implement 2003 Iowa Acts, chapter 119.

DIVISION III
CERTIFICATES OF INSURANCE FOR COMMERCIAL LENDING TRANSACTIONS

191—20.70(515) Purpose. The purpose of division III is to clarify what information an insurance company regulated by the division may provide its customer in connection with a commercial real estate transaction between the customer and a lender.

[ARC 0133C, IAB 5/30/12, effective 5/9/12]

191—20.71(515) Definitions. For purposes of division III, the following definitions shall apply:

“*ACORD*” means the Association for Cooperative Operations Research and Development.

“*Commercial real estate transaction*” means a non-recourse commercial lending transaction in which the underlying property serves as the primary collateral securing the borrower's repayment of the loan and neither the borrower nor any of its members, partners, or shareholders, nor any related person to any of the aforementioned persons, bears the economic risk of loss in the event of a payment default under the terms of the lending transaction.

“*Division*” means the insurance division.

“*ISO*” means the insurance services office.

[ARC 0133C, IAB 5/30/12, effective 5/9/12]

191—20.72(515) Evidence of insurance.

20.72(1) Prior to the issuance of an insurance policy by an insurer, an insured who has entered into a commercial real estate transaction may request that the relevant insurer or a producer acting on behalf of the insurer provide the following items as evidence of insurance:

- a. An ACORD Form 75, a successor ACORD form, an ISO binder form, or a substantially similar binder form approved by the division; and
- b. An ACORD Form 28, a successor ACORD form, an ISO certificate form, or a substantially similar certificate of insurance form approved by the division.

The insurer or the producer acting on behalf of an insurer has the sole discretion to determine which division-approved binder form or certificate of insurance form the insurer or producer uses to comply with this rule.

20.72(2) An insurer or a producer acting on behalf of an insurer shall comply with a request made pursuant to this rule within 20 business days of the receipt of the request. The requirements of this rule shall not apply to an insurance producer who:

- a. Is unauthorized to provide the documents described in this rule; and
- b. Informs the insured of this fact within 20 business days of the receipt of the request.

20.72(3) Delivery of a binder along with a certificate of insurance requested pursuant to this rule may be accomplished by regular mail, overnight delivery, facsimile, physical delivery, electronic means, or other appropriate means.

20.72(4) Notwithstanding any language on a form provided pursuant to subrule 20.72(1) which language states that the form is for “information only,” a binder together with a certificate of insurance delivered pursuant to this rule shall be valid and may be relied upon by the borrower or by the borrower’s lender as evidence of insurance, including in any private civil action or administrative proceeding, until the delivery of the insurance policy to the borrower or the cancellation of the binder pursuant to Iowa Code sections 515.125 to 515.127.

20.72(5) An insurer or producer acting on behalf of an insurer that produces or delivers a binder and certificate of insurance to its customer pursuant to this rule may charge a reasonable fee for the production and delivery of the documents.

20.72(6) All insurers and all producers subject to this rule shall comply with the terms hereof within 90 days from May 9, 2012.

[ARC 0133C, IAB 5/30/12, effective 5/9/12]

These rules are intended to implement 2011 Iowa Code Supplement chapter 515.

191—20.73 to 20.79 Reserved.

DIVISION IV
CANCELLATIONS, NONRENEWALS AND TERMINATIONS

191—20.80(505B,515,515D,518,518A,519) Notice of cancellation, nonrenewal or termination of property and casualty insurance.

20.80(1) Purpose. The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 by clarifying the authorized methods of delivery for notices of cancellation, nonrenewal and termination by an insurer. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

20.80(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 515, 518, and 518A.

20.80(3) Delivery and receipt. For any notice of cancellation, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

20.80(4) Electronic transmissions. Electronic transmissions do not currently satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A,

515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

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¹ See IAB Insurance Division