



OFFICE OF THE GOVERNOR

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 11, 2008

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2383, an Act making nonsubstantive corrections to certain provisions relating to insurance and making repeals.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Culver", with a long horizontal flourish extending to the right.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 2383

AN ACT

MAKING NONSUBSTANTIVE CORRECTIONS TO CERTAIN PROVISIONS
RELATING TO INSURANCE AND MAKING REPEALS.

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

Section 1. Section 507B.4, subsection 2, paragraph c, Code Supplement 2007, is amended to read as follows:

c. STATEMENT OF CAPITAL AND SURPLUS. In the case of a foreign company transacting the business of casualty insurance in the state, or an officer, producer, or representative of such a company, issuing or publishing an advertisement, public announcement, sign, circular, or card that purports to disclose the company's financial standing and fails to exhibit: the capital actually paid in cash, and the amount of net surplus of assets over all the company's liabilities actually held and available for the payment of losses by fire and for the protection of holders of fire policies; and the amount of net surplus of assets over all liabilities in the United States actually available for the payment of losses by fire and held in the United States for the protection of holders of fire policies in the United States, including in such liabilities the fund reserved for reinsurance of outstanding risks. The amounts stated for capital and net surplus shall correspond with the latest verified statement

made by the company or association to the commissioner of insurance. ~~Such a company shall not write, place, or cause to be written or placed, a policy or contract for insurance on property situated or located in this state except through a licensed producer authorized to do business in this state.~~

Sec. 2. Section 510.21, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

An application for registration shall be accompanied by a filing fee of one hundred dollars. After notice and hearing, the commissioner may impose any or all of the sanctions set out in section 507B.7, upon finding that either the third-party administrator violated any of the requirements of ~~section 515.145 and~~ sections 510.1A 510.12 through 510.20 and this section, or the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

Sec. 3. Section 515.1, Code 2007, is amended to read as follows:

515.1 APPLICABILITY.

Corporations formed for the purpose of insurance, other than life insurance, shall be governed by the provisions of chapter 490, chapter 491, or chapter 504, except as modified by the provisions of this chapter. The provisions of this chapter relative to insurance companies shall apply to all such companies, partnerships, associations, or individuals, except those associations governed by the provisions of chapter 518 or 518A, companies governed by the provisions of chapter 508 or 514, societies governed by the provisions of chapter 512B, and organizations governed by the provisions of chapter 514B, whether incorporated or not.

Sec. 4. NEW SECTION. 515.11A TRANSFER OF STOCK.

Transfers of stock made by any stockholder or the stockholder's legal representative shall be subject to the provisions of chapters 491 and 492 relative to transfer of shares, and to such restrictions as the directors shall establish in their bylaws, except as hereinafter provided.

Sec. 5. Section 515.73, Code Supplement 2007, is amended to read as follows:

515.73 ADDITIONAL STATEMENTS -- IMPAIRED CAPITAL.

Such Any company desiring to transact the business of insurance under this chapter shall also file with the commissioner a certified copy of its charter or deed of settlement, together with a statement under oath of the president or vice president or other chief officer and the secretary of the company for which they may act, stating the name of the company, the place where located, the amount of its capital, with a detailed statement of the facts and items required from companies organized under the laws of this state, and a copy of the last annual report, if any, made under any law of the state by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired by liabilities as specified in this chapter to the extent of twenty percent thereof, while such deficiency shall continue.

Sec. 6. Section 515.120, Code Supplement 2007, is amended to read as follows:

515.120 BUSINESS WITH NONADMITTED INSURERS.

This chapter does not prevent a licensed resident or nonresident agent producer of this state, qualified to write excess and surplus lines insurance, from procuring insurance in certain nonadmitted insurers if such insurance is restricted to the type and kind of insurance authorized by this chapter, excluding insurance authorized under section 515.48, subsection 5, paragraph "a", and the agent producer makes oath to the commissioner of insurance in the form prescribed by the commissioner that the agent producer has made diligent effort to place the insurance in authorized insurers and has either exhausted the capacity of all authorized insurers or has been unable to obtain the desired insurance in insurers licensed to transact business in this state. The procuring of a contract of insurance in a nonadmitted insurer makes the insurer liable for, and the agent producer shall pay, the taxes on the premiums as if the insurer were duly authorized to transact business in the state. A sworn report of all business transacted by agents producers of this state in nonadmitted insurers shall be made to the commissioner of insurance on or before March 1 of each year for the preceding calendar year, on the form required by the commissioner of insurance. The report shall be

accompanied by a remittance to cover the taxes on the premiums. ~~An-agent~~ A producer who makes the oath, pays the taxes on the premiums, and files the report has not written such contracts of insurance unlawfully, and is not personally liable for the contracts.

Sec. 7. Section 515.121, Code Supplement 2007, is amended to read as follows:

515.121 ADMINISTRATIVE PENALTY.

1. An excess and surplus lines insurance ~~agent-that~~ producer who fails to timely file the report required in section 515.120 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

2. The commissioner shall refuse to renew the license of ~~an-agent-that~~ a producer who fails to comply with the provisions of section 515.120 and this section and the ~~agent's~~ producer's right to transact new business in this state shall immediately cease until the ~~agent~~ producer has so complied.

3. The commissioner may give notice to ~~an-agent~~ a producer that the ~~agent~~ producer has not timely filed the report required under section 515.120 and is in violation of this section. If the ~~agent~~ producer fails to file the required report within ten days of the date of the notice, the ~~agent~~ producer shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 8. Section 515.122, subsection 1, Code Supplement 2007, is amended to read as follows:

1. An insurance producer shall not knowingly place insurance, either directly or through an intermediary broker, ~~in~~ with insurers who are insolvent or unsound financially; and shall not place or renew insurance with nonadmitted insurers found by the commissioner of insurance to have failed or refused to furnish, in the manner provided in subsection 2, information reasonably showing the ability or willingness of the insurers to satisfy obligations undertaken with respect to insurance issued by them.

Sec. 9. Section 515.125, Code Supplement 2007, is amended to read as follows:

515.125 FORFEITURE OF POLICIES -- NOTICE.

1. ~~A policy or contract of insurance, unless~~ Unless otherwise provided in section 515.127 or 515.128, a policy or contract of insurance provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least thirty days before the effective date of cancellation, or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured's address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

2. An insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A notice of intention not to renew is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

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

Sec. 10. Section 515.129, subsection 3, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An umbrella or excess insurance policy which has been renewed or which has been in effect for sixty or more days shall not be canceled by the insurer, except as provided in section 515.127, subsections 2 and 3, ~~except-by~~ unless notice has been mailed or delivered to the insured as required by

this section or unless at least one of the following conditions occurs:

Sec. 11. Section 515.130, Code Supplement 2007, is amended to read as follows:

515.130 SHORT RATES.

The commissioner of insurance shall prepare and promulgate tables of the short rates provided for in ~~sections 515.125 and 515.126~~ section 515.132, for the various kinds and classes of insurance governed by the provisions of this chapter, which, when promulgated, shall be for the guidance of all companies covered in this chapter and shall be the rate to be given in any notice therein required. No company shall discriminate unfairly between like assureds in the rate or rates so provided.

Sec. 12. Section 515.138, Code Supplement 2007, is amended to read as follows:

515.138 NOTICE OF LOSS OF PERSONAL PROPERTY BY HAIL.

In case of loss or damage to growing crops by hail, notice of such loss or damage must be given to the company by the insured by mailing a certified mail letter within ten days from the time such loss or damage occurs.

Sec. 13. Section 515.141, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The commissioner of insurance is authorized to issue a subpoena for examination under oath, to any officer, agent, or employee of any company suspected of violating any of the provisions of section 515.140.

Sec. 14. Section 515.142, Code Supplement 2007, is amended to read as follows:

515.142 TRANSFERS PENDING INVESTIGATION.

Any transfer of the stock of any company organized under this chapter, made pending any investigation ~~above-required~~, shall not release the party making the transfer from any liability for losses which may have accrued previous to such transfer.

Sec. 15. Section 515.145, Code Supplement 2007, is amended to read as follows:

515.145 REVOCATION OF AUTHORITY.

If upon any examination, ~~and-that-of~~ or upon information obtained from any ~~other~~ witness produced ~~and~~ or examined, the

commissioner determines that a company has violated section 515.140, or if any officer, agent, or employee fails to appear or submit to examination after receiving a subpoena, the commissioner shall promptly issue an order revoking the authority of the company to transact business within this state, and the company shall not be permitted to do the business of insurance in this state for one year.

Sec. 16. Section 515.146, Code Supplement 2007, is amended to read as follows:

515.146 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

The commissioner of insurance shall withhold the commissioner's certificate or permission of authority to do business from a company neglecting or failing to comply with this chapter. In addition, a company organized or authorized under this chapter which fails to file the annual statement referred to in section 515.63 in the time required shall pay and forfeit an administrative penalty in an amount of five hundred dollars to be collected in the name of the state for deposit in the general fund of the state as provided in section 505.7. The company's right to transact further new business in this state shall immediately cease until the company has fully complied with this chapter. The commissioner may give notice to a company which has failed to file within the time required that the company is in violation of this section and, if the company fails to file the evidence of investment and statement within ten days of the date of the notice, the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

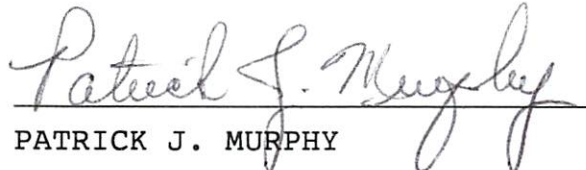
Sec. 17. Section 515.153, Code Supplement 2007, is amended to read as follows:


515.153 INCRIMINATION.

The statements and declarations made or testimony given by any such officer, agent, or employee in the investigation before the commissioner of insurance, or upon the hearing on the petition for judicial review, as provided in sections 515.141, 515.145, and 515.152, shall not be used against the person making the same in any criminal prosecution against the person.


Sec. 18. Sections 515.62 and 515.64, Code 2007, are repealed.

Sec. 19. Section 515.107, Code Supplement 2007, is repealed.



PATRICK J. MURPHY
Speaker of the House


JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2383, Eighty-second General Assembly.


MARK BRANDSGARD
Chief Clerk of the House

Approved 4/11, 2008


CHESTER J. CULVER
Governor