

JAN 31 1972

HOUSE FILE 1089

Commerce, *Pass of w amend, 2/10/72*

By FISCHER of Grundy
(Griffin)

Passed House, Date 2-23-72 Passed Senate, Date 3-14-72

Vote: Ayes 28 Nays 2 Vote: Ayes 46 Nays 0

Approved March 23, 1972

A BILL FOR

1 An Act relating to the Iowa insurance guaranty association.

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

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Section five hundred fifteen B point one
2 (515B.1), Code 1971, is amended to read as follows:

3 515B.1 SCOPE. This chapter shall apply to all kinds of
4 direct insurance authorized to be written on and after July
5 1, 1972 by an insurer licensed to operate in this state under
6 chapter 515 or chapter 520, except life, title, surety,
7 disability including accident and health, credit, mortgage
8 guaranty, and ocean marine insurance.

9 Sec. 2. Section five hundred fifteen B point two (515B.2),
10 Code 1971, is amended by striking the section and inserting
11 in lieu thereof the following:

12 515B.2 DEFINITIONS. As used in this chapter unless the
13 context otherwise requires:

14 1. "Association" means the Iowa insurance guaranty
15 association created pursuant to section five hundred fifteen
16 B point three (515B.3).

17 2. "Commissioner" means the commissioner of insurance
18 of this state.

19 3. "Covered claim" means an unpaid claim, including one
20 for unearned premiums, which arises out of and is within the
21 coverage of an insurance policy to which this chapter applies
22 issued by an insurer, if such insurer becomes an insolvent
23 insurer after July 1, 1970, and one of the following conditions
24 exists:

25 a. The claimant or insured is a resident of this state
26 at the time of the insured event.

27 b. The property from which the claim arises is permanently
28 located in this state.

29 Such term does not include any amount due any reinsurer,
30 insurer, insurance pool, or underwriting association, as sub-
31 rogation recoveries or otherwise.

32 4. "Insurer" means an insurer licensed to transact
33 insurance business in this state under either chapter five
34 hundred fifteen (515) or chapter five hundred twenty (520),
35 either at the time the policy was issued or when the insured

1 event occurred. It shall not include county or state mutual
2 assessment associations licensed under chapter five hundred
3 eighteen (518) or chapter five hundred eighteen A (518A),
4 or fraternal beneficiary societies, orders or associations
5 licensed under chapter five hundred twelve (512), or
6 corporations operating nonprofit service plans under chapter
7 five hundred fourteen (514), or life insurance companies or
8 life, accident or health associations licensed under chapter
9 five hundred eight (508) or chapter five hundred ten (510).

10 5. "Insolvent insurer" means an insurer as herein defined
11 which has been determined to be insolvent by a court of
12 competent jurisdiction subsequent to July 1, 1970.

13 6. "Member insurer" means any insurer as herein defined
14 which:

15 a. Writes any kind of insurance to which this chapter
16 applies, including the exchange of reciprocal or interinsurance
17 contracts.

18 b. Is licensed to transact insurance in this state.

19 7. "Net direct written premiums" means direct gross
20 premiums written in this state on insurance policies to which
21 this chapter applies, less return premiums and dividends paid
22 or credited to policyholders on such direct business. Such
23 term does not include premiums on contracts between insurers
24 or reinsurers.

25 8. "Person" means any individual, corporation, partnership,
26 association, or voluntary organization.

27 Sec. 3. Section five hundred fifteen B point three
28 (515B.3), Code 1971, is amended to read as follows:

29 515B. 3 CREATION OF THE ASSOCIATION. There is created
30 a nonprofit unincorporated legal entity to be known as the
31 Iowa insurance guaranty association. All member insurers
32 as defined in section 515B.2, subsection 5 shall be and remain
33 members of the association as a condition of their authority
34 to transact insurance in this state. The association shall
35 perform its functions under a plan of operation established

1 and approved pursuant to section 515B.6 and shall exercise
2 its powers through a board of directors established under
3 section 515B.4. Except as otherwise provided in such plan
4 of operation, annual or special meetings of members of the
5 association may be held on call as directed by the
6 association's board of directors or by the commissioner of
7 insurance, upon not less than ten days' written notice by
8 ordinary mail to each member at the member's principal office
9 as shown by the records in the commissioner's office,
10 specifying the time and place, and in the case of a special
11 meeting, the purpose, of the meeting. Members may vote in
12 person or by proxy and ten members present in person or by
13 proxy shall constitute a quorum for the transaction of any
14 business.

15 Sec. 4. Section five hundred fifteen B point four (515B.4),
16 unnumbered paragraph one (1), Code 1971, is amended to read
17 as follows:

18 The board of directors of the association shall consist
19 of not less than five nor more than nine persons serving terms
20 as established in the plan of operation. The members of the
21 board shall be selected by member insurers subject to the
22 approval of the commissioner. Vacancies on the board shall
23 be filled for the remaining period of the term ~~in the same~~
24 ~~manner as initial appointments~~ by majority vote of the
25 remaining directors. If no members are selected within sixty
26 days after July 1, 1970, the commissioner may appoint the
27 initial members of the board of directors.

28 Sec. 5. Section five hundred fifteen B point seven
29 (515B.7), subsection three (3), Code 1971, is amended to read
30 as follows:

31 3. Any final action, decision or order of the commissioner
32 under this chapter shall be subject to judicial review in
33 the Polk county district court by writ of certiorari on
34 petition of any aggrieved person filed within thirty days
35 after the taking of such final action or the entry of the

1 decision or order appealed from. The court may stay the
2 effect of the action, decision, or order pending the appeal.
3 The appeal shall be heard on the record before the commissioner
4 together with such additional evidence as any party may pro-
5 duce. The court shall hear the matter de novo and may modify,
6 affirm, or reverse the action, decision, or order appealed
7 from in whole or in part.

8 Sec. 6. Chapter five hundred fifteen B (515B), Code 1971,
9 is amended by adding the following new section:

10 "ACTIONS AGAINST THE ASSOCIATION. Actions against the
11 association shall be brought against it in its own name in
12 the Polk county district court. Service of original notice
13 in actions against the association may be made on any officer
14 thereof or upon the commissioner of insurance on its behalf.
15 The commissioner shall promptly transmit any notice so served
16 upon him to the association."

17 EXPLANATION

18 This bill restricts the application of the Iowa insurance
19 guaranty association act to nonlife companies and reciprocal
20 or interinsurance exchanges licensed under chapter 515 or
21 chapter 520, Code 1971, and provides for the holding of annual
22 or special meetings of the members of the association and
23 authorizes the filling of vacancies on the board by the re-
24 maining directors and provides the procedure for judicial
25 review of actions, decisions or orders of the commissioner
26 of insurance under the Act.

27
28
29
30
31
32
33
34
35

- 1 Amend House File 1089 as follows:
- 2 1. Page 2, lines 4 and 5, by striking the words
- 3 "on and after July 1, 1972".
- 4 2. Page 2, line 6, by adding after the word
- 5 "surety," the word "fidelity,".
- 6 3. Page 3, line 12, by adding a period after the
- 7 word "jurisdiction" and striking the words
- 8 "subsequent to July 1, 1970."
- 9 4. Page 3, by striking lines 13 through 18.
- 10 5. Page 4, line 25, by striking the period after
- 11 the word "directors" and adding ", subject to
- 12 the approval of the commissioner."

Filed - *Adopted 2-23-72 (633)*
February 10, 1972

By COMMITTEE ON COMMERCE

- 1 Amend House File 1089 as follows:
- 2 1. Page 3, line 31, by striking the word
- 3 "member".

Filed - *Adopted 2-23-72*
February 16, 1972

By ALT of Polk

- 1 Amend House File 1089 as amended and passed by the House,
- 2 Page 3, line 25, by inserting after the word "All" the following:
- 3 "member".

Filed - *w. c. 3/4/72 (864)*
March 10, 1972

By MOWRY

Senate