

Senate File 460 - Introduced

SENATE FILE 460
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1183)

A BILL FOR

1 An Act relating to private flood insurance, and including
2 future repeal provisions.

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

1 Section 1. NEW SECTION. 515J.1 Title.

2 This chapter shall be known and may be cited as the "*Private*
3 *Primary Residential Flood Insurance Model Act*".

4 Sec. 2. NEW SECTION. 515J.2 Purpose.

5 The purpose of this chapter is to provide for the protection
6 of lives and property from the peril of flood, and to encourage
7 a robust private primary residential flood insurance market
8 to provide consumer choices and alternatives to the existing
9 national flood insurance program.

10 Sec. 3. NEW SECTION. 515J.3 Intent.

11 It is the intent of the legislature that this chapter shall
12 not restrict the use of existing filings by an insurer, or
13 limit the ability of authorized insurers to provide flood
14 insurance coverage in this state of any type other than primary
15 residential flood insurance.

16 Sec. 4. NEW SECTION. 515J.4 Definitions.

17 For purposes of this chapter, unless the context otherwise
18 requires:

19 1. "*Authorized insurer*" means an insurer authorized by
20 the commissioner to write insurance under a certificate of
21 authority issued by the commissioner to transact insurance in
22 this state.

23 2. "*Commissioner*" means the commissioner of insurance.

24 3. "*FAIR plan*" means the plan to assure fair access to
25 insurance requirements established pursuant to section 515F.33.

26 4. "*National flood insurance program*" means the program of
27 flood insurance coverage and floodplain management administered
28 under the National Flood Insurance Act of 1968, as amended,
29 Pub. L. No. 90-48, 42 U.S.C. §4001 et seq., and applicable
30 regulations promulgated in 44 C.F.R.

31 5. "*Primary residential flood insurance*" means an insurance
32 policy covering losses from flood to residential property,
33 other than commercial property, written in this state by any
34 authorized insurer and that is not written to apply coverage in
35 excess of the coverage provided under another flood insurance

1 policy, including a policy issued by a private insurer or by
2 the national flood insurance program.

3 Sec. 5. NEW SECTION. 515J.5 Rates.

4 1. Rates established pursuant to this section for flood
5 insurance issued pursuant to this chapter shall not be subject
6 to prior approval by the commissioner. An insurer shall attest
7 that all rates are based on actuarial data, methodologies,
8 standards, and guidelines relating to floods that are not
9 excessive, inadequate, or unfairly discriminatory. The
10 commissioner may audit an insurer's flood rates to ensure
11 compliance with applicable state laws and administrative rules.

12 2. An insurer shall file with the commissioner all rates
13 and any changes to such rates which the insurer proposes to
14 use. A filing must state the proposed effective date, indicate
15 the character and extent of the coverage contemplated, include
16 the name of the insurer, and include the average statewide
17 percentage change in rates. Actuarial data with regard to
18 rates for flood coverage must be maintained by the insurer for
19 two years after the effective date of a rate change.

20 Sec. 6. NEW SECTION. 515J.6 Forms.

21 The commissioner may require, through the application of the
22 state's existing regulatory system, all of the following:

23 1. That an authorized insurer file all forms for primary
24 residential flood insurance coverage.

25 2. That an authorized insurer may issue an insurance policy,
26 contract, or endorsement.

27 3. That flood insurance on a residential property that
28 is located in a special flood hazard area designated by the
29 federal emergency management agency provides coverage that at
30 a minimum complies with 42 U.S.C. §4012a(b) and applicable
31 regulations in 84 FR 4953.

32 Sec. 7. NEW SECTION. 515J.7 Notice to commissioner.

33 At least thirty calendar days prior to writing primary
34 residential flood insurance in this state, an authorized
35 insurer shall comply with the following requirements:

1 1. Notify the commissioner of the insurer's intent to sell
2 primary residential flood insurance.

3 2. File a plan of operation and financial projections,
4 or material revisions to a plan of operation and financial
5 projections, with the commissioner.

6 Sec. 8. NEW SECTION. 515J.8 Notice to consumers — special
7 flood hazard areas.

8 1. Before placing an applicant whose property is located
9 in a special flood hazard area with private flood insurance,
10 an insurance producer, surplus lines broker, or an authorized
11 insurer upon the authorized insurer's election or if there
12 is not an insurance producer or surplus lines broker, shall
13 provide notice to the applicant of the following:

14 a. Of the existence of the national flood insurance program
15 if the applicant does not currently have flood coverage under
16 the national flood insurance program.

17 b. That flood coverage under the national flood insurance
18 program may be provided at a subsidized rate, and that the
19 full-risk rate for flood insurance may apply to the applicant's
20 property if the applicant later seeks to reinstate coverage
21 under the program.

22 2. This section is repealed effective thirty calendar
23 days after enactment of federal legislation mandating that an
24 insured may switch between private flood insurance and flood
25 insurance under the national flood insurance program without
26 risk of penalty. The commissioner shall notify the Iowa Code
27 editor upon the occurrence of this condition.

28 Sec. 9. NEW SECTION. 515J.9 Cancellation and nonrenewal —
29 notice.

30 1. Notice of cancellation or nonrenewal of private
31 residential flood insurance, other than for nonpayment of
32 premium, shall be made and provided to the policyholder
33 a minimum of forty-five days before the cancellation or
34 nonrenewal of the flood insurance, and in compliance with the
35 applicable provisions of sections 515.129A, 515.129B, and

1 515.129C.

2 2. Notwithstanding subsection 1, notice of cancellation
3 of private residential flood insurance for nonpayment of the
4 premium, or fraud or misrepresentation on the application
5 for the flood insurance, shall be made and provided to the
6 policyholder in compliance with the applicable provisions of
7 sections 515.129A, 515.129B, and 515.129C.

8 Sec. 10. NEW SECTION. 515J.10 **Surplus lines placements.**

9 Diligent search requirements pursuant to section 515I.3,
10 subsection 1, paragraph "c", shall not apply to flood coverage
11 under an insurance policy issued by an eligible surplus lines
12 insurer until such time that the commissioner certifies in a
13 commissioner's bulletin or by order that the admitted private
14 flood insurance market is adequate.

15 Sec. 11. NEW SECTION. 515J.11 **Property insurance market**
16 **participation.**

17 Writing private flood insurance shall not constitute
18 participation in the property insurance market for purposes of
19 determining membership in the FAIR plan pursuant to section
20 515F.34.

21 Sec. 12. NEW SECTION. 515J.12 **Certification — private**
22 **flood insurance.**

23 An insurer that writes flood insurance under this chapter
24 may certify that the insurance policy meets the definition of
25 "*private flood insurance*" as specified in 42 U.S.C. §4012a(b)(7)
26 and corresponding federal regulations.

27 Sec. 13. NEW SECTION. 515J.13 **Public records.**

28 Upon disposition, all rates, supplementary rate information,
29 and supporting information filed with the commissioner pursuant
30 to this chapter shall be a public record under chapter 22,
31 except any information marked by the insurer or the filer as
32 confidential, trade secret, or proprietary pursuant to section
33 22.7, and that is accepted by the commissioner.

34 Sec. 14. NEW SECTION. 515J.14 **Conflict of laws.**

35 Notwithstanding any law to the contrary, with respect to

1 regulation of flood coverage written in this state by an
2 authorized insurer, this chapter shall control.

3 Sec. 15. NEW SECTION. 515J.15 Rules.

4 The commissioner may adopt rules pursuant to chapter 17A as
5 necessary to administer this chapter.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill establishes the "Private Primary Residential Flood
10 Insurance Model Act" to provide for the protection of lives
11 and property from floods, and to encourage a private primary
12 residential flood insurance (primary flood) market to provide
13 consumer choices and alternatives to the existing national
14 flood insurance program (NFIP). "Primary flood" is defined in
15 the bill as an insurance policy covering losses from flood to
16 residential property, other than commercial property, written
17 in this state by any authorized insurer (insurer) and that
18 is not written to apply coverage in excess of the coverage
19 provided under another flood insurance policy, including
20 one issued by a private insurer or by the NFIP. "NFIP" and
21 "authorized insurer" are also defined in the bill.

22 The bill does not restrict the use of existing filings by
23 insurers, or limit the ability of insurers to provide flood
24 insurance coverage of any type other than primary flood.

25 Rates established for flood insurance are not subject to
26 prior approval by the commissioner of insurance (commissioner).
27 An insurer must attest that all rates are based on criteria
28 as detailed in the bill, and the commissioner may audit an
29 insurer's rates to ensure compliance. An insurer must file all
30 rates and any changes to rates as detailed in the bill.

31 The commissioner may require, through the application of the
32 state's existing regulatory system, that an insurer file all
33 forms for primary flood; that an insurer may issue an insurance
34 policy, contract, or endorsement; and that flood insurance on
35 a residential property located in a special flood hazard area

1 (hazard area) provides coverage that at a minimum complies with
2 42 U.S.C. §4012a(b) and applicable regulations.

3 At least 30 days prior to writing primary flood, an insurer
4 must notify the commissioner of the insurer's intent to sell
5 primary flood, and file a plan of operation and financial
6 projections.

7 Before placing an applicant whose property is located in
8 a hazard area with primary flood, an insurance producer,
9 surplus lines broker, or an insurer must provide notice to
10 the applicant of the existence of the NFIP if the applicant
11 does not currently have flood coverage under the NFIP; and
12 that coverage under the NFIP may be provided at a subsidized
13 rate and that the full-risk rate may apply to the applicant's
14 property if the applicant later seeks to reinstate coverage
15 under the NFIP. These requirements are repealed 30 days after
16 enactment of federal legislation mandating that an insured may
17 switch between private flood insurance and flood insurance
18 under the NFIP without penalty. The commissioner must notify
19 the Iowa Code editor if such legislation is enacted.

20 The requirements for the cancellation and nonrenewal of
21 primary flood are detailed in the bill. Diligent search
22 requirements do not apply to flood coverage under an insurance
23 policy issued by an eligible surplus lines insurer until the
24 commissioner certifies in a bulletin or an order that the
25 admitted private flood insurance market is adequate.

26 Writing flood insurance does not constitute participation
27 in the property insurance market for purposes of determining
28 membership in the FAIR plan. "FAIR plan" is defined in the
29 bill.

30 The bill permits an insurer that writes flood insurance
31 to certify that the policy meets the definition of "private
32 flood insurance" as specified in 42 U.S.C. §4012a(b)(7) and
33 corresponding federal regulations.

34 Upon disposition, all rates, supplementary rate information,
35 and supporting information filed with the commissioner are a

1 public record under Code chapter 22, except information marked
2 by the insurer or the filer as confidential, trade secret, or
3 proprietary, and that is accepted by the commissioner.

4 Notwithstanding any law to the contrary, with respect to
5 regulation of flood coverage written in this state by an
6 insurer, the bill controls.

7 The commissioner may adopt rules to administer the bill.