HOUSE FILE 583
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 165)

(As Amended and Passed by the House March 25, 2021)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

*[An Act relating to private flood insurance, and including future repeal provisions.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

515.129C.

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

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

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

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

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

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

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

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

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

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

Notwithstanding any law to the contrary, with respect to

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

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

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