

CHAPTER 1111

UNFAIR INSURANCE PRACTICES

H. F. 1141

AN ACT relating to unfair trade practices in the business of insurance and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred seven B point two (507B.2),
2 Code 1971, is amended to read as follows:

3 **507B.2 Definitions.** When used in this chapter:

4 1. "Person" shall mean any individual, corporation, association,
5 partnership, reciprocal exchange, interinsurer, fraternal beneficiary
6 association, and any other legal entity engaged in the business of
7 insurance, including agents, brokers and adjusters. "Person" shall
8 also mean any corporation operating under the provisions of chapter
9 514 and any benevolent association as defined and operated under
10 chapter 512A. For purposes of this Act, corporations operating
11 under the provisions of chapter 514 and chapter 512A shall be deemed
12 to be engaged in the business of insurance.

13 2. "Commissioner" shall mean the commissioner of insurance of
14 this state.

15 3. "Insurance policy" or "insurance contract" shall mean any con-
16 tract of insurance, indemnity, subscription, membership, suretyship,
17 or annuity issued, proposed for issuance, or intended for issuance
18 by any person.

1 SEC. 2. Section five hundred seven B point three (507B.3), Code
2 1971, is amended to read as follows:

3 **507B.3 Unfair competition ~~or~~ and unfair and deceptive acts or**
4 **practices prohibited.** No person shall engage in this state in any
5 trade practice which is defined in this chapter as, or determined pur-
6 suant to *section 507B.6* of this chapter to be, an unfair method of
7 competition, or an unfair or deceptive act or practice in the business
8 of insurance.

9 *The commissioner shall have power to examine and investigate*
10 *into the affairs of every person engaged in the business of insurance*
11 *in this state in order to determine whether such person has been or*
12 *is engaged in any unfair method of competition or in any unfair or*
13 *deceptive act or practice prohibited by this section.*

1 SEC. 3. Section five hundred seven B point four (507B.4), Code
2 1971, is amended by striking the section and inserting in lieu thereof
3 the following:

4 **507B.4 Unfair methods of competition and unfair or deceptive**
5 **acts or practices defined.** The following are hereby defined as unfair
6 methods of competition and unfair or deceptive acts or practices in
7 the business of insurance:

8 1. Misrepresentations and false advertising of insurance policies.
9 Making, issuing, circulating, or causing to be made, issued or circu-
10 lated, any estimate, illustration, circular, statement, sales presenta-
11 tion, omission, or comparison which does any of the following:

12 a. Misrepresents the benefits, advantages, conditions, or terms of
13 any insurance policy.

- 14 b. Misrepresents the dividends or share of the surplus to be re-
15 ceived on any insurance policy.
- 16 c. Makes any false or misleading statements as to the dividends or
17 share of surplus previously paid on any insurance policy.
- 18 d. Is misleading or is a misrepresentation as to the financial condi-
19 tion of any person, or as to the legal reserve system upon which any
20 life insurer operates.
- 21 e. Uses any name or title of any insurance policy or class of insur-
22 ance policies misrepresenting the true nature thereof.
- 23 f. Is a misrepresentation for the purpose of inducing or tending to
24 induce the lapse, forfeiture, exchange, conversion, or surrender of
25 any insurance policy.
- 26 g. Is a misrepresentation for the purpose of effecting a pledge or
27 assignment of or effecting a loan against any insurance policy.
- 28 h. Misrepresents any insurance policy as being shares of stock.
- 29 2. False information and advertising generally. Making, publish-
30 ing, disseminating, circulating or placing before the public, or caus-
31 ing, directly or indirectly, to be made, published, disseminated, circu-
32 lated, or placed before the public in a newspaper, magazine or other
33 publication, or in the form of a notice, circular, pamphlet, letter or
34 poster, or over any radio or television station, or in any other way,
35 an advertisement, announcement or statement containing any asser-
36 tion, representation, or statement with respect to the business of
37 insurance or with respect to any person in the conduct of his insur-
38 ance business, which is untrue, deceptive or misleading.
- 39 3. Defamation. Making, publishing, disseminating, or circulating,
40 directly or indirectly, or aiding, abetting or encouraging the making,
41 publishing, disseminating, or circulating of any oral or written state-
42 ment or any pamphlet, circular, article or literature which is false,
43 or maliciously critical of or derogatory to the financial condition of
44 any person, and which is calculated to injure such person.
- 45 4. Boycott, coercion and intimidation. Entering into any agree-
46 ment to commit, or by any concerted action committing, any act of
47 boycott, coercion or intimidation resulting in or tending to result in
48 unreasonable restraint of, or monopoly in, the business of insurance.
- 49 5. False statements and entries.
- 50 a. Knowingly filing with any supervisory or other public official,
51 or knowingly making, publishing, disseminating, circulating or deliv-
52 ering to any person, or placing before the public, or knowingly caus-
53 ing directly or indirectly, to be made, published, disseminated, circu-
54 lated, delivered to any person, or placed before the public, any false
55 material statement of fact as to the financial condition of a person.
- 56 b. Knowingly making any false entry of a material fact in any
57 book, report or statement of any person or knowingly omitting to
58 make a true entry of any material fact pertaining to the business of
59 such person in any book, report or statement of such person.
- 60 6. Stock operations and advisory board contracts. Issuing or deliv-
61 ering or permitting agents, officers or employees to issue or deliver,
62 agency company stock or other capital stock, or benefit certificates
63 or shares in any common law corporation, or securities or any special
64 or advisory board contracts or other contracts of any kind promising
65 returns and profits as an inducement to insurance.

66 7. Unfair discrimination.

67 a. Making or permitting any unfair discrimination between indi-
68 viduals of the same class and equal expectation of life in the rates
69 charged for any contract of life insurance or of life annuity or in the
70 dividends or other benefits payable thereon, or in any other of the
71 terms and conditions of such contract.

72 b. Making or permitting any unfair discrimination between in-
73 sureds of the same class for essentially the same hazard in the amount
74 of premium, policy fees, or rates charged for any policy or contract
75 of insurance other than life or in the benefits payable thereunder, or
76 in any of the terms or conditions of such contract, or in any other
77 manner whatever.

78 8. Rebates.

79 a. Except as otherwise expressly provided by law, knowingly per-
80 mitting or offering to make or making any contract of life insurance,
81 life annuity or accident and health insurance, or agreement as to
82 such contract other than as plainly expressed in the contract issued
83 thereon, or paying or allowing, or giving or offering to pay, allow,
84 or give, directly or indirectly, as inducement to such insurance, or
85 annuity, any rebate of premiums payable on the contract, or any
86 special favor or advantage in the dividends or other benefits thereon,
87 or any valuable consideration or inducement whatever not specified
88 in the contract; or giving, or selling, or purchasing or offering to
89 give, sell, or purchase as inducement to such insurance or annuity
90 or in connection therewith, any stocks, bonds, or other securities of
91 any insurance company or other corporation, association, or partner-
92 ship, or any dividends or profits accrued thereon, or any thing of
93 value whatsoever not specified in the contract.

94 b. Nothing in subsection seven (7) or paragraph a of this subsec-
95 tion shall be construed as including within the definition of discrimi-
96 nation or rebates any of the following practices:

97 (1) In the case of any contract of life insurance or life annuity,
98 paying bonuses to policyholders or otherwise rebating their pre-
99 miums in whole or in part out of surplus accumulated from nonpar-
100 ticipating insurance, provided that any such bonuses or rebatement
101 of premiums shall be fair and equitable to policyholders and for the
102 best interests of the company and its policyholders.

103 (2) In the case of life insurance policies issued on the industrial
104 debit plan, making allowance to policyholders who have continuously
105 for a specified period made premium payments directly to an office
106 of the insurer in an amount which fairly represents the saving in
107 collection expenses.

108 (3) Readjustment of the rate of premium for a group insurance
109 policy based on the loss or expense experienced thereunder, at the
110 end of the first or any subsequent policy year of insurance there-
111 under, which may be made retroactive only for such policy year.

112 9. Unfair claim settlement practices. Committing or performing
113 with such frequency as to indicate a general business practice any of
114 the following:

115 a. Misrepresenting pertinent facts or insurance policy provisions
116 relating to coverages of issue.

117 b. Failing to acknowledge and act reasonably promptly upon com-
118 munications with respect to claims arising under insurance policies.

- 119 c. Failing to adopt and implement reasonable standards for the
 120 prompt investigation of claims arising under insurance policies.
 121 d. Refusing to pay claims without conducting a reasonable inves-
 122 tigation based upon all available information.
 123 e. Failing to affirm or deny coverage of claims within a reasonable
 124 time after proof of loss statements have been completed.
 125 f. Not attempting in good faith to effectuate prompt, fair and
 126 equitable settlements of claims in which liability has become reason-
 127 ably clear.
 128 g. Compelling insureds to institute litigation to recover amounts
 129 due under an insurance policy by offering substantially less than the
 130 amounts ultimately recovered in actions brought by such insureds.
 131 h. Attempting to settle a claim for less than the amount to which
 132 a reasonable man would have believed he was entitled by reference to
 133 written or printed advertising material accompanying or made part
 134 of an application.
 135 i. Attempting to settle claims on the basis of an application which
 136 was altered without notice to, or knowledge or consent of the insured.
 137 j. Making claims payments to insureds or beneficiaries not accom-
 138 panied by a statement setting forth the coverage under which pay-
 139 ments are being made.
 140 k. Making known to insureds or claimants a policy of appealing
 141 from arbitration awards in favor of insureds or claimants for the pur-
 142 pose of compelling them to accept settlements or compromises less
 143 than the amount awarded in arbitration.
 144 l. Delaying the investigation or payment of claims by requiring an
 145 insured, claimant, or the physician of either to submit a preliminary
 146 claim report and then requiring the subsequent submission of formal
 147 proof of loss forms, both of which submissions contain substantially
 148 the same information.
 149 m. Failing to promptly settle claims, where liability has become
 150 reasonably clear, under one portion of the insurance policy coverage
 151 in order to influence settlements under other portions of the insur-
 152 ance policy coverage.
 153 n. Failing to promptly provide a reasonable explanation of the
 154 basis in the insurance policy in relation to the facts or applicable law
 155 for denial of a claim or for the offer of a compromise settlement.
 156 10. Misrepresentation in insurance applications. Making false or
 157 fraudulent statements or representations on or relative to an appli-
 158 cation for an insurance policy, for the purpose of obtaining a fee,
 159 commission, money, or other benefit from any insurer, agent, broker,
 160 or individual.
 161 11. Any violation of section five hundred fifteen A point sixteen
 162 (515A.16) of the Code.

1 SEC. 4. Section five hundred seven B point five (507B.5), Code
 2 1971, is amended by striking the section and inserting in lieu thereof
 3 the following:

4 **507B.5 Favored agent or insurer—coercion of debtors.**

5 1. No person may do any of the following:

- 6 a. Require, as a condition precedent to the lending of money or
 7 extension of credit, or any renewal thereof, that the person to
 8 whom such money or credit is extended or whose obligation the
 9 creditor is to acquire or finance, negotiate any policy or contract of

10 insurance through a particular insurer or group of insurers or agent
11 or broker or group of agents or brokers.

12 b. Unreasonably disapprove the insurance policy provided by a
13 borrower for the protection of the property securing the credit or
14 lien.

15 c. Require directly or indirectly that any borrower, mortgagor,
16 purchaser, insurer, broker, or agent pay a separate charge, in con-
17 nection with the handling of any insurance policy required as secu-
18 rity for a loan on real estate, or pay a separate charge to substitute
19 the insurance policy of one insurer for that of another.

20 d. Use or disclose information resulting from a requirement that
21 a borrower, mortgagor or purchaser furnish insurance of any kind
22 on real property being conveyed or used as collateral security to a
23 loan, when such information is to the advantage of the mortgagee,
24 vendor, or lender, or is to the detriment of the borrower, mortgagor,
25 purchaser, insurer, or the agent or broker complying with such a
26 requirement.

27 2. Subsection one (1), paragraph c of this section does not include
28 the interest which may be charged on premium loans or premium
29 advancements in accordance with the security instrument.

30 3. For purposes of subsection one (1), paragraph b of this sec-
31 tion, such disapproval shall be deemed unreasonable if it is not based
32 solely on reasonable standards uniformly applied, relating to the
33 extent of coverage required and the financial soundness and the serv-
34 ices of an insurer. Such standards shall not discriminate against
35 any particular type of insurer, nor shall such standards call for the
36 disapproval of an insurance policy because such policy contains cov-
37 erage in addition to that required.

38 4. If a violation of this section is found, the person in violation
39 shall be subject to the same procedures and penalties as are appli-
40 cable to other provisions of this chapter.

41 5. For purposes of this section, "person" includes any individual,
42 corporation, association, partnership, or other legal entity.

1 SEC. 5. Section five hundred seven B point six (507B.6), subsec-
2 tion one (1), Code 1971, is amended to read as follows:

3 1. Whenever the commissioner shall have reason to believe that
4 any such person has been engaged or is engaging in this state in any
5 unfair method of competition or any unfair or deceptive act or prac-
6 tice *whether or not* defined in section 507B.4 or 507B.5, and that a
7 proceeding by him in respect thereto would be to the interest of the
8 public, he shall issue and serve upon such person a statement of the
9 charges in that respect and a notice of a hearing thereon to be held
10 at a time and place fixed in the notice, which shall not be less than
11 ten days after the date of the service thereof.

1 SEC. 6. Section five hundred seven B point seven (507B.7), sub-
2 section one (1), Code 1971, is amended to read as follows:

3 1. If, after such hearing, the commissioner shall determine that
4 the *person charged has engaged in an unfair* method of competition
5 *or the act or practice in question is defined in section 507B.4 and*
6 *that the person complained of has engaged in such method of com-*
7 *petition, act or practice in violation of this chapter or an unfair or*
8 *deceptive act or practice*, he shall reduce his findings to writing and

9 shall issue and cause to be served upon the person charged with the
 10 violation *a copy of such findings*, an order requiring such person to
 11 cease and desist from engaging in such method of competition, act
 12 or practice *and if the act or practice is a violation of section 507B.4*
 13 *or 507B.5, the commissioner may at his discretion order any one or*
 14 *more of the following:*

15 *a. Payment of a monetary penalty of not more than one thousand*
 16 *dollars for each and every act or violation, but not to exceed an*
 17 *aggregate of ten thousand dollars, unless the person knew or rea-*
 18 *sonably should have known he was in violation of section five hun-*
 19 *dred seven B point four (507B.4) or five hundred seven B point five*
 20 *(507B.5) of the Code, in which case the penalty shall be not more*
 21 *than five thousand dollars for each and every act or violation, but*
 22 *not to exceed an aggregate penalty of fifty thousand dollars in any*
 23 *one six month period. The commissioner shall, if he finds the vio-*
 24 *lations of sections five hundred seven B point four (507B.4) or five*
 25 *hundred seven B point five (507B.5) of the Code were directed, en-*
 26 *couraged, condoned, ignored, or ratified by the employer of such per-*
 27 *son, assess such fine to the employer and not such person.*

28 *b. Suspension or revocation of the license of a person as defined*
 29 *in section five hundred seven B point two (507B.2), subsection one*
 30 *(1) of the Code, if he knew or reasonably should have known he was*
 31 *in violation of section five hundred seven B point four (507B.4) or*
 32 *section five hundred seven B point five (507B.5) of the Code.*

1 SEC. 7. Section five hundred seven B point eight (507B.8), sub-
 2 sections one (1) and three (3), Code 1971, are amended to read as
 3 follows:

4 1. Any person ~~required by subject~~ to an order of the commis-
 5 sioner under section 507B.7 ~~to cease and desist from engaging in any~~
 6 ~~unfair method of competition or any unfair or deceptive act or prac-~~
 7 ~~tice defined in sections 507B.3 and 507B.4 hereof, or section 507B.11~~
 8 may obtain a review of such order by filing in the district court of
 9 Polk county, within ten days from the date of the service of such
 10 order, a written petition, duly sworn to, praying that the order of
 11 the commissioner be set aside, and stating the specific grounds
 12 thereof. If the court shall find that the grounds thus stated, if true,
 13 might reasonably justify the modification of the commissioner's
 14 order, it shall direct that a copy of such petition be forthwith served
 15 upon the commissioner and thereupon the commissioner forthwith
 16 shall certify and file in such court a transcript of the entire record
 17 in the proceeding, including all the evidence taken and the report
 18 and order of the commissioner. Upon such filing of the petition and
 19 transcript such court shall have jurisdiction of the proceeding and
 20 of the question determined therein, shall determine whether the filing
 21 of such petition shall operate as a stay of such order of the commis-
 22 sioner, and shall have power to make and enter upon the pleadings,
 23 evidence, and proceedings set forth in such transcript a decree modi-
 24 fying, affirming or reversing the order of the commissioner, in whole
 25 or in part. The findings of the commissioner as to the facts, if sup-
 26 ported by reasonable evidence, shall be conclusive.

27 3. ~~A cease and desist~~ An order issued by the commissioner under
 28 section 507B.7 shall become final:

29 a. Upon the expiration of the time allowed for filing a petition for
30 review if no such petition has been duly filed within such time; ex-
31 cept that the commissioner may thereafter modify or set aside his
32 order to the extent provided in section 507B.7, subsection 2; or

33 b. Upon the final decision of the court if the court directs that the
34 order of the commissioner be affirmed or the petition for review dis-
35 missed.

1 SEC. 8. Section five hundred seven B point ten (507B.10), Code
2 1971, is amended to read as follows:

3 507B.10 **Judicial review by intervenor.** *If after any hearing*
4 *under section 507B.7 or section 507B.11* the report of the commis-
5 sioner does not charge a violation of this chapter, then any inter-
6 venor in the proceedings may within ten days after the service of
7 such report, cause a petition for writ of certiorari to be filed in the
8 district court of Polk county for a review of such report. Upon such
9 review, the court shall have authority to issue appropriate orders
10 and decrees in connection therewith, including, if the court finds that
11 it is to the interest of the public, orders enjoining and restraining
12 the continuance of any method of competition, act or practice which
13 it finds, notwithstanding such report of the commissioner, constitutes
14 a violation of this chapter *and containing penalties pursuant to sec-*
15 *tion 507B.7.*

1 SEC. 9. Section five hundred seven B point eleven (507B.11),
2 Code 1971, is amended by striking the section and inserting in lieu
3 thereof the following:

4 507B.11 **Penalty.** Any person who violates a cease and desist
5 order of the commissioner under section five hundred seven B point
6 seven (507B.7) of the Code, and while such order is in effect, may
7 after notice and hearing and upon order of the commissioner be sub-
8 ject at the discretion of the commissioner to any one or more of
9 the following:

10 1. A monetary penalty of not more than ten thousand dollars for
11 each and every act or violation.

12 2. Suspension or revocation of such person's license.

1 SEC. 10. Section five hundred seven B point twelve (507B.12),
2 Code 1971, is amended by striking the section and inserting in lieu
3 thereof the following:

4 507B.12 **Regulations.** The commissioner may, after notice and
5 hearing, promulgate reasonable rules and regulations, as are neces-
6 sary or proper to identify specific methods of competition or acts or
7 practices which are prohibited by section five hundred seven B point
8 four (507B.4) or five hundred seven B point five (507B.5) of the
9 Code, but the regulations shall not enlarge upon or extend the provi-
10 sions of such sections. Such regulations shall be subject to review
11 in accordance with chapter seventeen A (17A) of the Code.

12 The powers vested in the commissioner by this chapter shall be
13 additional to any other powers to enforce any penalties, fines or for-
14 feitures authorized by law with respect to the methods, acts and
15 practices hereby declared to be unfair or deceptive.

1 SEC. 11. Section five hundred seven B point nine (507B.9), Code
2 1971, is repealed.

Approved April 21, 1972.

CHAPTER 1112

DEFERRED COMPENSATION FOR GOVERNMENTAL EMPLOYEES

S. F. 470

AN ACT relating to deferred compensation for governmental employees.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapter five hundred nine A (509A), Code 1971, is
2 amended by adding the following new section:

3 "At the request of an employee the governing body shall by con-
4 tractual agreement acquire an individual or group life insurance con-
5 tract, annuity contract, security or any other deferred payment con-
6 tract for the purpose of funding a deferred compensation program for
7 an employee, from any company the employee may choose that is
8 authorized to do business in this state and from any life underwriter
9 duly licensed by this state or from any securities dealer or salesman
10 registered in this state to contract business in this state. The deferred
11 compensation program shall be administered so that the state comp-
12 troller or his designees may remit one sum for the entire program
13 according to a single billing.

14 The provisions of this Act shall be in addition to any benefit pro-
15 gram provided by law for any employees of the state or any of its
16 political subdivisions."

Approved April 22, 1972.

CHAPTER 1113

IOWA INSURANCE GUARANTY ASSOCIATION

H. F. 1089

AN ACT relating to the Iowa Insurance Guaranty Association.

Be It Enacted by the General Assembly of the State of Iowa:

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

3 **515B.1 Scope.** This chapter shall apply to all kinds of direct
4 insurance *authorized to be written by an insurer licensed to operate*
5 *in this state under chapter 515 or chapter 520, except life, title, surety,*