

## CHAPTER 1045

### INSURANCE REGULATION – MISCELLANEOUS PROVISIONS

H.F. 2310

**AN ACT** relating to the regulation of insurance and amending provisions providing for setoff of premium, fraudulent submissions to insurers, availability of certain information to insurers, length of term of the board of directors of an insurer, notice of cancellation, delivery of certain policies in this state, and making a penalty applicable.

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

Section 1. Section 507C.30, subsection 2, Code 1995, is amended to read as follows:

2. a. A setoff ~~or counterclaim~~ shall not be allowed in favor of a person where any of the following are found:

~~a.~~ (1) At the date of the filing of a petition for liquidation, the obligation of the insurer to the person would not entitle the person to share as a claimant in the assets of the insurer.

~~b.~~ (2) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff.

~~c.~~ (3) The obligation of the insurer is owed to the affiliate of such person, or any other entity or association other than the person.

~~d.~~ (4) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution.

~~e.~~ (5) The obligation of the person is to pay earned premiums ~~whether earned or un-~~ earned to the insurer.

b. Nothing in paragraph "a", however, restricts the right of a person to set off premium due to or from the insurer pursuant to a reinsurance contract.

Sec. 2. Section 507E.3, subsection 2, Code Supplement 1995, is amended to read as follows:

2. A person commits a class "D" felony if the person, with the intent to defraud an insurer, does ~~either~~ any of the following:

a. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

b. Assists, abets, solicits, or conspires with another to present or cause to be presented to an insurer, any written document or oral statement, including a computer-generated document, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

c. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in, an application for insurance coverage, knowing that such document or statement contains false information concerning a material fact.

Sec. 3. Section 507E.7, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. An authorized representative of an insurer.

Sec. 4. Section 515.29, Code 1995, is amended to read as follows:

515.29 CLASSIFICATION OF DIRECTORS.

A company may in its articles of incorporation provide that the board of directors be divided into classes holding for a term of not to exceed ~~three~~ five years and providing for the election of the members of one class at each annual meeting.

Sec. 5. Section 515.51, Code 1995, is amended to read as follows:

515.51 EXECUTION OF POLICIES.

All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of ~~said the~~ company, but shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and be attested ~~to~~ by the secretary ~~thereof of the company~~. A policy or contract authorized by this chapter shall not be delivered in this state unless it is an individual policy or contract form.

Sec. 6. Section 515D.4, Code 1995, is amended to read as follows:

515D.4 NOTICE OF CANCELLATION – REASONS.

~~1. No A policy may shall not~~ be canceled except by notice to the insured as provided in this chapter. ~~No notice~~ Notice of cancellation of a policy ~~shall be is not~~ effective unless it is based on one or more of the following reasons:

~~1. a.~~ a. Nonpayment of premium.

~~2. b.~~ b. Nonpayment of dues to an association or organization other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing insurance in force and the dues payment requirement was in effect prior to January 1, 1969.

~~3. c.~~ c. Fraud or material misrepresentation affecting the policy or the presentation of a claim.

~~4. d.~~ d. Violation of terms or conditions of the policy.

~~5. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the one hundred eighty days immediately preceding its effective date.~~

1A. Coverage under a policy shall not be cancelled except by notice to the insured as provided in this chapter. Notice of cancellation of coverage under a policy is not effective unless it is based on one or more of the following reasons:

a. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the one hundred eighty days immediately preceding its effective date.

b. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has during the term of the policy engaged in a competitive speed contest while operating an automobile insured under the policy.

c. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy, during the thirty-six months immediately preceding the notice of cancellation or nonrenewal, has been convicted of or forfeited bail for any of the following:

(1) Criminal negligence resulting in death, homicide, or assault and arising out of the operation of a motor vehicle.

(2) Operating a motor vehicle while intoxicated or while under the influence of a drug.

(3) A violation of section 321.261.

2. This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

3. During the policy period ~~no, a~~ modification of automobile physical damage coverage, ~~except other than~~ coverage for loss caused by collision, ~~whereby where~~ provision is made for the application of a deductible amount not exceeding one hundred dollars, shall ~~not~~ be deemed a cancellation of the coverage or of the policy.

**CHAPTER 1046****INSURANCE REGULATION – RISK-BASED CAPITAL REQUIREMENTS***S.F. 2395*

**AN ACT** relating to the regulation of insurance companies for purposes of solvency and establishing a measure for the risk-based capital of an insurer, and providing penalties.

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

Section 1. Section 508.5, Code Supplement 1995, is amended to read as follows:  
508.5 CAPITAL AND SURPLUS REQUIRED.

1. A stock life insurance company shall not be authorized to transact business under this chapter with less than two million five hundred thousand dollars capital stock fully paid for in cash and two million five hundred thousand dollars of surplus paid in cash or invested as provided by law. A stock life insurance company shall not increase its capital stock unless the amount of the increase is fully paid in cash. The stock shall be divided into shares of not less than one dollar par value each. A stock life insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital and surplus requirements mandated by this section.

2. Notwithstanding subsection 1, a stock life insurance company, or any other life insurance company authorized to transact business under this chapter shall comply with the minimum capital and surplus requirements of this chapter or chapter 521E, whichever is greater.

Sec. 2. Section 508.9, Code Supplement 1995, is amended to read as follows:  
508.9 MUTUAL COMPANIES – CONDITIONS.

1. Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of five million dollars shall be made with the commissioner, which shall constitute a security fund for the protection of policyholders. The contribution to the security fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The security fund may be repaid to the contributors to the security fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of five million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter. A mutual insurance company authorized to do business in Iowa that undergoes a change of control as defined in chapter 521A shall maintain the minimum surplus requirement mandated by this section.

2. Notwithstanding subsection 1, a mutual insurance company authorized to transact business under this chapter shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

Sec. 3. Section 515.8, Code Supplement 1995, is amended to read as follows:  
515.8 PAID-UP CAPITAL REQUIRED.

1. An insurance company other than a life insurance company shall not be incorporated to transact business upon the stock plan with less than two million five hundred