

department. However, this subsection shall not require vaccination if the feeder swine originate from a qualified negative herd or a qualified differentiable negative herd and are introduced to a qualified negative herd or a qualified differentiable negative herd.

Sec. 11. Section 166D.12, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. Other species of livestock must ~~not be held~~ kept separate and apart from swine from known infected herds at the concentration point.

Sec. 12. Section 166D.13, subsection 1, Code 1997, is amended to read as follows:

1. Swine from ~~a quarantined~~ an infected herd shall not be displayed or shown at any exhibition.

Approved April 6, 1998

CHAPTER 1057

INSURANCE COMPANIES — REGULATION AND OPERATION — MISCELLANEOUS PROVISIONS

S.F. 2397

AN ACT relating to the operation and regulation of certain insurance companies, miscellaneous provisions relating to small group health care coverage, the ability of certain insurers to bring an action in certain instances, and the elimination of countersigning resident agent provisions.

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

Section 1. NEW SECTION. 432.13 STATUTE OF LIMITATIONS.

Within five years after the tax return is filed or within five years after the tax return became due, whichever is later, the commissioner of insurance shall examine the return and determine the tax. An assessment or a claim for credit must be made within five calendar years after the annual tax filing is made. For a five-year period preceding the current calendar year, a company may apply for a credit, or the commissioner may make an assessment, as appropriate. The period of examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

Sec. 2. Section 507C.32, Code 1997, is amended to read as follows:
507C.32 REINSURER'S LIABILITY.

1. Notwithstanding a provision in the reinsurance contract or other agreement, the amount recoverable by the liquidator from reinsurers shall not be reduced as a result of delinquency proceedings. Payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to the insurer's estate except when ~~the reinsurance contract provided for direct coverage of a named insured and the payment was made in discharge of that obligation~~ either of the following applies:

a. The contract or other written agreement specifically provides for another payee of the reinsurance in the event of the insolvency of the ceding insurer.

b. The assuming insurer, with the consent of the direct insured, has assumed the policy

obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under the policies and in substitution for the obligations of the ceding insurer to the payees.

Sec. 3. Section 508.5, subsection 1, Code 1997, is amended to read as follows:

1. A stock life insurance company shall not be authorized to transact business under this chapter with less than ~~two five million five hundred thousand~~ two million five hundred thousand dollars ~~capital stock fully paid for in cash and two million five hundred thousand dollars of capital and~~ capital and 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.

Sec. 4. NEW SECTION. 508.31A FUNDING AGREEMENTS.

1. A life insurance company organized under this chapter may issue funding agreements. The issuance of a funding agreement under this section is deemed to be doing insurance business. For purposes of this section, "funding agreement" means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies. A funding agreement does not constitute life insurance, an annuity, or other insurance authorized by section 508.29, and does not constitute a security as defined in section 502.102.

2. a. Funding agreements may be issued to the following:

(1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of such business.

(2) A person for the purpose of funding any of the following:

(a) Benefits under an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., maintained in the United States or in a foreign country.

(b) Activities of an organization exempt from taxation pursuant to section 501c of the Internal Revenue Code, or any similar organization in any foreign country.

(c) A program of the United States government, another state government or political subdivision of such state, or of a foreign country, or any agency or instrumentality of any such government, political subdivision, or foreign country.

(d) An agreement providing for periodic payments in satisfaction of a claim.

(e) A program of an institution which has assets in excess of twenty-five million dollars.

b. A funding agreement shall be for a total amount of not less than one million dollars.

c. An amount under a funding agreement shall not be guaranteed or credited except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. Such funding agreements shall not provide for payments to or by the insurer based on mortality or morbidity contingencies.

d. Amounts paid to the insurer pursuant to a funding agreement, and proceeds applied under optional modes of settlement, may be allocated by the insurer to one or more separate accounts pursuant to section 508A.1.

3. A funding agreement is a class 3 claim under section 507C.42, subsection 3.

4. The commissioner may adopt rules to implement funding agreements.

Sec. 5. Section 508A.1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A domestic life insurance company organized under chapter 508 may establish one or more separate accounts, and may allocate ~~thereto~~ to such accounts amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities, and benefits incidental ~~thereto~~ to such life insurance or annuities, payable in fixed or variable amounts or both, and may hold and accumulate funds pursuant to funding agreements, subject to the following:

Sec. 6. Section 508C.3, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. A funding agreement under section 508.31A.

Sec. 7. Section 508C.5, subsection 13, Code 1997, is amended to read as follows:

13. "Unallocated annuity contract" means a guaranteed investment contract, deposit administration contract, ~~unallocated funding agreement~~, or any other annuity contract which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such a contract or certificate.

Sec. 8. Section 513B.2, subsection 8, Code Supplement 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. A short-term limited duration policy.

Sec. 9. Section 515.8, subsection 1, Code 1997, is amended to read as follows:

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 five million five hundred thousand~~ two million five hundred thousand dollars of capital and surplus, the entire amount of which shall be fully paid up in cash and invested as provided by law. An insurance company other than a life insurance company shall not increase its capital stock unless the amount of the increase is fully paid up in cash. ~~The stock shall be divided into shares of not less than one dollar each.~~ An 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.

Sec. 10. NEW SECTION. 515A.15B APPLICANTS UNABLE TO PROCURE INSURANCE THROUGH ORDINARY METHODS.

An agreement among licensed insurers to offer workers' compensation insurance for applicants unable to procure workers' compensation insurance through ordinary methods shall be administered by a rating organization licensed under this chapter.

Sec. 11. Section 515E.7, Code 1997, is amended to read as follows:

515E.7 PURCHASING GROUPS EXEMPTIONS.

A purchasing group which meets the criteria established under the federal Act is exempt from any law of this state relating to the creation of groups for the purchase of insurance, the prohibition of group purchasing, ~~the countersignature requirement as provided in sections 515.22 and 515.52,~~ or any law that would discriminate against a purchasing group or its members. An insurer is exempt from any law of this state which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group is subject to all other applicable laws.

Sec. 12. NEW SECTION. 516A.5 TOLLING OF STATUTE.

Commencement of an action by an insured under a provision included in an automobile liability or motor vehicle liability insurance policy pursuant to section 516A.1 tolls the statute of limitations for purposes of the insurer's subrogated cause of action against a party, as defined in section 668.2. Section 668.8 is also applicable to an action commenced as described in this section.

Sec. 13. Sections 515.10, 515.22, 515.52 through 515.61, and 515E.6, Code 1997, are repealed.

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