CHAPTER 515F

CASUALTY INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 515C.7, 669.14, 670.7

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SUBCHAPTER I

REGULATION OF RATES

515F.1 Purpose of chapter.

1. The purpose of this chapter is to promote the public welfare by regulating insurance rates so they are not excessive, inadequate, or unfairly discriminatory, and to authorize and regulate limited cooperative action among insurers in ratemaking-related activities and in other matters within the scope of this chapter. This chapter is not intended to:

a. Prohibit or discourage reasonable competition.

b. Prohibit or encourage, except to the extent necessary to accomplish its purpose, uniformity in rating systems, rating plans, or practices.

2. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

90 Acts, ch 1234, §45
Referred to in §515F.23

515F.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Advisory organization"* means an entity, including its affiliates or subsidiaries, which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers, and which assists insurers in ratemaking-related activities such as enumerated in sections 515F.10 and 515F.11. Two or more insurers having a common

ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

2. *"Commercial risk"* means any kind of risk which is not a personal risk.

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

4. *"Developed losses"* means losses, including loss adjustment expenses, adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss, including loss adjustment expense, payments.

5. *"Expenses"* means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses, and fees.

6. *"Joint underwriting"* means a voluntary arrangement established on an ad hoc basis to provide insurance coverage for a commercial risk pursuant to which two or more insurers jointly contract with the insured at a price and under policy terms agreed upon between the insurers.

7. *"Loss trending"* means a procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

8. *"Personal risk"* means insurance covering homeowners, tenants, private passenger nonfleet automobiles, and mobile homes, and other property and casualty insurance for personal, family, or household needs.

9. *"Pool"* means a voluntary arrangement, established on an ongoing basis, pursuant to which two or more insurers participate in the sharing of risks on a predetermined basis. The pool may operate through an association, syndicate, or other pooling agreement.

10. *"Prospective loss costs"* means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

11. *"Rate"* means the cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premium.

12. *"Residual market mechanism"* means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be offered to applicants who are unable to obtain insurance through ordinary methods.

13. *"Supplementary rating information"* includes a manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, underwriting rule, statistical plan, and any other similar information needed to determine the applicable rate in effect or to be in effect.

14. *"Supporting information"* means the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer, the interpretation of any other data relied upon by the filer, descriptions of methods used in making the rates, and any other information required by the commissioner to be filed.

90 Acts, ch 1234, §46; 2018 Acts, ch 1041, §104; 2021 Acts, ch 181, §24, 25
Referred to in §515F.23

515F.3 Scope of chapter.

1. This chapter applies to all forms of casualty insurance, including fidelity, surety, and guaranty bonds, including but not limited to all forms of fire and inland marine insurance, and to any combination of any of the foregoing, on risks or operations located in this state.

2. Except as otherwise provided in specific subchapters of this chapter, this chapter does not apply to:

a. Reinsurance, other than statutorily authorized joint reinsurance mechanisms to the extent stated in section 515F.13.

b. Accident and health insurance.

c. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection

and indemnity, or other risks commonly insured under marine, excluding inland marine insurance, as determined by the commissioner.

d. Workers' compensation insurance.

e. Surplus lines insurance.

f. Insurance written by a county or state mutual insurance association as provided in chapter 518 or 518A.

90 Acts, ch 1234, §47; 2000 Acts, ch 1023, §32; 2002 Acts, ch 1111, §24; 2003 Acts, ch 119, §10, 11; 2012 Acts, ch 1023, §157; 2017 Acts, ch 54, §76

Referred to in §515F.21, 515F.23

515F.4 Rate standards.

Rates shall be made in accordance with the following:

1. Rates shall not be excessive, inadequate, or unfairly discriminatory.

2. Due consideration may be given to past and prospective loss experience within and outside this state; to the conflagration and catastrophe hazards; to a reasonable margin for profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses both within and outside this state; and to all other relevant factors within and outside this state; and in the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which experience data is available.

3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. A risk classification, however, shall not be based upon race, creed, national origin, or the religion of the insured.

4. The expense provisions included in the rates to be used by an insurer shall reflect to the extent possible the operating methods of the insurer and its anticipated expenses.

5. The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to investment income attributable to unearned premium and loss reserves.

90 Acts, ch 1234, §48; 2006 Acts, ch 1117, §73

Referred to in §515F.5, 515F.15, 515F.23, 515F.24, 515F.25

515F.4A Reasonableness of benefits in relation to premium charged.

Benefits provided by credit personal property insurance shall be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty percent or such lower loss ratio as designated by the commissioner to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit.

2001 Acts, ch 69, §34, 39

Referred to in §515F.23

515F.5 Rate filings.

1. *a.* An insurer shall file with the commissioner, except as to inland marine risks which are not written according to manual rates or rating plans, every manual, minimum premium, class rate, rating schedule, rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use. A filing shall state its proposed effective date, and shall indicate the character and extent of the coverage contemplated.

b. An insurer shall file or incorporate by reference to material which has been approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The information furnished in support of a filing may include or consist of a reference to any of the following:

(1) The experience or judgment of the insurer or rating information filed by the advisory organization on behalf of the insurer as permitted by section 515F.11.

(2) An interpretation of any statistical data the insurer relies upon.

(3) The experience of other insurers or rating advisory organizations.

(4) Any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

c. When a filing is not accompanied by the information upon which the insurer supports the filing, the commissioner may require the insurer to furnish the supporting information and the waiting period commences on the date the information is furnished. Until the required information is furnished, the filing shall not be deemed complete or filed or available for use by the insurer. If the requested information is not furnished within a reasonable time period, the filing may be returned to the insurer as not filed and not available for use.

d. After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss and expense information. If an insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may supplement its experience with information filed with the commissioner by an advisory organization.

e. Insurers using the services of an advisory organization shall, at the request of the commissioner, provide with a rate filing, a description of the rationale for that use, including its own information and method of using the advisory organization's information.

2. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

3. Subject to the exception in subsection 4, a filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if written notice is given within the waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or an extension of the waiting period. A filing is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or an extension of the waiting period.

4. Under rules adopted under chapter 17A, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or subdivision or combination of insurance, or as to classes of risks, which are unnecessary to achieve the purposes of this chapter and the rates for which cannot practicably be filed before they are used. The commissioner may make an examination as the commissioner deems advisable to ascertain whether rates affected by the order meet the standards set forth in section 515F.4.

5. Upon the written application of the insured stating the insured's reasons, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on a specific risk.

6. An insurer shall not make or issue a contract or policy except in accordance with the filings which have been approved and are in effect for the insurer as provided in this chapter. This subsection does not apply to contracts or policies for inland marine risks as to which filings are not required.

90 Acts, ch 1234, §49; 92 Acts, ch 1162, §45; 95 Acts, ch 185, §25; 2012 Acts, ch 1023, §157
Referred to in §515F.6, 515F.12, 515F.23, 515F.24, 515F.25

515F.5A Collateral insurance and forced placement.

1. The commissioner shall review all collateral insurance forms and rates to assure that the rates are not excessive in comparison to the benefits provided to consumers.

2. The commissioner may adopt by rule procedures and restrictions to protect consumers from abusive practices in forced placement or collateral insurance. Rules may include, but are not limited to, the following:

a. Notice requirements, to assure that consumers have an opportunity to exercise reasonable choice in the placement, of a collateral insurance policy.

b. A prohibition or limitation on the receipt of a sales commission or other fee by the person making a forced placement, or the person's employer.

3. For purposes of this section, unless the context otherwise requires:

a. *"Collateral insurance"* means an insurance policy solely or primarily intended to provide security for a loan or to insure collateral for a loan.

b. *"Forced placement"* means the purchase of an insurance policy by a third person when the law or a contract obligates another person to pay the insurance premium.

92 Acts, ch 1162, §13
Referred to in §515F.23

515F.6 Disapproval of filings.

1. If, within the waiting period or any extension of it as provided in section 515F.5, subsection 3, the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the insurer or advisory organization which made the filing, specifying in what respects the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. If a filing is disapproved by the commissioner, the insurer or advisory organization, may request a hearing on the disapproval within thirty days. The insurer bears the burden of proving compliance with the standards established by this chapter.

2. If, at any time after a rate has been approved, the commissioner finds that the rate no longer meets the requirements of this chapter, the commissioner may order the discontinuance of use of the rate. The order of discontinuance may be issued only after a hearing with at least ten days' prior notice for all insurers affected by the order. The order must be in writing and state the grounds for the order. The order shall state when, within a reasonable period after the order is issued, the order of discontinuance shall be effective. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

3. An insured which is aggrieved with respect to a filing which is in effect may make written application to the commissioner for a hearing on that filing. The application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that the grounds otherwise justify holding a hearing, a hearing shall be held within thirty days after receipt of the application, upon not less than ten days' written notice to the applicant and to every insurer and advisory organization which made that filing.

4. If, after hearing, the commissioner finds that the filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period after the order is issued, the filing shall no longer be in effect. Copies of the order shall be sent to the applicant and to every insurer and advisory organization which made that filing. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

90 Acts, ch 1234, §50; 2012 Acts, ch 1023, §126
Referred to in §515F.12, 515F.23

515F.7 Information to be furnished insureds — hearings and appeals of insureds.

An insurer shall, within a reasonable time after receiving written request and upon payment of reasonable charges set by the commissioner, furnish to an insured affected by a rate made by the insurer, or to the authorized representative of the insured, all pertinent information as to the rate. An insurer shall provide within this state reasonable means for the insured aggrieved by the application of its rating system to be heard, in person or by the insured's authorized representative, on written request to review the manner in which the rating system has been applied in connection with the insurance afforded the insured. If the insurer fails to grant or reject a request for hearing and review within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. The insured affected by the action of the insurer on a request may, within thirty days after written

notice of the action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to the insurer, may affirm or reverse the action.

90 Acts, ch 1234, §51
Referred to in §515F.23

515F.8 Licensing advisory organizations.

1. *License required.* An advisory organization shall not provide a service relating to the rates of insurance subject to this chapter, and an insurer shall not utilize the services of an advisory organization for such purposes unless the advisory organization has obtained a license under subsection 3.

2. *Availability of services.* An advisory organization shall not refuse to supply any services for which it is licensed in this state to an insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

3. *Licensing.*

a. Application. An advisory organization applying for a license shall include with its application all of the following:

(1) A copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business.

(2) A list of its members and subscribers.

(3) The name and address of one or more residents of this state upon whom notices, process affecting it, or orders of the commissioner may be served.

(4) A statement showing its technical qualifications for acting in the capacity for which it seeks a license.

(5) A biography of the ownership and management of the organization.

(6) Any other relevant information and documents that the commissioner may require.

(7) A license fee of one hundred dollars.

b. Change of circumstances. An advisory organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. An amendment to a document filed under this section shall be filed at least thirty days before it becomes effective.

c. Granting of license. If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, the commissioner shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market.

d. Duration. A license issued under this section shall remain in effect for three years unless the license is suspended or revoked. The commissioner may, at any time after hearing, revoke or suspend the license of an advisory organization which does not comply with this chapter.

90 Acts, ch 1234, §52; 2021 Acts, ch 181, §26, 27
Referred to in §515F.14, 515F.23

515F.9 Insurers and advisory organizations — prohibited activity.

1. An insurer or advisory organization shall not:

a. Attempt to monopolize, or combine or conspire with any other person to monopolize, an insurance market.

b. Engage in a boycott, on a concerted basis, of an insurance market.

2. *a.* An insurer shall not agree with any other insurer or with an advisory organization to mandate adherence to or to mandate use of a rate, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection, or similar material, except as needed to develop statistical plans permitted by section 515F.11, subsection 1. The fact that two or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently, the same rates, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate

territories, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

b. Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this chapter as if they constituted a single insurer.

3. An insurer or advisory organization shall not make an arrangement with any other insurer, advisory organization, or other person which has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

90 Acts, ch 1234, §53
Referred to in §515F.13, 515F.23

515F.10 Advisory organizations — prohibited activity.

In addition to the other prohibitions contained in this chapter, except as specifically permitted under section 515F.11, an advisory organization shall not compile or distribute recommendations relating to rates that include profit or expenses, other than loss adjustment expenses.

90 Acts, ch 1234, §54
Referred to in §515F.2, 515F.23

515F.11 Advisory organizations — permitted activity.

An advisory organization, in addition to other activities not prohibited, may, on behalf of its members and subscribers, do any or all of the following:

1. Develop statistical plans including territorial and class definitions.
2. Collect statistical data from members, subscribers, or any other source.
3. Prepare and distribute prospective loss costs.
4. Prepare and distribute factors, calculations, or formulas pertaining to classifications, territories, increased limits, and other variables.
5. Prepare and distribute manuals of rating rules and rating schedules that do not include final rates, expense provisions, profit provisions, or minimum premiums.
6. Distribute information that is required or directed to be filed with the commissioner.
7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses.
8. Consult with public officials regarding public fire protection as it would affect members, subscribers, and others.
9. Conduct research and collect statistics in order to discover, identify, and classify information relating to causes or prevention of losses.
10. Prepare policy forms and endorsements and consult with members, subscribers, and others relative to their use and application.
11. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures.
12. Collect, compile, and distribute past and current prices of individual insurers and publish such information.
13. File final rates, at the direction of the commissioner, for residual market mechanisms.
14. Collect, compile, and distribute historical expense information.
15. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

90 Acts, ch 1234, §55
Referred to in §515F.2, 515F.5, 515F.9, 515F.10, 515F.23

515F.12 Advisory organizations — filing requirements.

An advisory organization shall file with the commissioner for approval all prospective loss costs and all supplementary rating information and every change or amendment or modification of any of the foregoing proposed for use in this state. The filings are subject

to sections 515F.5 and 515F.6 and other provisions of this chapter relating to filings made by insurers.

90 Acts, ch 1234, §56
Referred to in §515F.23

515F.13 Pool and residual market activities.

1. *Authorization.* Notwithstanding section 515F.9, rating organizations, advisory organizations, and insurers participating in joint underwriting, joint reinsurance pools, or residual market mechanisms may in connection with such activity act in cooperation with each other in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections, and investigations, the furnishing of loss and expense statistics or other information, or carrying on research. Joint underwriting, joint reinsurance pools, and residual market mechanisms shall not be deemed advisory organizations.

2. *Regulation.*

a. Except to the extent modified by this section, insurers, and joint underwriting, joint reinsurance pool, and residual market mechanism activities are subject to the other provisions of this chapter.

b. If, after hearing, the commissioner finds that an activity or practice of an insurer participating in joint underwriting or a pool is unfair, is unreasonable, will tend to lessen competition in a market, or is otherwise inconsistent with the provisions or purposes of this chapter, the commissioner may issue a written order and require the discontinuance of that activity or practice.

c. A pool shall file with the commissioner a copy of its constitution; its articles of incorporation, agreement, or association; its bylaws, rules, and regulations governing its activities; its members; the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served; and any changes in amendments or changes in the foregoing.

d. (1) A residual market mechanism, or plan or agreement to implement such a mechanism, and any changes or amendments thereto, shall be submitted in writing to the commissioner for consideration and approval, together with information as reasonably required by the commissioner. The commissioner shall only approve agreements found to contemplate both of the following:

(a) The use of rates which meet the standards prescribed by this chapter.

(b) Activities and practices that are not unfair, unreasonable, or otherwise inconsistent with this chapter.

(2) At any time after the agreements are in effect, the commissioner may review the practices and activities of the adherents to the agreements and if, after a hearing, the commissioner finds that any such practice or activity is unfair or unreasonable, or is otherwise inconsistent with this chapter, the commissioner may issue a written order to the parties and either require the discontinuance of the acts or revoke approval of the agreement.

90 Acts, ch 1234, §57; 2012 Acts, ch 1023, §157
Referred to in §515F.3, 515F.14, 515F.23

515F.14 Examinations.

The commissioner may, as often as deemed expedient, make or cause to be made an examination of each advisory organization referred to in section 515F.8 and of each group, association, or other organization referred to in section 515F.13. The reasonable costs of an examination shall be paid by the advisory organization or group, association, or other organization examined. The officers, manager, agents, and employees of the advisory organization, or group, association, or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of an examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of that state.

90 Acts, ch 1234, §58
Referred to in §515F.23

515F.15 Rate administration.

1. *Recording and reporting of loss and expense experience.*

a. The commissioner may adopt reasonable rules for use by companies to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of this chapter and the effectuation of its purposes.

b. The commissioner may adopt reasonable rules and statistical plans, which shall then be used by each insurer in the recording and reporting of its loss and expense experience, in order that the experience of all insurers may be made available at least annually in the form and detail necessary to aid the commissioner in determining whether rating systems comply with the standards set forth in section 515F.4. The commissioner may designate one or more advisory organizations or other agencies to assist in gathering the experience and making compilations, and the compilations shall be public documents.

2. *Interchange of rating plan data.* Reasonable rules and plans may be adopted by the commissioner for the interchange of data necessary for the application of rating plans.

3. *Consultation with other states.* In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and advisory organization may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems.

4. *Rules.* The commissioner may make reasonable rules necessary, including definitions of the rate standards contained in section 515F.4, to effect the purposes of this chapter.

90 Acts, ch 1234, §59
Referred to in §515F.23

515F.16 False or misleading information.

A person, including an insurer, or advisory organization, shall not willfully withhold information which will affect the rates or premiums chargeable under this chapter from, or knowingly give false or misleading information to, the commissioner, a statistical agency designated by the commissioner, an advisory organization, or an insurer. A violation of this section subjects the one guilty of the violation to the penalties provided in section 515F.19.

90 Acts, ch 1234, §60
Referred to in §507B.4, 515F.23

515F.17 Assigned risks.

Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but who are unable to procure, the insurance through ordinary methods, and the insurers may agree among themselves on the use of reasonable rate modifications for such insurance, the agreements and rate modifications to be subject to the approval of the commissioner.

90 Acts, ch 1234, §61
Referred to in §515F.23

515F.18 Exemptions.

The commissioner may, upon the commissioner's own initiative or upon request of any person, by rule, exempt a market from any or all of the provisions of this chapter, if and to the extent that the exemption is necessary to achieve the purposes of this chapter.

90 Acts, ch 1234, §62
Referred to in §515F.23

515F.19 Penalties.

1. The commissioner may, upon a finding that a person or organization has violated a provision of this chapter, impose a civil penalty of not more than ten thousand dollars for each violation, but if the violation is found to be willful, a penalty of not more than twenty-five thousand dollars may be imposed for each violation.

a. The civil penalties may be in addition to any other penalty provided by law.

b. For purposes of this section, an insurer using a rate for which the insurer has failed

to file the rate, supplementary rate information, underwriting rules or guides, or supporting information as required by this chapter, has committed a separate violation for each day the failure continues.

2. *a.* The commissioner may suspend or revoke the license of an advisory organization or insurer which fails to comply with an order of the commissioner within the time limit set by the order, or an extension of the order.

b. The commissioner may determine when a suspension of license becomes effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded, or reversed.

3. A penalty shall not be imposed and a license shall not be suspended or revoked except upon a written order of the commissioner stating the commissioner's findings, made after hearing.

4. A penalty collected under this section shall be deposited as provided in section 505.7.

90 Acts, ch 1234, §63; 2009 Acts, ch 181, §81

Referred to in §515F.16, 515F.23

SUBCHAPTER II

RATE FILINGS IN COMPETITIVE MARKETS

515F.20 Definitions.

As used in sections 515F.21 through 515F.25 unless the context otherwise requires:

1. *"Competitive market"* means a market for which an order is in effect pursuant to section 515F.22 that a reasonable degree of competition does exist.

2. *"Market"* means the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including, but not limited to, consideration of coverage, policy terms, rate classifications, and underwriting. A geographic component is a geographical area in which buyers have a reasonable degree of access to the insurance product through sales outlets or other marketing mechanisms.

3. *"Noncompetitive market"* means a market which has not been found to be competitive pursuant to section 515F.22.

87 Acts, ch 132, §6

CS87, §515A.20

90 Acts, ch 1234, §77

C91, §515F.20

Referred to in §515F.21

515F.21 Scope of application.

Section 515F.20 and sections 515F.22 through 515F.25 apply to all forms of casualty insurance except joint underwriting and joint reinsurance, assigned risks, and those excluded by section 515F.3.

87 Acts, ch 132, §7

CS87, §515A.21

90 Acts, ch 1234, §65, 77

C91, §515F.21

Referred to in §515F.20

515F.22 Competitive market.

1. A noncompetitive market is presumed to exist unless the commissioner determines after a hearing that a reasonable degree of competition exists in the market and the commissioner issues an order to that effect. Such an order shall not become effective until sixty days after the date of the order and shall expire not later than one year thereafter unless the commissioner renews the order. Any affected insurer or insured may petition for a hearing on the renewal of an order relating to competitive status.

2. In determining whether a reasonable degree of competition exists, the commissioner shall consider relevant factors of workable competition pertaining to the market structure, market performance, and market conduct, and the practical opportunities available to consumers in the market to obtain pricing and other consumer information and to compare and obtain insurance from competing insurers. Such factors may include, but are not limited to, the following:

a. The size and number of insurers actually engaged in the market.

b. The profitability for insurers generally in the market segment and whether that profitability is unreasonably high.

c. The price variance on premiums offered in the market.

d. The availability of consumer information concerning the product and sales outlets or other sales mechanisms.

e. The efforts of insurers to provide consumer information.

f. Consumer complaints regarding the market generally.

87 Acts, ch 132, §8
CS87, §515A.22
90 Acts, ch 1234, §77
C91, §515F.22
Referred to in §515F.20, 515F.21

515F.23 Noncompetitive market.

Unless the commissioner has determined a market to be competitive, the provisions of sections 515F.1 through 515F.19 apply.

87 Acts, ch 132, §9
CS87, §515A.23
90 Acts, ch 1234, §66, 77
C91, §515F.23
Referred to in §515F.20, 515F.21

515F.24 Filing of rates in a competitive market.

1. Subject to the inland marine exception specified in section 515F.5, subsection 1, a competitive filing shall become effective when filed and shall be deemed to meet the requirements of section 515F.4 as long as the filing remains in effect unless it is disapproved upon review by the commissioner.

2. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information which are used in this state. The rates and supplementary rate information shall be filed not later than fifteen days after the effective date of the rates.

3. In a competitive market, if the commissioner finds that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty days prior to the effective date of the rates all the rates and supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

87 Acts, ch 132, §10
CS87, §515A.24
90 Acts, ch 1234, §67, 77
C91, §515F.24
Referred to in §515F.20, 515F.21

515F.25 Disapproval of a rate filing in a competitive market.

1. If the commissioner believes that an insurer's rate filing in a competitive market violates the requirements of sections 515F.4 and 515F.5, the commissioner may require the insurer to file supporting information. If after reviewing the supporting information the commissioner continues to believe that the filing violates sections 515F.4 and 515F.5, the commissioner shall notify the insurer of the insurer's right to petition for a hearing on any subsequent order relating to the filing.

2. The commissioner may disapprove prefiled rates that have not become effective.

However, the commissioner shall notify the insurer whose rates have been disapproved of the insurer's right to petition for a hearing on the disapproval within thirty days after the disapproval.

3. If the commissioner disapproves a filing in a competitive market, the commissioner shall issue an order specifying the reasons the filing fails to meet the requirements of sections 515F.4 and 515F.5. For rates in effect at the time of disapproval, the commissioner shall inform the insurer within a reasonable period of time the date when further use of the rates for policies or contracts of insurance is prohibited. The order shall be issued within thirty days of disapproval, or within thirty days of a hearing on the disapproval if a hearing is held. The order may include a provision for premium adjustment for the period after the effective date of the order for policies or contracts in effect on the date of the order.

4. Whenever an insurer has filed no legally effective rates as a result of the commissioner's disapproval of a filing, the commissioner shall on request of the insurer work with the insurer to develop interim rates for the insurer that are sufficient to protect the interest of all parties and the commissioner may order that a specified portion of the premium be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately. The commissioner may waive distribution if the commissioner determines that the amount involved would not warrant such action.

87 Acts, ch 132, §11
CS87, §515A.25
90 Acts, ch 1234, §68, 77
C91, §515F.25
Referred to in §515F.20, 515F.21

515F.26 through 515F.29 Reserved.

SUBCHAPTER III

FAIR ACCESS TO INSURANCE REQUIREMENTS PLAN

515F.30 Short title.

This subchapter may be cited as the *"Fair Access to Insurance Requirements Plan Act"*, or the *"FAIR Plan Act"*.

2003 Acts, ch 119, §1, 11; 2017 Acts, ch 54, §76

515F.31 Purpose.

The purposes of this subchapter include all of the following:

1. To make basic property insurance available to qualified applicants with the least possible administrative detail and expense.

2. To establish a plan, an industry placement facility, and a joint reinsurance association for the equitable distribution and placement of risks among insurers.

3. To utilize fully the voluntary insurance market as a source of essential property insurance.

4. To encourage the delivery of basic property insurance at the most reasonable cost possible, provided that insurance pricing by the FAIR plan is actuarially self-supporting and does not actively compete with insurance pricing in the voluntary insurance market.

2003 Acts, ch 119, §2, 11; 2017 Acts, ch 54, §76

515F.32 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Basic property insurance"* means insurance against direct loss to property as defined in the standard fire policy and extended coverage, vandalism, and malicious mischief endorsements; homeowners insurance; and such other coverage or classes of insurance as may be added to the FAIR plan by the commissioner. *"Basic property insurance"* does not include any of the following:

a. Automobile insurance.

b. Inland marine insurance.

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

3. *"Insurer"* includes all companies or associations licensed to transact insurance business in this state under chapters 515, 518, and 518A, reciprocal insurers issued a certificate of authority pursuant to chapter 520, and companies or associations admitted or seeking to be admitted to do business in this state under any of those chapters, notwithstanding any provision of the Code to the contrary.

2003 Acts, ch 119, §3, 11; 2004 Acts, ch 1101, §74; 2021 Acts, ch 181, §28, 29

515F.33 FAIR plan established.

The FAIR plan to assure fair access to insurance requirements is established. The plan shall operate subject to the provisions and conditions of this subchapter.

2003 Acts, ch 119, §4, 11; 2017 Acts, ch 54, §76

Referred to in §515F.32, 515J.4

515F.34 Membership.

1. Eligibility for membership in the FAIR plan and its underwriting association requires all of the following:

a. The insurer must be licensed to write property insurance in this state.

b. The insurer is engaged in writing property insurance in this state, including the property insurance components of multiperil on a direct basis.

2. Each insurer that meets the eligibility requirements in subsection 1 shall be required to do all of the following:

a. Automatically subscribe to the articles of agreement for the FAIR plan and the underwriting association as a prerequisite to authority to transact property insurance business in this state.

b. Become and remain a member both of the FAIR plan and the underwriting association.

c. Comply with the requirements of the FAIR plan and the underwriting association as a condition of the insurer's authority to transact property insurance business in this state.

2003 Acts, ch 119, §5, 11

Referred to in §515J.11

515F.35 Status of plan.

1. The FAIR plan is not and shall not be deemed a department, unit, agency, or instrumentality of the state.

2. All debts, claims, obligations, and liabilities incurred by the FAIR plan shall be the debts, claims, obligations, and liabilities of the FAIR plan only, and are not the debts or pledges of credit of the state, or the state's agencies, instrumentalities, officers, or employees.

3. The moneys of the FAIR plan are not part of the general fund of the state, and the state shall not budget for or provide general fund appropriations to the plan.

4. The records, reports, and communications of the FAIR plan, the governing committee, the committees of the FAIR plan, and their representatives, producers, and employees are not public records.

2003 Acts, ch 119, §6, 11

515F.36 Administration.

1. A governing committee shall administer the FAIR plan, subject to the supervision of the commissioner. The FAIR plan shall be operated by a manager appointed by the committee.

2. The committee shall consist of seven members.

a. Five of the members shall be elected to the committee, with one member from each of the following:

(1) American property casualty insurance association.

(2) National association of mutual insurance companies.

(3) Iowa insurance institute.

(4) Mutual insurance association of Iowa.

(5) Independent insurance agents of Iowa.

b. Two of the members shall be elected to the committee by other insurer members of the plan.

3. Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time.

4. The plan of operation and articles of association shall make provision for an underwriting association having authority on behalf of its members to cause to be issued property insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan of operation and articles of association shall provide, among other things, for the perils to be covered, limits of coverage, geographical area of coverage, compensation and commissions, assessments of members, the sharing of expenses, income, and losses on an equitable basis, cumulative weighted voting for the governing committee of the association, the administration of the FAIR plan, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.

2003 Acts, ch 119, §7, 11; 2004 Acts, ch 1101, §75; 2005 Acts, ch 70, §24; 2021 Acts, ch 181, §30

515F.37 Rules.

The commissioner shall adopt rules necessary to administer this subchapter.

2003 Acts, ch 119, §8, 11; 2017 Acts, ch 54, §76

515F.38 Retroactive applicability.

This subchapter applies retroactively to October 7, 1968, to validate action taken under the Iowa basic property insurance inspection and placement program adopted by the commissioner of insurance.

2003 Acts, ch 119, §9, 11; 2017 Acts, ch 54, §76

515F.39 Cancellation or nonrenewal — FAIR notice.

If basic property insurance coverage is canceled or not renewed other than for nonpayment of a premium pursuant to section 515.125, 515.126, 515.127, 515.128, 518.23, or 518A.29, the insurer shall notify the named insured that the named insured may be eligible for basic property insurance through the FAIR plan. The notice shall accompany the notice of cancellation or the intent not to renew.

2021 Acts, ch 181, §31