

HOUSE FILE 599

AN ACT

RELATING TO PROPERTY INSURANCE, INCLUDING ESTABLISHMENT OF A MANDATORY PLAN TO ASSURE FAIR ACCESS TO INSURANCE REQUIREMENTS, AND PROVIDING FOR AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

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

Section 1. NEW SECTION. 515F.30 SHORT TITLE.

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

Sec. 2. NEW SECTION. 515F.31 PURPOSE.

The purposes of this division 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.

Sec. 3. NEW SECTION. 515F.32 DEFINITIONS.

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. "Insurer" includes all companies or associations licensed to transact insurance business in this state under chapters 515, 518, and 518A, 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.

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

Sec. 4. NEW SECTION. 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 division.

Sec. 5. NEW SECTION. 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.

Sec. 6. NEW SECTION. 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.

Sec. 7. NEW SECTION. 515F.36 ADMINISTRATION.

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

2. The committee shall consist of seven members, one of whom shall be elected by the committee from each of the following:

- a. American insurance association.
- b. Alliance of American insurers.
- c. National association of independent insurers.
- d. Iowa insurance institute.
- e. Mutual insurance association of Iowa.
- f. Independent insurance agents of Iowa.
- g. All other insurers.

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.

Sec. 8. NEW SECTION. 515F.37 RULES.

The commissioner shall adopt rules necessary to administer this division.

Sec. 9. NEW SECTION. 515F.38 RETROACTIVE APPLICABILITY.

This division 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.

Sec. 10. Section 515F.3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This Except as otherwise provided in specific divisions of this chapter, this chapter does not apply to:

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

CHRISTOPHER C. RANTS
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 599, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor