

## A BILL

### FOR AN ACT RELATING TO INSURANCE AND FIRE INSURANCE COMPANIES.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* It shall not be lawful  
2 for any company, corporation, association, or individual transacting the business of fire in-  
3 surance in this state to take any application for, or make, issue, or deliver any policy of in-  
4 surance or renewal upon any real estate without first making a careful examination of the  
5 property sought to be insured, with a view to ascertain the condition, situation, and actual  
6 value thereof.

SEC. 2. It shall not be lawful for any such company, corporation, association, or individ-  
2 ual to insure any real estate for a greater amount than two-thirds of the actual cash value of  
3 such property.

SEC. 3. Any violation of either of the two preceding sections shall subject the company,  
2 corporation, association, or individual so violating to a penalty of five hundred dollars, to be  
3 sued for and collected in the name of the state, by the district attorney, in the county where  
4 such offense is committed; and such penalty, when collected, shall be paid into the treasury  
5 of such county for the benefit of the school fund; but no violation of said sections shall  
6 forfeit the policy.

SEC. 4. All insurance companies or corporations shall, upon the issue or renewal of any  
2 policy, attach to such policy, or endorse thereon, a true copy of any application or represen-  
3 tations of the assured, which, by the terms of such policy, are made a part thereof, or of the  
4 contract of insurance, or referred to therein, or which may in any manner affect the validity  
5 of such policy. The omission so to do shall not render the policy invalid, but if any corpora-  
6 tion neglects to comply with the requirements of this section, it shall forever be precluded  
7 from pleading, alleging, or proving such application or representations, or any part thereof.  
8 or the falsity thereof, or any parts thereof, in any action upon such policy; and the plaintiff  
9 in any such action shall not be required, in order to recover against such corporation, either  
10 to plead or prove such application or representations, but may do so at his option.

SEC. 5. In case of the loss or damage by fire of any property insured, the company, cor-

2 poration or association insuring the same shall not be allowed the right or privilege of re-  
3 building or repairing such property. but shall pay the loss, if finally adjudged liable there-  
4 for. And any condition or stipulation in any policy of insurance providing that the insurer  
5 may rebuild or repair the property insured, in case of loss or damage, shall be void and in-  
6 operative.

SEC. 6. In any suit or action brought in any court in this state upon any policy of insur-  
2 ance, the company, corporation, or association issuing the policy of insurance sued upon,  
3 shall be estopped from pleading or proving any over-valuation of the property insured, or  
4 any misrepresentation of the condition or situation of the property insured, unless such mis-  
5 representation of the condition or situation be willfully false and directly material to the risk.

SEC. 7. In any suit or action brought upon a policy of insurance, if defense be made  
2 thereto, and the defendant fails to establish such defense, and judgment be rendered against  
3 the defendant, the court shall thereupon render judgment against the defendant, and in favor  
4 of the plaintiff, for a reasonable attorney fee in such action, in addition to the amount recov-  
5 ered in the suit and the taxable costs.

G. R. STRUBLE, from the Committee on Insurance, submitted the following report:

MR. SPEAKER:

Your Committee on Insurance, to whom was referred house file No. 176, a bill for an act relating to insurance and fire insurance companies, beg leave to report that they have had the same under consideration, and have instructed me to report the same back to the house with the recommendation that it be amended by striking out of the bill all of its sections except section 4 and the enacting clause, and, being so amended, the bill do pass.

G. R. STRUBLE, *Chairman.*

Ordered passed on file.

HOUSE FILE NO. 176.]

[BY SIMPSON.

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2 corporation, association, or individual so violating to a penalty of five hundred dollars, to be  
3 sued for and collected in the name of the state, by the district attorney, in the county where  
4 such offense is committed; and such penalty, when collected, shall be paid into the treasury  
5 of such county for the benefit of the school fund; but no violation of said sections shall for-  
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3 tations of the assured, which, by the terms of such policy, are made a part thereof, or of the  
4 contract of insurance, or referred to therein, or which may in any manner affect the validity  
5 of such policy. The omission so to do shall not render the policy invalid, but if any corpora-  
6 tion neglects to comply with the requirements of this section, it shall forever be precluded  
7 from pleading, alleging, or proving such application or representations, or any part thereof,  
8 or the falsity thereof, or any parts thereof, in any action upon such policy; and the plaintiff  
9 in any such action, shall not be required, in order to recover against such corporation, either  
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4 for. And any condition or stipulation in any policy of insurance providing that the insurer  
5 may rebuild or repair the property insured, in case of loss or damage, shall be void and in-  
6 operative.

SEC. 6. In any suit or action brought in any court in this state upon any policy of insur-  
2 ance, the company, corporation or association issuing the policy of insurance sued upon,  
3 shall be estopped from pleading or proving any over-valuation of the property insured, or  
4 any misrepresentation of the condition or situation of the property insured, unless such mis-  
5 representation of the condition or situation be willfully false and directly material to the risk.

SEC. 7. In any suit or action brought upon a policy of insurance, if defense be made  
2 thereto, and the defendant fails to establish such defense, and judgment be rendered against  
3 the defendant, the court shall thereupon render judgment against the defendant, and in favor  
4 of the plaintiff, for a reasonable attorney fee in such action, in addition to the amount recov-  
5 ered in the suit and the taxable costs.

H. F. No. 176

House File No. 176

SENATOR NICHOLS, from the Committee on Insurance, submitted the following report:

MR. PRESIDENT:

Your Committee on Insurance, to whom was referred house file No. 176, a bill for an act relating to fire insurance and fire insurance companies, beg leave to report that they have had the same under consideration, and a majority of your committee have instructed me to report the same back to the senate with the recommendation that the same be amended by striking out all after the enacting clause and inserting the following (see amendments, which are made part of this report), and that when so amended the same do pass.

J. D. NICHOLS, *Chairman.*

Ordered passed on file.

SEC. 1. Any person who shall hereafter solicit insurance or procure applications therefor, shall be held to be the agent of the insurance company or association issuing a policy on such application, or on a renewal thereof, anything in the application or policy to the contrary notwithstanding.

SEC. 2. All insurance companies or associations shall, upon the issue or renewal of any policy, attach to such policy, or indorse thereon, a true copy of any application or representations of the assured, which, by the terms of such policy, are made a part thereof, or of the contract of insurance, or referred to therein, or which may in any manner affect the validity of such policy. The omission so to do shall not render the policy invalid, but if any company or association neglects to comply with the requirements of this section, it shall forever be precluded from pleading, alleging, or proving such application or representations, or any part thereof, or the falsity thereof, or any parts thereof, in any action upon such policy; and the plaintiff in any such action shall not be required, in order to recover against such company or association, either to plead or prove such application or representations, but may do so at his option.

SEC. 3. In any suit or action brought in any court in this state on any policy of insurance against the company or association issuing the policy sued upon in case of the loss of any building so insured, the amount stated in the policy shall be received as prima facie evidence of the insurable value of the property at the date of the policy: *provided*, nothing herein shall be construed to prevent the insurance company or association from showing the actual value at the date of the policy and any depreciation in the value thereof before the loss

7 occurred: *provided*, further, such insurance company or association shall be liable for the  
 8 actual value of the property insured at the date of the loss, unless such value exceeds the  
 9 amount stated in the policy, and in order to maintain his action on the policy it shall only  
 10 be necessary for the assured to prove the loss of the building insured and that he has given  
 11 the company or association notice in writing of such loss, all the provisions of this chapter  
 12 shall apply to and govern all contracts and policies of insurance contemplated in this chap-  
 13 ter, anything in the policy or contract to the contrary notwithstanding.

SEC. 4. In any suit or action brought upon a policy of insurance, if defense be made  
 2 thereto, and the defendant fails to establish such defense, and judgment be rendered against  
 3 the defendant, the court shall thereupon render judgment against the defendant, and in favor  
 4 of the plaintiff, for a reasonable attorney fee in such action, in addition to the amount recov-  
 5 ered in the suit, and the taxable costs.

SEC. 5. This act being deemed of immediate importance shall be in force and take effect  
 2 from and after its publication in the *Iowa State Register* and the *Iowa State Leader*, newspa-  
 3 pers published at Des Moines, Iowa.

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3 the defendant, the court shall thereupon render judgment against the defendant, and in favor  
4 of the plaintiff, for a reasonable attorney fee in such action, in addition to the amount recov-  
5 ered in the suit and the taxable costs.

SEC. 7. No violation of the provisions of sections 1 and 2 of this act shall forfeit the  
2 policy; and in any suit on the policy when the loss is total, the insurer may show any depre-  
3 ciation in value of the property since the date of the policy, and prior to the loss.