

9 four hundred sixty-seven D point seven (467D.7), four hundred sixty-
 10 seven D point eight (467D.8), four hundred sixty-seven D point ten
 11 (467D.10), subsections two (2), three (3) and four (4), sections four
 12 hundred sixty-seven D point eleven (467D.11), four hundred sixty-
 13 seven D point twelve (467D.12), four hundred sixty-seven D point
 14 fourteen (467D.14), four hundred sixty-seven D point fifteen
 15 (467D.15), four hundred sixty-seven D point twenty (467D.20), four
 16 hundred sixty-seven D point twenty-one (467D.21), four hundred
 17 sixty-seven D point twenty-two (467D.22), unnumbered paragraph
 18 one (1), and section four hundred sixty-seven D point twenty-three
 19 (467D.23), Code 1973, and to such extent the enumerated sections and
 20 subsections are amended.

Approved May 27, 1974

CHAPTER 1237

CO-OPERATIVE ASSOCIATIONS

H. F. 335

AN ACT relating to annual reports of cooperative associations.

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

1 SECTION 1. Section four hundred ninety-nine point forty-nine
 2 (499.49), unnumbered paragraph one (1), Code 1973, is amended to
 3 read as follows:

4 Each association shall, before April ~~1~~ *first* of each year, file a report
 5 with the secretary of state on forms prescribed by him, to be accom-
 6 panied by the annual fee required by section 499.45, subsection 4.
 7 Such report shall be ~~sworn to~~ *signed* by an officer of the association,
 8 or a receiver or trustee liquidating its affairs, and shall state:

Approved March 4, 1974

CHAPTER 1238

SECURITIES LAW MODIFICATIONS

H. F. 1432

AN ACT relating to the definition of "security" and providing for the clarification and modification of certain exemptions under the Iowa securities law; relating to the registration requirements of those operating as dealers in securities, and to the licensing and examination fees payable by dealers and salesmen of securities, and increasing the amount of the surety bond to be obtained prior to being registered as a securities dealer; relating to the requirements of escrow agreements entered into under the Iowa securities law; relating to the public disclosure of information required to be furnished the commissioner of insurance; and providing penalties.

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

1 SECTION 1. Section five hundred two point three (502.3), subsec-
 2 tion one (1), Code 1973, is amended to read as follows:

3 1. "Security" shall include any note, stock, treasury stock, bond,
 4 debenture, evidence of indebtedness, certificate of interest in an oil,
 5 gas, or mining lease, collateral trust certificate, preorganization cer-
 6 tificate, preorganization subscription, any transferable share, invest-
 7 ment contract, or beneficial interest in title to property, interest in or
 8 under a profit-sharing or participating agreement or scheme, *privilege*
 9 *or option to purchase or sell any commodity futures contract but not*
 10 *the underlying commodity futures contract itself*, or any other instru-
 11 ment commonly known as a security.

1 SEC. 2. Section five hundred two point three (502.3), Code 1973,
 2 is amended by adding the following new subsections:

3 NEW SUBSECTION. An "affiliate" of an issuer is a person control-
 4 ling, controlled by or under common control with such issuer. An
 5 individual who controls an issuer is also an affiliate of such issuer.

6 NEW SUBSECTION. A "predecessor" of an issuer is (a) a person
 7 the major portion of whose assets have been acquired directly or in-
 8 directly by the issuer or (b) a person from which the issuer acquired
 9 directly or indirectly the major portion of its assets.

1 SEC. 3. Section five hundred two point four (502.4), subsection
 2 seven (7), Code 1973, is amended by striking the subsection and in-
 3 serting in lieu thereof the following:

4 7. Any note, draft, bill of exchange, or banker's acceptance which
 5 arises out of a current transaction or the proceeds of which have been
 6 or are to be used for current transactions, and which has a maturity
 7 at the time of issuance of not exceeding nine months, exclusive of days
 8 of grace, or any renewal thereof the maturity of which is likewise
 9 limited, except where paper is proposed to be sold or offered to the
 10 public in units of less than five thousand dollars to any single person.

1 SEC. 4. Section five hundred two point five (502.5), subsection five
 2 (5), Code 1973, is amended to read as follows:

3 5. The offer, sale, transfer, or delivery to any bank, savings insti-
 4 tution, trust company, insurance company, or ~~to any corporation~~ *other*
 5 *bona fide institutional investor*, or to any broker or dealer, provided
 6 that such broker or dealer is actually engaged in buying and selling
 7 securities as a business.

1 SEC. 5. Section five hundred two point five (502.5), subsection
 2 seven (7), Code 1973, is amended by striking the subsection and in-
 3 serting in lieu thereof the following:

4 7. A sale of bonds or notes directly secured by a real estate mort-
 5 gage, security interest, deed of trust, or agreement for the sale of real
 6 estate or chattels, if the entire mortgage, security interest, deed of
 7 trust, or agreement, together with all the bonds or notes secured
 8 thereby, is offered and sold as a unit; provided, however, that the
 9 entire mortgage, security interest, deed of trust or agreement, to-
 10 gether with all of the bonds or notes secured thereby, shall not be
 11 deemed to be sold as a unit if either of the following apply:

12 a. Such bonds or notes are part of a single issue including other
 13 bonds or notes secured by interests in real estate or chattels owned
 14 or developed by the same person or by persons affiliated with such
 15 person.

16 b. Such bonds or notes are offered or sold with any right of recourse
 17 or substitution against or any guarantee by the real estate developer
 18 or any person other than the person primarily obligated on the bond
 19 or note.

1 SEC. 6. Section five hundred two point five (502.5), subsection
 2 nine (9), Code 1973, is amended by striking the subsection and insert-
 3 ing in lieu thereof the following:

4 9. Any offer or sale of a preorganization certificate or subscription,
 5 but only if all of the following apply:

6 a. No commission or other remuneration is paid or given directly or
 7 indirectly for soliciting any prospective subscriber.

8 b. The number of subscribers does not exceed ten.

9 c. No payment is made by any subscriber.

10 d. No public advertisement of the offer is made.

1 SEC. 7. Section five hundred two point five (502.5), subsection fif-
 2 teen (15), Code 1973, is amended by striking the subsection and in-
 3 serting in lieu thereof the following:

4 15. The sale, as part of a single issue, of securities other than frac-
 5 tional undivided interests in oil, gas or other mineral leases, rights or
 6 royalties, by the issuer thereof within any period of twelve consecutive
 7 months to not more than thirty-five purchasers in this state, exclusive
 8 of purchases by bona fide institutional investors for their own account
 9 for investment, provided that both of the following are complied with:

10 a. No commission or other remuneration is paid or given directly or
 11 indirectly for or on account of such sale except as may be permitted
 12 by the commissioner of insurance by rule, order, or upon written
 13 application showing good cause for allowance of commission or other
 14 remuneration.

15 b. The issuer files with the commissioner of insurance a report of
 16 sale within thirty days after each sale, setting forth the name and
 17 address of the issuer, the total amount of securities sold for which
 18 exemption is claimed under this subsection, and the names and ad-
 19 dresses of the purchasers thereof to whom such securities have been
 20 or are to be issued who are to be counted against the thirty-five pur-
 21 chaser limitation specified herein. A filing of a report of sale shall not
 22 be required to be made, however, until the number of purchasers who
 23 are to be counted against the thirty-five purchaser limitation specified
 24 herein exceeds ten.

25 The issuer must, additionally, pursuant to the request of the com-
 26 missioner of insurance made at any time, submit a report listing the
 27 names and addresses of purchasers claimed to have been bona fide
 28 institutional investors purchasing for their own account for invest-
 29 ment, and a justification of each such purchaser's characterization as a
 30 bona fide institutional investor purchasing for its own account for
 31 investment.

1 SEC. 8. Section five hundred two point seven (502.7), Code 1973,
 2 is amended by adding the following new subsection:

3 NEW SUBSECTION. Quantity limitation.

4 a. Notwithstanding any other provision of this section, the aggre-
 5 gate offering price of all securities of the issuer offered or sold in this
 6 state in reliance on the exemption from federal registration require-

7 ments provided by paragraph eleven (11) of subsection a of section
8 three (3) of the Federal Securities Act of 1933, as amended, as part
9 of a single issue of equity securities, shall not exceed the following
10 amounts:

11 (1) Two million dollars if the securities are offered or sold by or
12 on behalf of the issuer or affiliates of the issuer, or by the estate of a
13 decedent who owned the securities at death if offered within two years
14 after death of the decedent, provided that the aggregate offering price
15 of securities offered or sold by or on behalf of any one affiliate, other
16 than an estate, shall not exceed five hundred thousand dollars.

17 (2) Five hundred thousand dollars if the securities are offered or
18 sold by or on behalf of any person other than the issuer or its affiliates,
19 provided that the aggregate offering of all such other persons shall not
20 exceed seven hundred fifty thousand dollars and further provided that
21 the aggregate offering price of securities offered or sold by or on behalf
22 of an estate pursuant to this paragraph and paragraph a above shall
23 not exceed two million dollars.

24 b. The following definitions shall apply for the purposes of this sub-
25 section:

26 (1) The term "securities of the issuer" shall include securities is-
27 sued by any predecessor of the issuer or by any affiliate of the issuer
28 which was organized or became such an affiliate within three years
29 prior to the effectiveness of the registration of those securities sought
30 to be registered in this state.

31 (2) The term "person" includes, in addition to such person, all of
32 the following:

33 (a) When having the same home as that person, any relative or
34 spouse or relative of the spouse.

35 (b) Any trust or estate in which that person and any of the persons
36 specified in item (a) of this subparagraph collectively own ten percent
37 or more of the total beneficial interest, or of which any of such persons
38 serves as trustee or executor, or in any similar capacity.

39 (c) Any corporation or other organization (other than the issuer)
40 in which that person and any of the persons specified in item (a) of
41 this subparagraph are the beneficial owners collectively of ten percent
42 or more of any class of equity securities, or ten percent or more of the
43 equity interest.

44 c. The commissioner of insurance may, by rule, order, or interpre-
45 tation issued upon written application by any interested party, further
46 interpret and implement the provisions of this subsection.

1 SEC. 9. Section five hundred two point eleven (502.11), unnum-
2 bered paragraphs five (5), seven (7), eight (8) and eleven (11), Code
3 1973, are amended to read as follows:

4 If the commissioner of insurance shall find that the applicant is of
5 good repute and has proven his competence to act as a dealer and has
6 complied with the provisions of this section including the payment of
7 the fee hereinafter provided he shall register such applicant as a dealer
8 upon his filing a bond as ~~is required by~~ section 502.18 ~~provided, or~~
9 ~~upon his providing other surety or security in like amount under terms~~
10 ~~satisfactory to the commissioner of insurance.~~

11 The commissioner of insurance may by a rule provide for an exami-
12 nation, which may be written or oral, or both, to be taken by first-time
13 applicants who apply for registration in order to determine the skill,

14 competency and training of such applicants. The commissioner of
 15 insurance shall require payment of an examination fee of *five ten*
 16 dollars for each examination taken which fee shall be in addition to
 17 registration fees hereinafter provided.

18 The names and addresses of all persons approved by registration as
 19 dealers or salesmen and all orders with respect thereto shall be re-
 20 corded in a register of dealers and salesmen kept in the office of the
 21 commissioner of insurance which shall be open to public inspection.
 22 The fee for such registration and for each annual renewal shall be
 23 ~~fifty one hundred~~ dollars in the case of dealers and *five ten* dollars in
 24 the case of salesmen, which fees shall be paid at the time the infor-
 25 mation and application is filed with the commissioner of insurance.
 26 Every registration under this section shall expire one year from date
 27 of issuance, but new registrations for the succeeding year may be
 28 issued upon written application and upon payment of said fee without
 29 filing of further statements or furnishing any further information
 30 unless specifically required by the commissioner of insurance.

31 Any issuer or owner of a security ~~required to be registered under~~
 32 ~~the provisions of this chapter,~~ selling such securities except in exempt
 33 transactions as defined in section 502.5, shall be deemed a dealer within
 34 the meaning of this section and required to comply with all the provi-
 35 sions hereof, but such issuer or owner shall be required to pay only one
 36 fee which shall be either the fee for registration of the security or for
 37 dealer's registration, whichever is the greater, and the issuer shall not
 38 be required to furnish the bond herein prescribed. *By rule, order, or*
 39 *upon written application by any interested person, the commissioner*
 40 *of insurance may waive any of the limitations or requirements set*
 41 *forth herein. The commissioner of insurance may require any infor-*
 42 *mation necessary to assist him in determining whether to issue a*
 43 *waiver.*

1 SEC. 10. Section five hundred two point eighteen (502.18), unnum-
 2 bered paragraph two (2), Code 1973, is amended to read as follows:

3 Every such bond shall run in favor of the state of Iowa for the use
 4 and benefit of any purchaser of securities sustaining damages as a
 5 result of any breach of the conditions thereof, in the sum of *five fifteen*
 6 thousand dollars and shall be in such form consistent with the provi-
 7 sions hereof as the commissioner of insurance may prescribe, and shall
 8 be executed with surety or sureties satisfactory to the commissioner
 9 of insurance. In suits against the surety upon such bond it shall not be
 10 necessary to join such dealer as a party.

1 SEC. 11. Section five hundred two point twenty (502.20), Code
 2 1973, is amended to read as follows:

3 **502.20 Escrow agreement.** If the statement containing informa-
 4 tion as to securities to be registered, as provided for in section 502.7,
 5 shall disclose that any such securities or any securities senior thereto
 6 shall have been or shall be intended to be issued for any patent right,
 7 copyright, trade-mark, process, formulas or good will, or for promotion
 8 fees or expenses or for other intangible assets, the amount and nature
 9 thereof shall be fully set forth and the commissioner of insurance may
 10 require that such securities so issued in payment of such patent right,
 11 copyright, trade-mark, process, formulas or good will, or for promotion
 12 fees or expenses, or for other intangible assets shall be delivered in

13 escrow to the commissioner of insurance *or to a depository acceptable*
 14 *to the commissioner of insurance*, under an escrow agreement ap-
 15 *proved by the commissioner of insurance providing* that the owners
 16 of such securities shall not be entitled to withdraw such securities
 17 from escrow until ~~all other stockholders who have paid for their stock~~
 18 ~~in cash shall have been paid a dividend or dividends aggregating not~~
 19 ~~less than six percent, shown to the satisfaction of said commissioner~~
 20 ~~of insurance to have been actually earned on the investment in any~~
 21 ~~common stock so held~~ *the conditions provided in the escrow agreement*
 22 *have been satisfied*, and *providing* that in case of dissolution or insol-
 23 vency during the time such securities are held in escrow, that the
 24 owners of such securities shall not participate in the assets until after
 25 the owners of all other securities shall have been paid in full.

1 SEC. 12. Section five hundred two point twenty-one (502.21), sub-
 2 section five (5), Code 1973, is amended to read as follows:

3 5. Whenever it shall appear to the commissioner of insurance from
 4 any report or statement filed, from any examination made as provided
 5 for in this chapter, or from any other source, that any person, ~~as~~
 6 ~~defined in this chapter~~, has engaged in, is engaged in, or is about to
 7 engage in any practice declared to be illegal and prohibited by the
 8 chapter, or that it will be against public interest for any person, ~~as~~
 9 ~~defined in this chapter~~, to issue, sell, offer for sale, purchase, offer to
 10 purchase, promote, negotiate, advertise, or distribute any securities
 11 within or from this state, he may *issue an order directing the person*
 12 *to cease and desist therefrom, or he may additionally or alternatively*
 13 by petition apply to a court of equity for a writ of injunction or the
 14 appointment of a receiver, or both. The ~~said~~ petition shall allege that
 15 it appears to the commissioner of insurance from an investigation
 16 made in accordance with the provisions of this chapter, that such
 17 person, ~~as defined in the chapter~~, is engaged in or is about to engage
 18 in practices declared to be illegal and prohibited or that it is against
 19 public interests for such person, ~~as defined in this chapter~~, to issue,
 20 sell, offer for sale, purchase, offer to purchase, promote, negotiate,
 21 advertise, or distribute any securities within or from this state, which
 22 allegations may be verified generally, and on the filing of said petition
 23 the court may issue an injunction restraining such person from con-
 24 tinuing such practices or engaging therein or doing any acts in fur-
 25 therance thereof and/or the court may issue an injunction restraining
 26 the issuance, sale, offer for sale, purchase or offer to purchase, pro-
 27 motion, negotiation, advertisement, or distribution within or from this
 28 state, of any securities by such person and any agents, employees,
 29 brokers, partners, officers, directors, or stockholders thereof, until the
 30 court shall otherwise order.

1 SEC. 13. Section five hundred two point twenty-three (502.23),
 2 unnumbered paragraph one (1), Code 1973, is amended to read as
 3 follows:

4 Every sale or contract for sale made in violation of any of the pro-
 5 visions of this chapter shall be voidable at the election of the pur-
 6 chaser and the person making such sale or contract for sale and every
 7 director, officer, or agent of or for such seller who shall have person-
 8 ally participated in making such sales and at the time knew of such
 9 violations shall be jointly and severally liable to such purchaser in an

10 action at law in any court of competent jurisdiction upon tender to the
 11 seller in person or in open court of the securities sold or of the contract
 12 made for the full amount paid by such purchaser, together with all
 13 taxable court costs and reasonable attorney's fees in any action or
 14 tender under this section; provided, that no action shall be brought
 15 for the recovery of the purchase price after ~~two~~ five years from the
 16 date of such sale or contract for sale; and provided further, that no
 17 purchaser otherwise entitled shall claim or have the benefit of this
 18 section who shall have refused or failed within thirty days from the
 19 date thereof to accept an offer in writing of the seller to take back the
 20 security in question and to refund the full amount paid by such pur-
 21 chaser, together with interest on such amount for the period from the
 22 date of payment by such purchaser down to the date of repayment,
 23 such interest to be computed:

1 SEC. 14. Section five hundred two point twenty-seven (502.27),
 2 Code 1973, is amended to read as follows:

3 502.27 **General violations.** Any person, firm, association, com-
 4 pany, or corporation subject to the provisions of this chapter that shall
 5 sell or negotiate for the sale of any securities within this state without
 6 complying with the provisions of this chapter, or that continues to sell,
 7 offer for sale, or negotiates for the sale of securities in this state after
 8 his registration has been revoked or canceled by the commissioner of
 9 insurance, or that shall otherwise neglect or refuse to comply with any
 10 of the provisions of this chapter, shall be guilty of a misdemeanor and
 11 upon conviction thereof shall be punished by a fine not to exceed one
 12 thousand dollars or by imprisonment in the county jail not to exceed
 13 six months or by both such fine and imprisonment in the discretion of
 14 the court, and if it shall be found that any such person is guilty of such
 15 a violation with the intent to ~~evade the provisions of this chapter~~
 16 *defraud* he shall be guilty of a felony and upon conviction thereof shall
 17 be fined not to exceed five thousand dollars or be imprisoned not to
 18 exceed five years in the penitentiary or reformatory or by both such
 19 fine and imprisonment in the discretion of the court.

1 SEC. 15. Section five hundred two point twenty-eight (502.28),
 2 Code 1973, is amended to read as follows:

3 502.28 **False representations.** Any person, firm, association, com-
 4 pany, or corporation, or any agent or representative thereof, whether
 5 subject to the provisions of this chapter or otherwise, that sells, offers
 6 for sale, or negotiates for the sale of any securities within this state,
 7 and knowingly makes any false representations or statements as to the
 8 nature, character, or value of such security, or the amount of the earn-
 9 ing power of such security whether in the nature of interest, dividends,
 10 or otherwise, or knowingly makes any other false or fraudulent repre-
 11 sentation to any person for the purpose of inducing said person to pur-
 12 chase said security, or conceals any material fact in the advertisement
 13 or prospectus of such security for the purpose of defrauding the pur-
 14 chaser, ~~or knowingly violates any of the provisions of this chapter~~
 15 ~~with intent to defraud~~, shall be deemed guilty of a felony and upon
 16 conviction thereof shall be punished by a fine of not less than five
 17 hundred dollars nor more than five thousand dollars or by imprison-
 18 ment in the penitentiary or reformatory for not more than five years
 19 or by both such fine and imprisonment.

1 SEC. 16. Section five hundred two point thirty-one (502.31), Code
2 1973, is amended by striking the section and inserting in lieu thereof
3 the following:

4 502.31 **Statement open to public.** The information contained in or
5 filed with a registration statement or application shall be made avail-
6 able to the public under such rules as the commissioner of insurance
7 prescribes or at his discretion.

1 SEC. 17. Chapter five hundred two (502), Code 1973, is amended
2 by adding the following new section:

3 **NEW SECTION. Restitution.** Any person convicted of a violation
4 of this chapter which involves the loss of a purchaser's money shall,
5 upon conviction, be required to prepare a plan of restitution. The pro-
6 visions of chapter two hundred ninety-five (295), Acts of the Sixty-
7 fifth General Assembly, 1973 Session, section eight (8) shall apply to
8 restitution allowed under this section, insofar as applicable; provided,
9 however, that probation or deferred judgment shall not be necessary
10 to require restitution under this section.

1 SEC. 18. This Act, being deemed of immediate importance, shall
2 take effect and be in force from and after its publication in the West
3 Des Moines Express, a newspaper published in West Des Moines,
4 Iowa, and in The Whittemore Champion, a newspaper published in
5 Whittemore, Iowa.

Approved April 25, 1974

I hereby certify that the foregoing Act, House File 1432, was published in the West Des Moines Express, West Des Moines, Iowa, May 2, 1974, and in The Whittemore Champion, Whittemore, Iowa, May 2, 1974.

MELVIN D. SYNHORST, *Secretary of State.*

CHAPTER 1239

INSURANCE COMPANIES

H. F. 526

AN ACT relating to the examination of insurance companies.

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

1 SECTION 1. Section five hundred seven point one (507.1), Code
2 1973, is amended to read as follows:

3 507.1 **"Company" defined.** The word "company" as used in this
4 chapter shall mean all companies or associations organized under the
5 provisions of chapters 508, 510, 511, *five hundred twelve (512), five*
6 *hundred fourteen (514), 515, five hundred fifteen C (515C), 518A of*
7 *the Code*, associations subject to the provisions of chapters 518 and
8 520, and all companies or associations admitted or seeking to be ad-
9 mitted to this state under the provisions of any of the chapters
10 herein referred to.

1 SEC. 2. Section five hundred ten point twelve (510.12), Code 1973,
2 is amended to read as follows: