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*Substituted for
HF 2382
3-15-94
(P. 616)*

FILED MAR 4 1994

SENATE FILE 2276
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 2229)
(COMPANION TO LSB 3249HV)

Passed Senate, Date 3/8/94 (p. 571) Passed House, ⁽⁶¹⁷⁾ Date 3-15-94
Vote: Ayes 49 Nays 1 Vote: Ayes 96 Nays 0
Approved March 24, 1994

A BILL FOR

1 An Act relating to and authorizing the establishment of a legal
2 entity for the administration of the insurance business of
3 impaired or insolvent insurers by one or more state life and
4 health insurance guaranty associations and providing for
5 assessments.

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

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SF 616

1 Section 1. NEW SECTION. 508D.1 TITLE.

2 This chapter shall be cited as the "Multi-state Life and
3 Health Insurance Resolution Facility Act".

4 Sec. 2. NEW SECTION. 508D.2 PURPOSE.

5 The purpose of this chapter is to authorize the formation
6 of an entity by one or more state life and health insurance
7 guaranty associations for the purpose of administering and
8 disposing of the business of impaired or insolvent insurance
9 companies assumed by or assigned to the entity by its member
10 guaranty associations, or by impaired or insolvent insurers
11 through the impaired or insolvent insurer's duly appointed
12 receiver, liquidator, or rehabilitator, and to establish the
13 conditions under which such an entity shall do business.

14 Sec. 3. NEW SECTION. 508D.3 DEFINITIONS.

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

17 1. "Facility" means the multi-state life and health
18 insurance resolution facility created pursuant to section
19 508D.4 as a legal entity domiciled in Iowa with its principal
20 place of business and other business offices either within or
21 without the state of Iowa as the board of directors may
22 designate or as the business of the entity may require and
23 established for the purpose set out in section 508D.2.

24 2. "Member guaranty association" means the Iowa life and
25 health insurance guaranty association created pursuant to
26 chapter 508C or any other state life and health insurance
27 guaranty association which is or becomes a member of the
28 facility pursuant to the plan of operation.

29 3. "Oversight organization" means the Iowa commissioner of
30 insurance and the state insurance commissioner, or other state
31 official charged with the responsibility of regulating the
32 insurance industry in the same or similar manner as the Iowa
33 commissioner of insurance, from the state of domicile of each
34 member guaranty association.

35 Sec. 4. NEW SECTION. 508D.4 FACILITY ESTABLISHED.

1 The facility may be created by one or more life and health
2 insurance guaranty associations for the purpose set out in
3 section 508D.2. The name of the facility shall be the multi-
4 state life and health insurance resolution facility. A life
5 and health insurance guaranty association or other entity as
6 approved by the board may elect to become a member of the
7 association. The facility shall perform its functions under a
8 plan of operation established and approved under section
9 508D.7 and shall exercise its powers through a board of
10 directors established under section 508D.5. Only one facility
11 shall be established pursuant to this chapter.

12 Sec. 5. NEW SECTION. 508D.5 BOARD OF DIRECTORS.

13 1. The members of the board of directors shall be selected
14 by the member guaranty associations. The number of members of
15 the board and their terms shall be established in the plan of
16 operation. Vacancies on the board shall be filled for the
17 remaining period of the term by a majority vote of the
18 remaining board members. In determining voting rights, each
19 member guaranty association shall be entitled to one vote in
20 person or by proxy.

21 2. The initial board of directors of the facility shall be
22 established by the Iowa life and health insurance guaranty
23 association and shall consist of not less than five nor more
24 than nine members. The initial board of directors shall adopt
25 a plan of operation for the facility as provided in section
26 508D.7.

27 3. Members of the board of directors are entitled to
28 reasonable compensation for expenses incurred in attending
29 meetings of the board or while on business conducted on behalf
30 of the facility. Members of the board may also be compensated
31 by the facility for their services provided as members of the
32 board as provided in the plan of operation.

33 Sec. 6. NEW SECTION. 508D.6 POWERS AND DUTIES OF THE
34 FACILITY.

35 1. The facility shall perform those duties of the member

1 guaranty associations which are delegated to the facility as
2 permitted under the enabling legislation of each member
3 guaranty association and which are consistent with the plan of
4 operation.

5 2. Except as otherwise provided in this chapter, the
6 facility is granted specific authority to exercise the powers
7 of a domestic life or health insurer.

8 3. The facility is not authorized to solicit, advertise,
9 market, sell, underwrite, issue, insure, administer, or
10 reinsure new insurance business or insurance business of
11 insurance companies which are not impaired or insolvent
12 according to the laws of their state of domicile.

13 4. The board of directors of the facility may enter into
14 agreements with any interstate compact organization
15 established for the purpose of administering impaired or
16 insolvent insurance companies in this or any other state.

17 5. An activity involving the authority of the facility
18 derived from chapter 507C or other law related to insurer
19 supervision, rehabilitation, and liquidation shall be
20 performed in compliance with the requirements of such law.

21 6. The facility established under this chapter is not
22 subject to any insurance licensing requirements and an
23 employee of the facility is not subject to any insurance
24 licensing requirements for activities performed within the
25 employee's scope of duties. All regulatory oversight of the
26 facility shall be conducted by the oversight organization.

27 Sec. 7. NEW SECTION. 508D.7 PLAN OF OPERATION.

28 1. The facility shall submit to the oversight organization
29 a plan of operation and any amendments to the plan of
30 operation necessary or suitable to assure the fair,
31 reasonable, and equitable administration of the facility's
32 business. The plan of operation and any amendments to the
33 plan are effective upon the oversight organization's written
34 approval.

35 2. The plan of operation, in addition to other

1 requirements established in this chapter, shall establish all
2 of the following:

3 a. Procedures for administering the assets under the
4 control of the facility.

5 b. Regular places and times for meetings of the board of
6 directors.

7 c. Procedures for records to be kept of all financial
8 transactions engaged in by the facility, the agents of the
9 facility, and the board of directors.

10 d. Procedures for selecting the board of directors and
11 submitting the selections to the oversight organization.

12 e. Procedures for permitting life and health insurance
13 guaranty associations to become members of the facility.

14 f. Procedures for the assumption of the insurance business
15 or the assignment of the insurance business to the facility by
16 member guaranty associations.

17 g. Procedures for determining and making assessments
18 against member guaranty associations by the board of
19 directors.

20 h. Additional provisions necessary and proper for the
21 execution of the powers and duties of the facility.

22 i. A description of staffing requirements and
23 qualifications for positions within the facility.

24 3. The plan of operation may provide that any powers and
25 duties of the facility, except the power to borrow money and
26 the power to make assessments, may be delegated to a
27 corporation, association, or other organization or individual
28 which performs or will perform those functions. Such
29 corporation, association, or other organization or individual
30 shall be reimbursed for any payments made on behalf of the
31 facility and shall be compensated for the performance of any
32 permissible function, as directed by the facility. A
33 delegation of any power or duty pursuant to this subsection
34 takes effect only with the approval of the board of directors.

35 Sec. 8. NEW SECTION. 508D.8 COSTS AND ASSESSMENTS.

1 1. Costs of administration shall be recorded separately
2 for each impaired or insolvent company and those costs shall
3 be reimbursed from the assets of such company.

4 2. The board of directors of the facility shall assess the
5 member guaranty associations at the time and for the amounts
6 the board finds necessary to reimburse the facility for any
7 additional costs not reimbursed from assets managed by the
8 facility. Assessments made pursuant to this subsection shall
9 be allocated among member guaranty associations pursuant to a
10 formula adopted by the board and consistent with each
11 individual guaranty association's liability for the facility's
12 insurance business which is the subject of the assessment. An
13 assessment is due not less than ninety days after prior
14 written notice has been sent to the member guaranty
15 association and accrues interest at ten percent per annum
16 commencing on the due date.

17 3. The total of all assessments upon a member guaranty
18 association shall not exceed in any one calendar year the
19 limit set by the enabling legislation of the member guaranty
20 association's state of domicile for assessments against
21 insurance companies. If a maximum assessment in any one year
22 does not provide an amount sufficient to carry out the
23 responsibilities of the facility, the necessary additional
24 funds shall be assessed in succeeding years as soon as
25 permitted by this chapter and by the enabling legislation of
26 the member guaranty association's state of domicile.

27 4. Notwithstanding subsection 3, the Iowa life and health
28 insurance guaranty association shall levy additional
29 assessments not to exceed one hundred dollars per company per
30 year if necessary to fund organizational expenses of the
31 facility.

32 Sec. 9. NEW SECTION. 508D.9 MISCELLANEOUS PROVISIONS.

33 1. Records shall be kept of all negotiations and meetings
34 in which the facility or the facility's representatives are
35 involved to discuss the activities of the facility in carrying

1 out the powers and duties set out under section 508D.6.
2 Records of negotiations or meetings shall be made public
3 pursuant to chapter 22 only upon the termination of a
4 liquidation, rehabilitation, or conservation proceeding
5 involving the impaired or insolvent insurance company whose
6 business was assumed by or assigned to the facility, upon the
7 termination of the impairment or insolvency of the insurance
8 company, or upon the order of a court of competent
9 jurisdiction. This subsection does not limit the duty of the
10 association to render a report of its activities under
11 subsection 2.

12 2. The facility is subject to examination and regulation
13 by the oversight organization. The board of directors shall
14 submit to the oversight organization by June 1 of each year a
15 financial report for the preceding calendar year and a report
16 of its activities during the preceding calendar year. The
17 financial report shall be in a form approved by the oversight
18 organization.

19 3. The facility is exempt from payment of all fees and
20 taxes levied by this state or any of its subdivisions on
21 insurance companies, except taxes levied on the real property
22 of the facility.

23 4. A member guaranty association and its agents and
24 employees, the facility and its agents and employees, members
25 of the board of directors, and the oversight organization and
26 its representatives are not liable for any acts or omissions
27 while acting within the scope of their employment and in the
28 performance of their powers and duties under this chapter,
29 except for acts or omissions not in good faith which involve
30 intentional misconduct or which involve a knowing violation of
31 law.

32 EXPLANATION

33 This bill creates new chapter 508D.1 and authorizes the
34 formation of a legal entity by one or more state life and
35 health insurance guaranty associations for administering and

1 disposing of the business of impaired or insolvent insurance
2 companies.

3 Section 508D.1 establishes the title of the chapter.

4 Section 508D.2 sets forth the purpose of the chapter which
5 is to create the entity.

6 Section 508D.3 provides the definitions of terms used in
7 the chapter.

8 Section 508D.4 establishes the multi-state life and health
9 insurance resolution facility. The facility is a legal entity
10 domiciled in Iowa established to effect the purpose set forth
11 in section 508D.2.

12 Section 508D.5 establishes the board of directors of the
13 facility. The members of the board are to be representatives
14 or employees of the member guaranty associations, and selected
15 by the associations subject to the approval of the oversight
16 organization. The oversight organization is defined as the
17 Iowa insurance commissioner and one or more additional state
18 insurance commissioners. An initial board is to consist of
19 five to nine members as established by the Iowa life and
20 health insurance guaranty association, which is to establish
21 the plan of operation.

22 Section 508D.6 establishes the powers and duties of the
23 facility. The facility is to have the powers and duties which
24 the member guaranty associations assign to it, pursuant to the
25 enabling legislation in each state. The facility is not
26 authorized to solicit, advertise, market, sell, underwrite,
27 issue, insure, administer, or reinsure new insurance business,
28 or the business of insurance companies which are not impaired
29 or insolvent.

30 Section 508D.7 provides that the facility is to submit a
31 plan of operation to the oversight organization for approval.
32 The plan of operation is to establish all procedures for the
33 operation of the facility.

34 Section 508D.8 provides for the assessment of member
35 guaranty associations for funds necessary to carry out the

1 operations of the facility.

2 Section 508D.9 provides for the keeping and disclosure of
3 the records of the facility. The section also provides that
4 the facility is subject to examination and regulation by the
5 oversight organization.

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Disignano - Chair
Gronstal
Palmer
Jensen
Kersten

SSB-2229
Commerce

SENATE/HOUSE FILE ^{New} 2276
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to and authorizing the establishment of a legal
2 entity for the administration of the insurance business of
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1 Section 1. NEW SECTION. 508D.1 TITLE.

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4 Sec. 2. NEW SECTION. 508D.2 PURPOSE.

5 The purpose of this chapter is to authorize the formation
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9 companies assumed by or assigned to the entity by its member
10 guaranty associations, or by impaired or insolvent insurers
11 through the impaired or insolvent insurer's duly appointed
12 receiver, liquidator, or rehabilitator, and to establish the
13 conditions under which such an entity shall do business.

14 Sec. 3. NEW SECTION. 508D.3 DEFINITIONS.

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

17 1. "Facility" means the multi-state life and health
18 insurance resolution facility created pursuant to section
19 508D.4 as a legal entity domiciled in Iowa with its principal
20 place of business and other business offices either within or
21 without the state of Iowa as the board of directors may
22 designate or as the business of the entity may require and
23 established for the purpose set out in section 508D.2.

24 2. "Member guaranty association" means the Iowa life and
25 health insurance guaranty association created pursuant to
26 chapter 508C or any other state life and health insurance
27 guaranty association which is or becomes a member of the
28 facility pursuant to the plan of operation.

29 3. "Oversight organization" means the Iowa commissioner of
30 insurance and the state insurance commissioner, or other state
31 official charged with the responsibility of regulating the
32 insurance industry in the same or similar manner as the Iowa
33 commissioner of insurance, from the state of domicile of each
34 member guaranty association.

35 Sec. 4. NEW SECTION. 508D.4 FACILITY ESTABLISHED.

1 The facility may be created by one or more life and health
2 insurance guaranty associations for the purpose set out in
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5 and health insurance guaranty association or other entity as
6 approved by the board may elect to become a member of the
7 association. The facility shall perform its functions under a
8 plan of operation established and approved under section
9 508D.7 and shall exercise its powers through a board of
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12 Sec. 5. NEW SECTION. 508D.5 BOARD OF DIRECTORS.

13 1. The members of the board of directors shall be selected
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32 board as provided in the plan of operation.

33 Sec. 6. NEW SECTION. 508D.6 POWERS AND DUTIES OF THE
34 FACILITY.

35 1. The facility shall perform those duties of the member

1 guaranty associations which are delegated to the facility as
2 permitted under the enabling legislation of each member
3 guaranty association and which are consistent with the plan of
4 operation.

5 2. Except as otherwise provided in this chapter, the
6 facility is granted specific authority to exercise the powers
7 of a domestic life or health insurer.

8 3. The facility is not authorized to solicit, advertise,
9 market, sell, underwrite, issue, insure, administer, or
10 reinsure new insurance business or insurance business of
11 insurance companies which are not impaired or insolvent
12 according to the laws of their state of domicile.

13 4. The board of directors of the facility may enter into
14 agreements with any interstate compact organization
15 established for the purpose of administering impaired or
16 insolvent insurance companies in this or any other state.

17 5. An activity involving the authority of the facility
18 derived from chapter 507C or other law related to insurer
19 supervision, rehabilitation, and liquidation shall be
20 performed in compliance with the requirements of such law.

21 6. The facility established under this chapter is not
22 subject to any insurance licensing requirements and an
23 employee of the facility is not subject to any insurance
24 licensing requirements for activities performed within the
25 employee's scope of duties. All regulatory oversight of the
26 facility shall be conducted by the oversight organization.

27 Sec. 7. NEW SECTION. 508D.7 PLAN OF OPERATION.

28 1. The facility shall submit to the oversight organization
29 a plan of operation and any amendments to the plan of
30 operation necessary or suitable to assure the fair,
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32 business. The plan of operation and any amendments to the
33 plan are effective upon the oversight organization's written
34 approval.

35 2. The plan of operation, in addition to other

1 requirements established in this chapter, shall establish all
2 of the following:

3 a. Procedures for administering the assets under the
4 control of the facility.

5 b. Regular places and times for meetings of the board of
6 directors.

7 c. Procedures for records to be kept of all financial
8 transactions engaged in by the facility, the agents of the
9 facility, and the board of directors.

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11 submitting the selections to the oversight organization.

12 e. Procedures for permitting life and health insurance
13 guaranty associations to become members of the facility.

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24 3. The plan of operation may provide that any powers and
25 duties of the facility, except the power to borrow money and
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27 corporation, association, or other organization or individual
28 which performs or will perform those functions. Such
29 corporation, association, or other organization or individual
30 shall be reimbursed for any payments made on behalf of the
31 facility and shall be compensated for the performance of any
32 permissible function, as directed by the facility. A
33 delegation of any power or duty pursuant to this subsection
34 takes effect only with the approval of the board of directors.

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1 1. Costs of administration shall be recorded separately
2 for each impaired or insolvent company and those costs shall
3 be reimbursed from the assets of such company.

4 2. The board of directors of the facility shall assess the
5 member guaranty associations at the time and for the amounts
6 the board finds necessary to reimburse the facility for any
7 additional costs not reimbursed from assets managed by the
8 facility. Assessments made pursuant to this subsection shall
9 be allocated among member guaranty associations pursuant to a
10 formula adopted by the board and consistent with each
11 individual guaranty association's liability for the facility's
12 insurance business which is the subject of the assessment. An
13 assessment is due not less than ninety days after prior
14 written notice has been sent to the member guaranty
15 association and accrues interest at ten percent per annum
16 commencing on the due date.

17 3. The total of all assessments upon a member guaranty
18 association shall not exceed in any one calendar year the
19 limit set by the enabling legislation of the member guaranty
20 association's state of domicile for assessments against
21 insurance companies. If a maximum assessment in any one year
22 does not provide an amount sufficient to carry out the
23 responsibilities of the facility, the necessary additional
24 funds shall be assessed in succeeding years as soon as
25 permitted by this chapter and by the enabling legislation of
26 the member guaranty association's state of domicile.

27 4. Notwithstanding subsection 3, the Iowa life and health
28 insurance guaranty association shall levy additional
29 assessments not to exceed one hundred dollars per company per
30 year if necessary to fund organizational expenses of the
31 facility.

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33 1. Records shall be kept of all negotiations and meetings
34 in which the facility or the facility's representatives are
35 involved to discuss the activities of the facility in carrying

1 out the powers and duties set out under section 508D.6.
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5 involving the impaired or insolvent insurance company whose
6 business was assumed by or assigned to the facility, upon the
7 termination of the impairment or insolvency of the insurance
8 company, or upon the order of a court of competent
9 jurisdiction. This subsection does not limit the duty of the
10 association to render a report of its activities under
11 subsection 2.

12 2. The facility is subject to examination and regulation
13 by the oversight organization. The board of directors shall
14 submit to the oversight organization by June 1 of each year a
15 financial report for the preceding calendar year and a report
16 of its activities during the preceding calendar year. The
17 financial report shall be in a form approved by the oversight
18 organization.

19 3. The facility is exempt from payment of all fees and
20 taxes levied by this state or any of its subdivisions on
21 insurance companies, except taxes levied on the real property
22 of the facility.

23 4. A member guaranty association and its agents and
24 employees, the facility and its agents and employees, members
25 of the board of directors, and the oversight organization and
26 its representatives are not liable for any acts or omissions
27 while acting within the scope of their employment and in the
28 performance of their powers and duties under this chapter,
29 except for acts or omissions not in good faith which involve
30 intentional misconduct or which involve a knowing violation of
31 law.

32 EXPLANATION

33 This bill creates new chapter 508D.1 and authorizes the
34 formation of a legal entity by one or more state life and
35 health insurance guaranty associations for administering and

1 disposing of the business of impaired or insolvent insurance
2 companies.

3 Section 508D.1 establishes the title of the chapter.

4 Section 508D.2 sets forth the purpose of the chapter which
5 is to create the entity.

6 Section 508D.3 provides the definitions of terms used in
7 the chapter.

8 Section 508D.4 establishes the multi-state life and health
9 insurance resolution facility. The facility is a legal entity
10 domiciled in Iowa established to effect the purpose set forth
11 in section 508D.2.

12 Section 508D.5 establishes the board of directors of the
13 facility. The members of the board are to be representatives
14 or employees of the member guaranty associations, and selected
15 by the associations subject to the approval of the oversight
16 organization. The oversight organization is defined as the
17 Iowa insurance commissioner and one or more additional state
18 insurance commissioners. An initial board is to consist of
19 five to nine members as established by the Iowa life and
20 health insurance guaranty association, which is to establish
21 the plan of operation.

22 Section 508D.6 establishes the powers and duties of the
23 facility. The facility is to have the powers and duties which
24 the member guaranty associations assign to it, pursuant to the
25 enabling legislation in each state. The facility is not
26 authorized to solicit, advertise, market, sell, underwrite,
27 issue, insure, administer, or reinsure new insurance business,
28 or the business of insurance companies which are not impaired
29 or insolvent.

30 Section 508D.7 provides that the facility is to submit a
31 plan of operation to the oversight organization for approval.
32 The plan of operation is to establish all procedures for the
33 operation of the facility.

34 Section 508D.8 provides for the assessment of member
35 guaranty associations for funds necessary to carry out the

1 operations of the facility.

2 Section 508D.9 provides for the keeping and disclosure of
3 the records of the facility. The section also provides that
4 the facility is subject to examination and regulation by the
5 oversight organization.

6 BACKGROUND STATEMENT

7 SUBMITTED BY THE AGENCY

8 This bill would authorize the creation of a legal entity
9 which would administer the business of impaired or insolvent
10 insurance companies assigned to it by its member guaranty
11 associations. Each state in the United States has established
12 a life and health insurance guaranty association for the
13 purpose of administering the business of impaired or insolvent
14 insurance companies of that state. It is the duty of each
15 state's guaranty association to make sure that the rights of
16 the policyholders who are residents of the guaranty
17 association's state of domicile are protected and that their
18 claims are paid and funds reimbursed to the extent provided by
19 law. Recent large insolvencies have demonstrated the economic
20 benefit of centralized administration for asset management and
21 claims handling. This improves the speed and consistency of
22 information provided to policyholders. Most state guaranty
23 associations are authorized to join together to enhance and
24 improve their ability to handle insolvencies and this
25 legislation will provide them with a framework to use this
26 existing power to create a single facility which can assume or
27 accept assignment of all assets and liabilities deemed
28 appropriate by member guaranty associations. This entity is
29 solely an administrator of business of impaired or insolvent
30 insurance companies. It will have no ability to conduct the
31 business of insurance in general. It will not compete with
32 private insurance companies in any way and will serve only to
33 increase the speed and efficiency of handling impaired or
34 insolvent insurance companies.

35

LSB 3249DP 75

SENATE FILE 2276

AN ACT

RELATING TO AND AUTHORIZING THE ESTABLISHMENT OF A LEGAL ENTITY FOR THE ADMINISTRATION OF THE INSURANCE BUSINESS OF IMPAIRED OR INSOLVENT INSURERS BY ONE OR MORE STATE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS AND PROVIDING FOR ASSESSMENTS.

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

Section 1. NEW SECTION. 508D.1 TITLE.

This chapter shall be cited as the "Multi-state Life and Health Insurance Resolution Facility Act".

Sec. 2. NEW SECTION. 508D.2 PURPOSE.

The purpose of this chapter is to authorize the formation of an entity by one or more state life and health insurance guaranty associations for the purpose of administering and disposing of the business of impaired or insolvent insurance companies assured by or assigned to the entity by its member guaranty associations, or by impaired or insolvent insurers through the impaired or insolvent insurer's duly appointed receiver, liquidator, or rehabilitator, and to establish the conditions under which such an entity shall do business.

Sec. 3. NEW SECTION. 508D.3 DEFINITIONS.

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1. "Facility" means the multi-state life and health insurance resolution facility created pursuant to section 508D.4 as a legal entity domiciled in Iowa with its principal place of business and other business offices either within or without the state of Iowa as the board of directors may designate or as the business of the entity may require and established for the purpose set out in section 508D.2.

2. "Member guaranty association" means the Iowa life and health insurance guaranty association created pursuant to chapter 508C or any other state life and health insurance guaranty association which is or becomes a member of the facility pursuant to the plan of operation.

3. "Oversight organization" means the Iowa commissioner of insurance and the state insurance commissioner, or other state official charged with the responsibility of regulating the insurance industry in the same or similar manner as the Iowa commissioner of insurance, from the state of domicile of each member guaranty association.

Sec. 4. NEW SECTION. 508D.4 FACILITY ESTABLISHED.

The facility may be created by one or more life and health insurance guaranty associations for the purpose set out in section 508D.2. The name of the facility shall be the multi-state life and health insurance resolution facility. A life and health insurance guaranty association or other entity as approved by the board may elect to become a member of the association. The facility shall perform its functions under a plan of operation established and approved under section 508D.7 and shall exercise its powers through a board of directors established under section 508D.5. Only one facility shall be established pursuant to this chapter.

Sec. 5. NEW SECTION. 508D.5 BOARD OF DIRECTORS.

1. The members of the board of directors shall be selected by the member guaranty associations. The number of members of the board and their terms shall be established in the plan of operation. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members. In determining voting rights, each member guaranty association shall be entitled to one vote in person or by proxy.

2. The initial board of directors of the facility shall be established by the Iowa life and health insurance guaranty association and shall consist of not less than five nor more

than nine members. The initial board of directors shall adopt a plan of operation for the facility as provided in section 508D.7.

3. Members of the board of directors are entitled to reasonable compensation for expenses incurred in attending meetings of the board or while on business conducted on behalf of the facility. Members of the board may also be compensated by the facility for their services provided as members of the board as provided in the plan of operation.

Sec. 6. NEW SECTION. 508D.6 POWERS AND DUTIES OF THE FACILITY.

1. The facility shall perform those duties of the member guaranty associations which are delegated to the facility as permitted under the enabling legislation of each member guaranty association and which are consistent with the plan of operation.

2. Except as otherwise provided in this chapter, the facility is granted specific authority to exercise the powers of a domestic life or health insurer.

3. The facility is not authorized to solicit, advertise, market, sell, underwrite, issue, insure, administer, or reinsure new insurance business or insurance business of insurance companies which are not impaired or insolvent according to the laws of their state of domicile.

4. The board of directors of the facility may enter into agreements with any interstate compact organization established for the purpose of administering impaired or insolvent insurance companies in this or any other state.

5. An activity involving the authority of the facility derived from chapter 507C or other law related to insurer supervision, rehabilitation, and liquidation shall be performed in compliance with the requirements of such law.

6. The facility established under this chapter is not subject to any insurance licensing requirements and an employee of the facility is not subject to any insurance

licensing requirements for activities performed within the employee's scope of duties. All regulatory oversight of the facility shall be conducted by the oversight organization.

Sec. 7. NEW SECTION. 508D.7 PLAN OF OPERATION.

1. The facility shall submit to the oversight organization a plan of operation and any amendments to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the facility's business. The plan of operation and any amendments to the plan are effective upon the oversight organization's written approval.

2. The plan of operation, in addition to other requirements established in this chapter, shall establish all of the following:

a. Procedures for administering the assets under the control of the facility.

b. Regular places and times for meetings of the board of directors.

c. Procedures for records to be kept of all financial transactions engaged in by the facility, the agents of the facility, and the board of directors.

d. Procedures for selecting the board of directors and submitting the selections to the oversight organization.

e. Procedures for permitting life and health insurance guaranty associations to become members of the facility.

f. Procedures for the assumption of the insurance business or the assignment of the insurance business to the facility by member guaranty associations.

g. Procedures for determining and making assessments against member guaranty associations by the board of directors.

h. Additional provisions necessary and proper for the execution of the powers and duties of the facility.

i. A description of staffing requirements and qualifications for positions within the facility.

3. The plan of operation may provide that any powers and duties of the facility, except the power to borrow money and the power to make assessments, may be delegated to a corporation, association, or other organization or individual which performs or will perform those functions. Such corporation, association, or other organization or individual shall be reimbursed for any payments made on behalf of the facility and shall be compensated for the performance of any permissible function, as directed by the facility. A delegation of any power or duty pursuant to this subsection takes effect only with the approval of the board of directors.

Sec. 8. NEW SECTION. 508D.8 COSTS AND ASSESSMENTS.

1. Costs of administration shall be recorded separately for each impaired or insolvent company and those costs shall be reimbursed from the assets of such company.

2. The board of directors of the facility shall assess the member guaranty associations at the time and for the amounts the board finds necessary to reimburse the facility for any additional costs not reimbursed from assets managed by the facility. Assessments made pursuant to this subsection shall be allocated among member guaranty associations pursuant to a formula adopted by the board and consistent with each individual guaranty association's liability for the facility's insurance business which is the subject of the assessment. An assessment is due not less than ninety days after prior written notice has been sent to the member guaranty association and accrues interest at ten percent per annum commencing on the due date.

3. The total of all assessments upon a member guaranty association shall not exceed in any one calendar year the limit set by the enabling legislation of the member guaranty association's state of domicile for assessments against insurance companies. If a maximum assessment in any one year does not provide an amount sufficient to carry out the responsibilities of the facility, the necessary additional

funds shall be assessed in succeeding years as soon as permitted by this chapter and by the enabling legislation of the member guaranty association's state of domicile.

4. Notwithstanding subsection 3, the Iowa life and health insurance guaranty association shall levy additional assessments not to exceed one hundred dollars per company per year if necessary to fund organizational expenses of the facility.

Sec. 9. NEW SECTION. 508D.9 MISCELLANEOUS PROVISIONS.

1. Records shall be kept of all negotiations and meetings in which the facility or the facility's representatives are involved to discuss the activities of the facility in carrying out the powers and duties set out under section 508D.6. Records of negotiations or meetings shall be made public pursuant to chapter 22 only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurance company whose business was assumed by or assigned to the facility, upon the termination of the impairment or insolvency of the insurance company, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under subsection 2.

2. The facility is subject to examination and regulation by the oversight organization. The board of directors shall submit to the oversight organization by June 1 of each year a financial report for the preceding calendar year and a report of its activities during the preceding calendar year. The financial report shall be in a form approved by the oversight organization.

3. The facility is exempt from payment of all fees and taxes levied by this state or any of its subdivisions on insurance companies, except taxes levied on the real property of the facility.

4. A member guaranty association and its agents and employees, the facility and its agents and employees, members of the board of directors, and the oversight organization and its representatives are not liable for any acts or omissions while acting within the scope of their employment and in the performance of their powers and duties under this chapter, except for acts or omissions not in good faith which involve intentional misconduct or which involve a knowing violation of law.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2276, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved March 24, 1994

TERRY E. BRANSTAD
Governor