

DeLaney  
King  
Maddox

SSB-1139  
Commerce  
Succeeded by

SENATE/HOUSE FILE IF 249  
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 the operation and regulation of insurance  
2 companies, including the treatment of certain confidential  
3 information by the commissioner, the operation of certain  
4 types of insurance companies, and the rights and duties of  
5 insurance companies under certain policies issued in this  
6 state.

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

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1 Section 17 Section 505.17, Code 1999, is amended to read  
2 as follows:

3 505.17 CONFIDENTIAL INFORMATION.

4 Information, records, and documents utilized for the  
5 purpose of, or in the course of, investigation, regulation, or  
6 examination of an insurance company or insurance holding  
7 company, received by the division from some other governmental  
8 entity which treats such information, records, and documents  
9 as confidential, are confidential and shall not be disclosed  
10 by the division and are not subject to subpoena. Such  
11 information, records, and documents do not constitute a public  
12 record under chapter 22.

13 The disclosure of confidential information, administrative  
14 or judicial orders which contain confidential information, or  
15 information regarding other action of the division which is  
16 not a public record subject to disclosure, to other regulatory  
17 officials ~~from-this-or-other-states~~ may be permitted by the  
18 commissioner provided that those officials are subject to, or  
19 agree to comply with, standards of confidentiality comparable  
20 to those imposed on the commissioner.

21 Sec. 2. Section 508B.6, Code 1999, is amended to read as  
22 follows:

23 508B.6 APPROVAL OF PLAN BY POLICYHOLDERS -- NOTICE OF  
24 ELECTION -- EFFECTIVE DATE.

25 ~~After-the-plan-has-been-approved-by-the-commissioner-as~~  
26 ~~provided-in-section-508B-77-the~~ The plan of conversion shall  
27 be submitted to and shall not take effect until approved by  
28 two thirds of the policyholders of the mutual company voting  
29 on the plan. Notice of a meeting for the purpose of voting on  
30 the conversion plan shall be provided by mail to each  
31 policyholder entitled to vote in accordance with the articles  
32 of incorporation or bylaws of the mutual company. Each  
33 policyholder entitled to vote may cast one vote unless  
34 otherwise provided in the articles of incorporation or bylaws  
35 of the mutual company. Voting shall be by ballot, in person

1 or by proxy. A quorum shall consist of a quorum as defined in  
2 the articles of incorporation or bylaws of the mutual company.  
3 A copy of the plan of conversion, or a summary of the plan of  
4 conversion, shall accompany the notice of meeting and  
5 election. The notice of meeting may contain the notice of any  
6 planned public hearing. An approved plan of conversion shall  
7 take effect on the date specified in the plan.

8 Sec. 3. Section 508B.13, Code 1999, is amended to read as  
9 follows:

10 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

11 Prior to and for a period of five years following the  
12 effective date of the conversion, and in the case of the plans  
13 of conversion specified in subsections 1 and 3 of section  
14 508B.3, five years following the date of distribution of  
15 consideration to the policyholders in exchange for their  
16 membership interests, a person, shall not directly or  
17 indirectly acquire or offer to acquire the beneficial  
18 ownership of more than five percent of any class of voting  
19 security of the reorganized company unless the acquisition is  
20 approved by the commissioner as being consistent with the plan  
21 of conversion and by the board of directors of the reorganized  
22 company, or is made pursuant to a plan approved by the  
23 commissioner, made pursuant to the plan of conversion, or made  
24 after the initial public offering from a broker or dealer of  
25 registered securities with the securities and exchange  
26 commission at the quoted price on the date of purchase. An  
27 approved plan of conversion may include a stock option plan.  
28 As used in this section, "beneficial ownership" means, with  
29 respect to a security, the sole or shared power to vote or  
30 direct the voting of the security or the sole power to dispose  
31 or direct the disposition of the security.

32 Sec. 4. Section 511.28, Code 1999, is amended to read as  
33 follows:

34 511.28 SERVICE OF PROCESS.

35 Any notice or process, with three copies of the notice or

1 process, may be mailed to the commissioner at Des Moines,  
2 Iowa, in a certified mail letter addressed to the commissioner  
3 by the commissioner's official title. The commissioner shall  
4 acknowledge service on behalf of the defendant foreign  
5 insurance company by writing, giving the date of receipt of  
6 the notice or process, and shall return the notice or process  
7 in a certified mail letter to the clerk of the court in which  
8 the suit is pending, addressed to the clerk by the clerk's  
9 official title, and shall also mail a copy, with a copy of the  
10 commissioner's acknowledgment of service written thereon, in a  
11 certified mail letter addressed to the person or corporation  
12 named or designated by such company in the written instrument.  
13 Notice or process received prior to ~~12-noon~~ 10 a.m. shall be  
14 forwarded the same working day. Notice or process received  
15 after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.  
16 A fee of fifteen dollars must accompany the request for notice  
17 or process.

18 Sec. 5. Section 513C.7, subsection 1, paragraph a, Code  
19 1999, is amended to read as follows:

20 a. The individual is covered or is eligible for coverage  
21 under a health benefit plan provided by the individual's  
22 employer or is covered as the spouse or dependent of another  
23 individual covered or eligible for coverage under a health  
24 benefit plan provided by that individual's employer.

25 Sec. 6. Section 513C.7, subsection 4, paragraph b, Code  
26 1999, is amended to read as follows:

27 b. A carrier or an organized delivery system shall waive  
28 any time period applicable to a preexisting condition  
29 exclusion or limitation period with respect to particular  
30 services in an individual health benefit plan for the period  
31 of time an individual was previously covered by qualifying  
32 previous coverage that provided benefits with respect to such  
33 services, provided that the qualifying previous coverage was  
34 continuous to a date not more than sixty-three days prior to  
35 the effective date of the new coverage. For purposes of this

1 section, periods of coverage under medical assistance provided  
2 pursuant to chapter 249A or Medicare coverage provided  
3 pursuant to Title XVIII of the federal Social Security Act  
4 shall not be counted with respect to the sixty-three day  
5 requirement.

6 Sec. 7. Section 515.26, Code 1999, is amended to read as  
7 follows:

8 515.26 DIRECTORS.

9 The affairs of a company organized as provided by this  
10 chapter shall be managed by a number of directors, of not less  
11 than five nor more than twenty-one~~7-all-of-whom7-in-case-of-a~~  
12 ~~stock-company7-shall-be-stockholders7-or7-in.~~ In the case of  
13 a mutual company, all such directors shall be policyholders7  
14 ~~or-before-the-company-shall-effect-insurance7-be-subscribers~~  
15 ~~for-stock-or-for-insurance-as-the-case-may-be.~~

16 Sec. 8. Section 515.35, subsection 3, paragraph a,  
17 subparagraph (2), subparagraph subdivision (a), Code 1999, is  
18 amended to read as follows:

19 (a) That the loan will be fully collateralized by cash,  
20 cash equivalents, or obligations issued or guaranteed by the  
21 United States or an agency or an instrumentality of the United  
22 States, and that the collateral will be adjusted as necessary  
23 each business day during the term of the loan to maintain the  
24 required collateralization in the event of market value  
25 changes in the loaned securities or collateral.

26 If the loan is fully collateralized by cash, the  
27 reinvestment of the cash may be made in either individual  
28 securities or a pooled fund comprised of individual  
29 securities. If such reinvestment is made in individual  
30 securities, such securities must mature in less than ninety  
31 days. If such reinvestment is made in a pooled fund, the  
32 average maturity of the securities comprising such pooled fund  
33 must be less than ninety days. Individual securities and  
34 securities comprising the pooled fund shall be investment  
35 grade.

1 Sec. 9. Section 515.74, Code 1999, is amended to read as  
2 follows:

3 515.74 SERVICE OF PROCESS.

4 Any notice or process, with three copies of the notice or  
5 process, may be mailed to the commissioner at Des Moines,  
6 Iowa, in a certified mail letter addressed to the commissioner  
7 by the commissioner's official title. The commissioner shall  
8 acknowledge service on behalf of the defendant foreign  
9 insurance company by writing, giving the date of receipt of  
10 the notice or process, and shall return the notice or process  
11 in a certified mail letter to the clerk of the court in which  
12 the suit is pending, addressed to the clerk by the clerk's  
13 official title, and shall also mail a copy, with a copy of the  
14 commissioner's acknowledgment of service written thereon, in a  
15 certified mail letter addressed to the person or corporation  
16 named or designated by such company in the written instrument.  
17 Notice or process received prior to ~~12-noon~~ 10 a.m. shall be  
18 forwarded the same working day. Notice or process received  
19 after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.  
20 A fee of fifteen dollars must accompany the request for notice  
21 or process.

22 Sec. 10. Section 518.2, Code 1999, is amended to read as  
23 follows:

24 518.2 ARTICLES -- APPROVAL.

25 ~~Each-such~~ An organization shall present to the commissioner  
26 of insurance for approval its articles of incorporation, which  
27 shall show its name, objects and purposes, the time and place  
28 of the annual meeting of the members, and the location of its  
29 principal place of business, and any subsequent amendments to  
30 its articles. The commissioner of insurance shall then submit  
31 the articles of incorporation and any subsequent amendments to  
32 the articles to the attorney general for examination, and if  
33 found by the attorney general to be in accordance with the  
34 provisions of this chapter and the Constitution and the laws  
35 of the state, the attorney general shall certify such fact

1 thereon on the articles of incorporation and on any amendments  
 2 to the articles and return the same to said them to the  
 3 commissioner, and no articles. Articles of incorporation and  
 4 amendments to the articles shall not be approved by the  
 5 commissioner or recorded unless accompanied by such  
 6 certificate certified by the attorney general.

7 Sec. 11. Section 518.17, Code 1999, is amended to read as  
 8 follows:

9 518.17 REINSURANCE.

10 Any A county mutual insurance association may reinsure a  
 11 part or all of its risks with any association operating under  
 12 the provisions of this chapter, or with any other association  
 13 or company licensed in this state and authorized to write the  
 14 kinds of insurance enumerated in section 518.11.

15 ~~The commissioner of insurance may require any county mutual~~  
 16 ~~insurance association to obtain reinsurance coverage as~~  
 17 ~~provided for in this section if it appears to the commissioner~~  
 18 ~~of insurance that the perils insured against and the classes~~  
 19 ~~of properties insured may seriously endanger the financial~~  
 20 ~~position of the association and the security of its members.~~

21 Reinsurance sufficient to protect the financial stability  
 22 of the state mutual association is also required. Reinsurance  
 23 coverage obtained by a county mutual insurance association  
 24 shall not expose the association to a loss of more than  
 25 fifteen percent from surplus in any calendar year. The  
 26 commissioner of insurance may require additional reinsurance  
 27 if necessary to protect the policyholders of the association.

28 Sec. 12. Section 518.25, Code 1999, is amended to read as  
 29 follows:

30 518.25 SURPLUS.

31 An association organized under this chapter shall at all  
 32 times maintain a surplus of not less than fifty thousand  
 33 dollars or one-tenth of one percent of the gross property risk  
 34 in force, whichever is greater. ~~Reinsurance sufficient to~~  
 35 ~~protect the financial stability of the company is also~~

~~1 required.--The insurance commissioner may require additional  
2 reinsurance if necessary to protect the policyholders of the  
3 company.--An association authorized to transact business in  
4 this state before July 1, 1990, shall meet this requirement  
5 not later than July 1, 1993.~~

6 Sec. 13. NEW SECTION. 518A.1A PLAN OF ORGANIZATION.

7 An entity seeking to organize as or convert to a state  
8 mutual insurance association shall submit a plan of  
9 organization to the commissioner for approval.

10 Sec. 14. Section 518A.8, Code 1999, is amended by striking  
11 the section and inserting in lieu thereof the following:

12 518A.8 ARTICLES -- APPROVAL.

13 An organization shall present to the commissioner of  
14 insurance for approval its articles of incorporation, which  
15 shall show its name, objects, and purposes, the time and place  
16 of the annual meeting of the members, and the location of its  
17 principal place of business, and any subsequent amendments.  
18 The commissioner shall submit the articles of incorporation  
19 and any subsequent amendments to the articles to the attorney  
20 general for examination, and if found by the attorney general  
21 to be in accordance with the provisions of this chapter and  
22 the Constitution and the laws of this state, the attorney  
23 general shall certify such fact on the articles of  
24 incorporation and on any amendments to the articles and return  
25 them to the commissioner. Articles of incorporation and  
26 amendments to the articles shall not be approved by the  
27 commissioner or recorded unless certified by the attorney  
28 general.

29 Sec. 15. Section 518A.37, Code 1999, is amended to read as  
30 follows:

31 518A.37 SURPLUS.

32 An association organized under this chapter shall at all  
33 times maintain a surplus of not less than one hundred thousand  
34 dollars, or one-tenth of one percent of the gross property  
35 risk in force, whichever is greater. ~~Reinsurance sufficient~~

1 ~~to protect the financial stability of the company is also~~  
 2 ~~required.---The insurance commissioner may require additional~~  
 3 ~~reinsurance if necessary to protect the policyholders of the~~  
 4 ~~company.---An association authorized to transact business in~~  
 5 ~~this state before July 17, 1990, shall meet this requirement~~  
 6 ~~not later than July 17, 1992.~~

7 Sec. 16. Section 518A.44, Code 1999, is amended by  
 8 striking the section and inserting in lieu thereof the  
 9 following:

10 518A.44 REINSURANCE.

11 A state mutual insurance association may reinsure a part or  
 12 all of its risks with any association operating under the  
 13 provisions of this chapter, or with any other association or  
 14 company licensed in this state and authorized to write the  
 15 kinds of insurance enumerated in section 518A.1.

16 Reinsurance sufficient to protect the financial stability  
 17 of the state mutual association is required. Reinsurance  
 18 coverage obtained by an association shall not expose the  
 19 association to a loss of more than fifteen percent from  
 20 surplus in any calendar year. The commissioner of insurance  
 21 may require additional reinsurance if necessary to protect the  
 22 policyholders of the association.

23 Sec. 17. Section 519.11, Code 1999, is amended to read as  
 24 follows:

25 519.11 LIABILITY TO ASSESSMENTS.

26 The provisions as to maximum liability of members to  
 27 assessments when assets are insufficient and to assessments  
 28 when the corporation is insolvent, found in sections 518A.9~~7~~  
 29 ~~518A-10~~, and 518A.14, ~~and 518A-28~~, shall apply to all mutual  
 30 insurance corporations organized under ~~the provisions of this~~  
 31 chapter.

32 Sec. 18. Section 910.1, subsections 3 and 5, Code 1999,  
 33 are amended to read as follows:

34 3. "Pecuniary damages" means all damages ~~to the extent~~  
 35 whether or not paid by an insurer, which a victim could

1 recover against the offender in a civil action arising out of  
2 the same facts or event, except punitive damages and damages  
3 for pain, suffering, mental anguish, and loss of consortium.  
4 Without limitation, "pecuniary damages" includes damages for  
5 wrongful death and expenses incurred for psychiatric or  
6 psychological services or counseling or other counseling for  
7 the victim which became necessary as a direct result of the  
8 criminal activity.

9 5. "Victim" means a person who has suffered pecuniary  
10 damages as a result of the offender's criminal activities.  
11 ~~However, for purposes of this chapter, an insurer is not a~~  
12 ~~victim and does not have a right of subrogation.~~ The crime  
13 ~~victim compensation program is not an insurer for purposes of~~  
14 ~~this chapter, and the~~ right of subrogation provided by section  
15 915.92 does not prohibit restitution to the crime victim  
16 compensation program.

17 Sec. 19. Sections 518A.10, 518A.13, 518A.17, and 518A.28,  
18 Code 1999, are repealed.

19 EXPLANATION

20 This bill amends provisions relating to the regulation of  
21 insurance companies.

22 Code section 505.17 is amended to provide that information,  
23 records, and documents utilized for the purpose of, or in the  
24 course of, investigation, regulation, or examination of an  
25 insurer or insurance holding company, received by the division  
26 from some other governmental entity which treats such  
27 information, records, and documents as confidential, are  
28 confidential and shall not be disclosed by the division and  
29 are not subject to subpoena. Such information, records, and  
30 documents do not constitute a public record under Code chapter  
31 22.

32 Code section 508B.6 is amended to strike the requirement  
33 that a plan of conversion from a mutual life insurance company  
34 to a stock life insurance company be approved by the  
35 commissioner prior to being submitted to the policyholders for

1 approval.

2 Code section 508B.13 is amended to provide that a person  
3 shall not directly or indirectly acquire or offer to acquire  
4 the beneficial ownership of more than 5 percent of any class  
5 of voting security of the reorganized company unless the  
6 acquisition is approved by the commissioner as being  
7 consistent with the plan of conversion and by the board of  
8 directors of the reorganized company, or is made pursuant to  
9 the plan of conversion. Currently, a person is prohibited  
10 from acquiring or offering to acquire the beneficial ownership  
11 of the reorganized company unless the acquisition is made  
12 pursuant to a plan approved by the commissioner, made pursuant  
13 to the plan of conversion, or made after the initial public  
14 offering from a broker or dealer of registered securities with  
15 the securities and exchange commission at the quoted price on  
16 the date of purchase.

17 Code sections 511.28 and 515.74, relating to the mailing of  
18 notice or process to the commissioner on behalf of a foreign  
19 insurance company, is amended to provide that notice or  
20 process received by the commissioner prior to 10 a.m. is to be  
21 forwarded the same working day, and notice or process received  
22 after 10 a.m. is to be forwarded the next working day.  
23 Currently, the time for determining when service or process is  
24 forwarded is 12 noon.

25 Code section 513C.7, relating to the availability of  
26 coverage to an individual under a basic or standard health  
27 benefit plan, is amended to exclude from the guarantee of  
28 coverage, an individual who is covered or is eligible for  
29 coverage under a health benefit plan provided by an employer  
30 as a spouse or dependent of an employee. The section is also  
31 amended to exclude from qualifying coverage, periods of  
32 coverage under medical assistance provided pursuant to Code  
33 chapter 249A and Medicare coverage provided pursuant to Title  
34 XVIII of the federal Social Security Act.

35 Code section 515.26 is amended to eliminate the requirement

1 that a director of a domestic stock property and casualty  
2 insurance company own stock in such company as a prerequisite  
3 to becoming and remaining a director.

4 Code section 515.35 is amended to provide that cash used to  
5 collateralize a loan of stocks or obligations held by an  
6 insurance company may be reinvested in either individual  
7 securities or a pooled fund comprised of individual  
8 securities. If the reinvestment is made in individual  
9 securities, such securities must mature in less than 90 days.  
10 If the reinvestment is made in a pooled fund comprised of  
11 securities, the average maturity of such securities must be  
12 less than 90 days. Individual securities and securities  
13 comprising a pooled fund must be investment grade.

14 Code section 518.2 is amended to provide that articles of  
15 incorporation of a county mutual insurance association and any  
16 amendments to such articles which are submitted to the  
17 insurance commissioner, must be approved by the commissioner  
18 and certified by the attorney general.

19 Code section 518.17, relating to reinsurance, is amended to  
20 add language currently contained in Code section 518.25 which  
21 relates to reinsurance. Similar language currently contained  
22 in Code section 518.25 is struck.

23 Code section 518.25 is amended by striking language which  
24 is moved to Code section 518.17.

25 New Code section 518A.1A is created and provides that an  
26 entity seeking to organize as, or convert to, a state mutual  
27 association must submit a plan of organization to the  
28 commissioner for approval.

29 Code section 518A.8 is amended by striking the existing  
30 language which requires a state mutual insurance association  
31 to submit its articles of incorporation, bylaws, and policy  
32 form to the commissioner, and inserts language relating to the  
33 submission and approval of such association's articles of  
34 incorporation which is the same as that provided for county  
35 mutual insurance associations in Code section 518.2, as

1 amended in this bill.

2 Code section 518A.37 is amended to provide that a state  
3 mutual insurance association must maintain a surplus the  
4 greater of \$100,000 or one-tenth of 1 percent of the gross  
5 property risk in force. Currently, such associations must  
6 maintain a surplus of \$100,000. Additionally, language is  
7 struck regarding reinsurance. Similar reinsurance language is  
8 incorporated in the amendment to Code section 518A.44.

9 Code section 518A.44, relating to limitations on risks  
10 applicable to a state mutual insurance association, is struck  
11 and replaced by language relating to reinsurance. The new  
12 language provides that a state mutual insurance association  
13 may reinsure a part or all of its risks. The bill provides  
14 that reinsurance sufficient to protect the financial stability  
15 of the state mutual association is required. Reinsurance  
16 coverage obtained by an association shall not expose the  
17 association to a loss of more than 15 percent from surplus in  
18 any calendar year. The insurance commissioner is authorized  
19 to require additional reinsurance if necessary to protect the  
20 policyholders of the association.

21 Code section 519.11 is amended to correct internal  
22 references as a result of the repeal of sections 518A.10 and  
23 518A.28.

24 Code chapter 910 is amended to provide that an insurance  
25 company is a victim for purposes of chapter 910 and therefore  
26 eligible for restitution.

27 The bill repeals several sections pertaining to state  
28 mutual insurance associations including sections relating to  
29 advance assessments for losses and expenses, authorization for  
30 state mutual insurance associations to issue policies of fixed  
31 premiums, special assessments associated with damages paid for  
32 hail losses, and receivership of state mutual insurance  
33 associations (such receivership would be governed by Code  
34 chapter 507C, relating to insurers supervision,  
35 rehabilitation, and liquidation).

REPRINTED

FILED MAR 1 1999

SENATE FILE 249  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1139)

(P. 692)  
Passed Senate, Date 3/18/99  
Vote: Ayes 48 Nays 0

(P. 1176)  
Passed House, Date 4/8/99  
Vote: Ayes 96 Nays 0

Approved \_\_\_\_\_

(P. 1068) Re Passed 4-12-99  
Vote 48-0

A BILL FOR

1 An Act relating to the operation and regulation of insurance  
2 companies, including the treatment of certain confidential  
3 information by the commissioner, the operation of certain  
4 types of insurance companies, and the rights and duties of  
5 insurance companies under certain policies issued in this  
6 state.

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

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SF 249

1 Section 1. Section 505.17, Code 1999, is amended to read  
2 as follows:

3 505.17 CONFIDENTIAL INFORMATION.

4 Information, records, and documents utilized for the  
5 purpose of, or in the course of, investigation, regulation, or  
6 examination of an insurance company or insurance holding  
7 company, received by the division from some other governmental  
8 entity which treats such information, records, and documents  
9 as confidential, are confidential and shall not be disclosed  
10 by the division and are not subject to subpoena. Such  
11 information, records, and documents do not constitute a public  
12 record under chapter 22.

13 The disclosure of confidential information, administrative  
14 or judicial orders which contain confidential information, or  
15 information regarding other action of the division which is  
16 not a public record subject to disclosure, to other regulatory  
17 officials ~~from this or other states~~ may be permitted by the  
18 commissioner provided that those officials are subject to, or  
19 agree to comply with, standards of confidentiality comparable  
20 to those imposed on the commissioner.

21 Sec. 2. Section 508B.1, subsection 6, Code 1999, is  
22 amended to read as follows:

23 6. "Reorganized company" means the domestic stock ~~life~~  
24 ~~insurance~~ company into which a mutual company has been  
25 converted, converted and merged, or converted and  
26 consolidated.

27 Sec. 3. Section 508B.6, Code 1999, is amended to read as  
28 follows:

29 508B.6 APPROVAL OF PLAN BY POLICYHOLDERS -- NOTICE OF  
30 ELECTION -- EFFECTIVE DATE.

31 ~~After the plan has been approved by the commissioner as~~  
32 ~~provided in section 508B-77-the~~ The plan of conversion shall  
33 be submitted to and shall not take effect until approved by  
34 two thirds of the policyholders of the mutual company voting  
35 on the plan. Notice of a meeting for the purpose of voting on

1 the conversion plan shall be provided by mail to each  
2 policyholder entitled to vote in accordance with the articles  
3 of incorporation or bylaws of the mutual company. Each  
4 policyholder entitled to vote may cast one vote unless  
5 otherwise provided in the articles of incorporation or bylaws  
6 of the mutual company. Voting shall be by ballot, in person  
7 or by proxy. A quorum shall consist of a quorum as defined in  
8 the articles of incorporation or bylaws of the mutual company.  
9 A copy of the plan of conversion, or a summary of the plan of  
10 conversion, shall accompany the notice of meeting and  
11 election. The notice of meeting may contain the notice of any  
12 planned public hearing. An approved plan of conversion shall  
13 take effect on the date specified in the plan.

14 Sec. 4. Section 508B.12, Code 1999, is amended to read as  
15 follows:

16 508B.12 AMENDMENTS -- WITHDRAWAL.

17 At any time before ~~approval-of-the-plan-of~~ the conversion,  
18 and if done pursuant to rules issued by the commissioner or as  
19 may otherwise be required by the commissioner, the board of  
20 directors of a mutual company may amend the conversion plan.  
21 An amendment to a conversion plan is subject to the prior  
22 approval of the commissioner. The board of directors of a  
23 mutual company may withdraw the plan of conversion at any time  
24 prior to the ~~approval-of-the-plan-of~~ conversion.

25 Sec. 5. Section 508B.13, Code 1999, is amended to read as  
26 follows:

27 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

28 Prior to and for a period of five years following the  
29 effective date of the conversion, and in the case of the plans  
30 of conversion specified in subsections 1 and 3 of section  
31 508B.3, five years following the date of distribution of  
32 consideration to the policyholders in exchange for their  
33 membership interests, a person, other than the reorganized  
34 company, other than an employee benefit plan or employee  
35 benefit trust sponsored by the reorganized company, or as

1 otherwise specifically provided for in the plan of conversion,  
2 shall not directly or indirectly acquire or offer to acquire  
3 the beneficial ownership of more than five percent of any  
4 class of voting security of the reorganized company, and a  
5 person, other than the reorganized company or other than an  
6 employee benefit plan or employee benefit trust sponsored by  
7 the reorganized company, who acquires five percent or more of  
8 any class of voting security of the reorganized company prior  
9 to the conversion or as specifically provided for in the plan  
10 of conversion, shall not directly or indirectly acquire or  
11 offer to acquire the beneficial ownership of additional voting  
12 securities of the reorganized company, unless the acquisition  
13 is made-pursuant-to-a-plan approved by the commissioner, made  
14 pursuant-to-the-plan-of-conversion, or made-after-the-initial  
15 public-offering-from-a-broker-or-dealer-of-registered  
16 securities-with-the-securities-and-exchange-commission-at-the  
17 quoted-price-on-the-date-of-purchase as not being contrary to  
18 the interests of the policyholders of the reorganized company  
19 or its life insurance company subsidiary and by the board of  
20 directors of the reorganized company. The commissioner and  
21 the board of directors may consider the factors set forth in  
22 section 490.1108. The provisions of section 521A.3, except  
23 subsection 4, paragraph "a", shall be applicable to a proposed  
24 acquisition subject to this section. An approved plan of  
25 conversion may include a stock option plan. As used in this  
26 section, "beneficial ownership" means, with respect to a  
27 security, the sole or shared power to vote or direct the  
28 voting of the security or the sole power to dispose or direct  
29 the disposition of the security.

30 Sec. 6. Section 508B.14, Code 1999, is amended to read as  
31 follows:

32 508B.14 LIMITATION OF ACTIONS -- SECURITY FOR ATTORNEY  
33 FEES.

34 The commissioner's order approving or disapproving a plan  
35 of conversion shall be considered final agency action under

1 chapter 17A.

2 An action challenging the validity of a conversion plan, or  
3 any part of a conversion plan, shall not be commenced more  
4 than one hundred eighty days following the date of approval by  
5 the commissioner.

6 The reorganized company or a defendant may petition the  
7 court in such an action to give security for the reasonable  
8 attorney fees which may be incurred by any party to the  
9 action. The amount of the security may be increased or  
10 decreased in the discretion of the court having jurisdiction  
11 if a showing is made that the security provided is or may  
12 become inadequate or excessive.

13 Sec. 7. Section 511.28, Code 1999, is amended to read as  
14 follows:

15 511.28 SERVICE OF PROCESS.

16 Any notice or process, with three copies of the notice or  
17 process, may be mailed to the commissioner at Des Moines,  
18 Iowa, in a certified mail letter addressed to the commissioner  
19 by the commissioner's official title. The commissioner shall  
20 acknowledge service on behalf of the defendant foreign  
21 insurance company by writing, giving the date of receipt of  
22 the notice or process, and shall return the notice or process  
23 in a certified mail letter to the clerk of the court in which  
24 the suit is pending, addressed to the clerk by the clerk's  
25 official title, and shall also mail a copy, with a copy of the  
26 commissioner's acknowledgment of service written thereon, in a  
27 certified mail letter addressed to the person or corporation  
28 named or designated by such company in the written instrument.  
29 Notice or process received prior to ~~12-noon~~ 10 a.m. shall be  
30 forwarded the same working day. Notice or process received  
31 after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.  
32 A fee of fifteen dollars must accompany the request for notice  
33 or process.

34 Sec. 8. Section 513C.7, subsection 1, paragraph a, Code  
35 1999, is amended to read as follows:

1 a. The individual is covered or is eligible for coverage  
2 under a health benefit plan provided by the individual's  
3 employer or is covered as the spouse or dependent of another  
4 individual covered or eligible for coverage under a health  
5 benefit plan provided by that individual's employer.

6 Sec. 9. Section 513C.7, subsection 4, paragraph b, Code  
7 1999, is amended to read as follows:

8 b. A carrier or an organized delivery system shall waive  
9 any time period applicable to a preexisting condition  
10 exclusion or limitation period with respect to particular  
11 services in an individual health benefit plan for the period  
12 of time an individual was previously covered by qualifying  
13 previous coverage that provided benefits with respect to such  
14 services, provided that the qualifying previous coverage was  
15 continuous to a date not more than sixty-three days prior to  
16 the effective date of the new coverage. For purposes of this  
17 section, periods of coverage under medical assistance provided  
18 pursuant to chapter 249A or Medicare coverage provided  
19 pursuant to Title XVIII of the federal Social Security Act  
20 shall not be counted with respect to the sixty-three day  
21 requirement.

22 Sec. 10. Section 514B.4, subsection 2, Code 1999, is  
23 amended to read as follows:

24 2. Has arrangements established in accordance with rules  
25 adopted by the commissioner for a continuous review of health  
26 care processes and outcomes. If a health maintenance  
27 organization is accredited by the national committee on  
28 quality assurance, or another accreditation entity approved by  
29 the commissioner, an external peer review under rules of the  
30 commissioner shall not be applicable. However, at the  
31 discretion of the commissioner, an on-site inspection of the  
32 health maintenance organization may be conducted.

33 Sec. 11. Section 515.26, Code 1999, is amended to read as  
34 follows:

35 515.26 DIRECTORS.

1 The affairs of a company organized as provided by this  
2 chapter shall be managed by a number of directors, of not less  
3 than five nor more than twenty-one~~7-all-of-whom7-in-case-of-a~~  
4 ~~stock-company7-shall-be-stockholders7-or7-in.~~ In the case of  
5 a mutual company, all such directors shall be policyholders7  
6 ~~or-before-the-company-shall-effect-insurance7-be-subscribers~~  
7 ~~for-stock-or-for-insurance-as-the-case-may-be.~~

8 Sec. 12. Section 515.35, subsection 3, paragraph a,  
9 subparagraph (2), subparagraph subdivision (a), Code 1999, is  
10 amended to read as follows:

11 (a) That the loan will be fully collateralized by cash,  
12 cash equivalents, or obligations issued or guaranteed by the  
13 United States or an agency or an instrumentality of the United  
14 States, and that the collateral will be adjusted as necessary  
15 each business day during the term of the loan to maintain the  
16 required collateralization in the event of market value  
17 changes in the loaned securities or collateral.

18 If the loan is fully collateralized by cash, the  
19 reinvestment of the cash may be made in either individual  
20 securities or a pooled fund comprised of individual  
21 securities. If such reinvestment is made in individual  
22 securities, such securities must mature in less than ninety  
23 days. If such reinvestment is made in a pooled fund, the  
24 average maturity of the securities comprising such pooled fund  
25 must be less than ninety days. Individual securities and  
26 securities comprising the pooled fund shall be investment  
27 grade.

28 Sec. 13. Section 515.74, Code 1999, is amended to read as  
29 follows:

30 515.74 SERVICE OF PROCESS.

31 Any notice or process, with three copies of the notice or  
32 process, may be mailed to the commissioner at Des Moines,  
33 Iowa, in a certified mail letter addressed to the commissioner  
34 by the commissioner's official title. The commissioner shall  
35 acknowledge service on behalf of the defendant foreign

1 insurance company by writing, giving the date of receipt of  
2 the notice or process, and shall return the notice or process  
3 in a certified mail letter to the clerk of the court in which  
4 the suit is pending, addressed to the clerk by the clerk's  
5 official title, and shall also mail a copy, with a copy of the  
6 commissioner's acknowledgment of service written thereon, in a  
7 certified mail letter addressed to the person or corporation  
8 named or designated by such company in the written instrument.  
9 Notice or process received prior to ~~12-noon~~ 10 a.m. shall be  
10 forwarded the same working day. Notice or process received  
11 after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.  
12 A fee of fifteen dollars must accompany the request for notice  
13 or process.

14 Sec. 14. Section 518.2, Code 1999, is amended to read as  
15 follows:

16 518.2 ARTICLES -- APPROVAL.

17 ~~Each-such~~ An organization shall present to the commissioner  
18 of insurance for approval its articles of incorporation, which  
19 shall show its name, objects and purposes, the time and place  
20 of the annual meeting of the members, and the location of its  
21 principal place of business, and any subsequent amendments to  
22 its articles. The commissioner of insurance shall ~~then~~ submit  
23 the articles of incorporation and any subsequent amendments to  
24 the articles to the attorney general for examination, and if  
25 found by the attorney general to be in accordance with the  
26 provisions of this chapter and the Constitution and the laws  
27 of the state, the attorney general shall certify such fact  
28 thereon on the articles of incorporation and on any amendments  
29 to the articles and return ~~the-same-to-said~~ them to the  
30 commissioner,--and-no-articles. Articles of incorporation and  
31 amendments to the articles shall not be approved by the  
32 commissioner or recorded unless ~~accompanied-by-such~~  
33 certificate certified by the attorney general.

34 Sec. 15. Section 518.17, Code 1999, is amended to read as  
35 follows:

1 518.17 REINSURANCE.

2 Any A county mutual insurance association may reinsure a  
3 part or all of its risks with any association operating under  
4 the provisions of this chapter, or with any other association  
5 or company licensed in this state and authorized to write the  
6 kinds of insurance enumerated in section 518.11.

7 ~~The commissioner of insurance may require any county mutual~~  
8 ~~insurance association to obtain reinsurance coverage as~~  
9 ~~provided for in this section if it appears to the commissioner~~  
10 ~~of insurance that the perils insured against and the classes~~  
11 ~~of properties insured may seriously endanger the financial~~  
12 ~~position of the association and the security of its members.~~

13 Reinsurance sufficient to protect the financial stability  
14 of the state mutual association is also required. Reinsurance  
15 coverage obtained by a county mutual insurance association  
16 shall not expose the association to a loss of more than  
17 fifteen percent from surplus in any calendar year. The  
18 commissioner of insurance may require additional reinsurance  
19 if necessary to protect the policyholders of the association.

20 Sec. 16. Section 518.25, Code 1999, is amended to read as  
21 follows:

22 518.25 SURPLUS.

23 An association organized under this chapter shall at all  
24 times maintain a surplus of not less than fifty thousand  
25 dollars or one-tenth of one percent of the gross property risk  
26 in force, whichever is greater. ~~Reinsurance sufficient to~~  
27 ~~protect the financial stability of the company is also~~  
28 ~~required.--The insurance commissioner may require additional~~  
29 ~~reinsurance if necessary to protect the policyholders of the~~  
30 ~~company.--An association authorized to transact business in~~  
31 ~~this state before July 17, 1990, shall meet this requirement~~  
32 ~~not later than July 17, 1993.~~

33 Sec. 17. NEW SECTION. 518A.1A PLAN OF ORGANIZATION.

34 An entity seeking to organize as or convert to a state  
35 mutual insurance association shall submit a plan of

1 organization to the commissioner for approval.

2 Sec. 18. Section 518A.8, Code 1999, is amended by striking  
3 the section and inserting in lieu thereof the following:

4 518A.8 ARTICLES -- APPROVAL.

5 An organization shall present to the commissioner of  
6 insurance for approval its articles of incorporation, which  
7 shall show its name, objects, and purposes, the time and place  
8 of the annual meeting of the members, and the location of its  
9 principal place of business, and any subsequent amendments.

10 The commissioner shall submit the articles of incorporation  
11 and any subsequent amendments to the articles to the attorney  
12 general for examination, and if found by the attorney general  
13 to be in accordance with the provisions of this chapter and  
14 the Constitution and the laws of this state, the attorney  
15 general shall certify such fact on the articles of  
16 incorporation and on any amendments to the articles and return  
17 them to the commissioner. Articles of incorporation and  
18 amendments to the articles shall not be approved by the  
19 commissioner or recorded unless certified by the attorney  
20 general.

21 Sec. 19. Section 518A.37, Code 1999, is amended to read as  
22 follows:

23 518A.37 SURPLUS.

24 An association organized under this chapter shall at all  
25 times maintain a surplus of not less than one hundred thousand  
26 dollars, or one-tenth of one percent of the gross property  
27 risk in force, whichever is greater. ~~Reinsurance-sufficient~~  
28 ~~to-protect-the-financial-stability-of-the-company-is-also~~  
29 ~~required.--The-insurance-commissioner-may-require-additional~~  
30 ~~reinsurance-if-necessary-to-protect-the-policyholders-of-the~~  
31 ~~company.--An-association-authorized-to-transact-business-in~~  
32 ~~this-state-before-July-17-1990,-shall-meet-this-requirement~~  
33 ~~not-later-than-July-17-1992-~~

34 Sec. 20. Section 518A.44, Code 1999, is amended by  
35 striking the section and inserting in lieu thereof the

1 following:

2 518A.44 REINSURANCE.

3 A state mutual insurance association may reinsure a part or  
4 all of its risks with any association operating under the  
5 provisions of this chapter, or with any other association or  
6 company licensed in this state and authorized to write the  
7 kinds of insurance enumerated in section 518A.1.

8 Reinsurance sufficient to protect the financial stability  
9 of the state mutual association is required. Reinsurance  
10 coverage obtained by an association shall not expose the  
11 association to a loss of more than fifteen percent from  
12 surplus in any calendar year. The commissioner of insurance  
13 may require additional reinsurance if necessary to protect the  
14 policyholders of the association.

15 Sec. 21. Section 519.11, Code 1999, is amended to read as  
16 follows:

17 519.11 LIABILITY TO ASSESSMENTS.

18 The provisions as to maximum liability of members to  
19 assessments when assets are insufficient and to assessments  
20 when the corporation is insolvent, found in sections 518A.97  
21 ~~518A.107~~, and 518A.14, ~~and 518A.287~~, shall apply to all mutual  
22 insurance corporations organized under ~~the provisions of~~ this  
23 chapter.

24 Sec. 22. Section 910.1, subsections 3 and 5, Code 1999,  
25 are amended to read as follows:

26 3. "Pecuniary damages" means all damages ~~to the extent~~  
27 whether or not paid by an insurer, which a victim could  
28 recover against the offender in a civil action arising out of  
29 the same facts or event, except punitive damages and damages  
30 for pain, suffering, mental anguish, and loss of consortium.  
31 Without limitation, "pecuniary damages" includes damages for  
32 wrongful death and expenses incurred for psychiatric or  
33 psychological services or counseling or other counseling for  
34 the victim which became necessary as a direct result of the  
35 criminal activity.

1 5. "Victim" means a person who has suffered pecuniary  
2 damages as a result of the offender's criminal activities.  
3 ~~However, for purposes of this chapter, an insurer is not a~~  
4 ~~victim and does not have a right of subrogation.~~ The crime  
5 ~~victim compensation program is not an insurer for purposes of~~  
6 ~~this chapter, and the~~ right of subrogation provided by section  
7 915.92 does not prohibit restitution to the crime victim  
8 compensation program.

9 Sec. 23. Sections 518A.10, 518A.13, 518A.17, and 518A.28,  
10 Code 1999, are repealed.

11

## EXPLANATION

12 This bill amends provisions relating to the regulation of  
13 insurance companies.

14 Code section 505.17 is amended to provide that information,  
15 records, and documents utilized for the purpose of, or in the  
16 course of, investigation, regulation, or examination of an  
17 insurer or insurance holding company, received by the division  
18 from some other governmental entity which treats such  
19 information, records, and documents as confidential, are  
20 confidential and shall not be disclosed by the division and  
21 are not subject to subpoena. Such information, records, and  
22 documents do not constitute a public record under Code chapter  
23 22.

24 Code section 508B.1 is amended by providing that the  
25 definition of a reorganized company includes, in addition to a  
26 mutual company which has been converted into a domestic stock  
27 life insurance company, a mutual company which has been  
28 converted and merged, and a mutual company which has been  
29 converted and consolidated into such a stock company.

30 Code section 508B.6 is amended to strike the requirement  
31 that a plan of conversion from a mutual life insurance company  
32 to a stock life insurance company be approved by the  
33 commissioner prior to being submitted to the policyholders for  
34 approval.

35 Code section 508B.12 is amended to provide that at any time

1 prior to the conversion of a mutual company into a domestic  
2 stock life insurance company, the board of directors may amend  
3 the conversion plan. An amendment to the conversion plan is  
4 subject to the prior approval of the commissioner. Currently,  
5 a board of directors may amend such plan at any time before  
6 approval of the plan.

7 Code section 508B.13 is amended to provide that a person,  
8 other than the reorganized company, an employee benefit plan  
9 or employee benefit trust sponsored by the reorganized  
10 company, or as otherwise specifically provided for in the plan  
11 of conversion, shall not directly or indirectly acquire or  
12 offer to acquire the beneficial ownership of more than 5  
13 percent of any class of voting security of the reorganized  
14 company, and a person other than the reorganized company, an  
15 employee benefit plan or employee benefit trust sponsored by  
16 the reorganized company, who acquires 5 percent or more of any  
17 class of voting security of the reorganized company prior to  
18 the conversion or as specifically provided for in the plan of  
19 conversion, shall not directly or indirectly acquire or offer  
20 to acquire the beneficial ownership of additional voting  
21 securities of the reorganized company, unless the acquisition  
22 is approved by the commissioner as not being contrary to the  
23 interests of the policyholders of the reorganized company or  
24 its life insurance company subsidiary and by the board of  
25 directors of the reorganized company. Currently, a person is  
26 prohibited from acquiring or offering to acquire the  
27 beneficial ownership of the reorganized company unless the  
28 acquisition is made pursuant to a plan approved by the  
29 commissioner, made pursuant to the plan of conversion, or made  
30 after the initial public offering from a broker or dealer of  
31 registered securities with the securities and exchange  
32 commission at the quoted price on the date of purchase.

33 Code section 508B.14 is amended to provide that the  
34 commissioner's order approving or disapproving a plan of  
35 conversion is to be considered final agency action under Code

1 chapter 17A, the administrative procedures Act.

2 Code sections 511.28 and 515.74, relating to the mailing of  
3 notice or process to the commissioner on behalf of a foreign  
4 insurance company, are amended to provide that notice or  
5 process received by the commissioner prior to 10 a.m. is to be  
6 forwarded the same working day, and notice or process received  
7 after 10 a.m. is to be forwarded the next working day.

8 Currently, the time for determining when service or process is  
9 forwarded is 12 noon.

10 Code section 513C.7, relating to the availability of  
11 coverage to an individual under a basic or standard health  
12 benefit plan, is amended to exclude from the guarantee of  
13 coverage, an individual who is covered or is eligible for  
14 coverage under a health benefit plan provided by an employer  
15 as a spouse or dependent of an employee. The section is also  
16 amended to exclude from qualifying coverage, periods of  
17 coverage under medical assistance provided pursuant to Code  
18 chapter 249A and Medicare coverage provided pursuant to Title  
19 XVIII of the federal Social Security Act.

20 Code section 514B.4 is amended to provide that if a health  
21 maintenance organization is accredited by the national  
22 committee on quality assurance, or another accreditation  
23 entity approved by the commissioner, an external peer review  
24 under rules of the commissioner shall not be applicable.  
25 However, at the discretion of the commissioner, an on-site  
26 inspection of the health maintenance organization may be  
27 conducted.

28 Code section 515.26 is amended to eliminate the requirement  
29 that a director of a domestic stock property and casualty  
30 insurance company own stock in such company as a prerequisite  
31 to becoming and remaining a director.

32 Code section 515.35 is amended to provide that cash used to  
33 collateralize a loan of stocks or obligations held by an  
34 insurance company may be reinvested in either individual  
35 securities or a pooled fund comprised of individual

1 securities. If the reinvestment is made in individual  
2 securities, such securities must mature in less than 90 days.  
3 If the reinvestment is made in a pooled fund comprised of  
4 securities, the average maturity of such securities must be  
5 less than 90 days. Individual securities and securities  
6 comprising a pooled fund must be investment grade.

7 Code section 518.2 is amended to provide that articles of  
8 incorporation of a county mutual insurance association and any  
9 amendments to such articles which are submitted to the  
10 insurance commissioner, must be approved by the commissioner  
11 and certified by the attorney general.

12 Code section 518.17, relating to reinsurance, is amended to  
13 add language currently contained in Code section 518.25 which  
14 relates to reinsurance. Similar language currently contained  
15 in Code section 518.25 is struck.

16 Code section 518.25 is amended by striking language which  
17 is moved to Code section 518.17.

18 New Code section 518A.1A is created and provides that an  
19 entity seeking to organize as, or convert to, a state mutual  
20 association must submit a plan of organization to the  
21 commissioner for approval.

22 Code section 518A.8 is amended by striking the existing  
23 language which requires a state mutual insurance association  
24 to submit its articles of incorporation, bylaws, and policy  
25 form to the commissioner, and inserts language relating to the  
26 submission and approval of such association's articles of  
27 incorporation which is the same as that provided for county  
28 mutual insurance associations in Code section 518.2, as  
29 amended in this bill.

30 Code section 518A.37 is amended to provide that a state  
31 mutual insurance association must maintain a surplus the  
32 greater of \$100,000 or one-tenth of 1 percent of the gross  
33 property risk in force. Currently, such associations must  
34 maintain a surplus of \$100,000. Additionally, language is  
35 struck regarding reinsurance. Similar reinsurance language is

1 incorporated in the amendment to Code section 518A.44.

2 Code section 518A.44, relating to limitations on risks  
3 applicable to a state mutual insurance association, is struck  
4 and replaced by language relating to reinsurance. The new  
5 language provides that a state mutual insurance association  
6 may reinsure a part or all of its risks. The bill provides  
7 that reinsurance sufficient to protect the financial stability  
8 of the state mutual association is required. Reinsurance  
9 coverage obtained by an association shall not expose the  
10 association to a loss of more than 15 percent from surplus in  
11 any calendar year. The insurance commissioner is authorized  
12 to require additional reinsurance if necessary to protect the  
13 policyholders of the association.

14 Code section 519.11 is amended to correct internal  
15 references as a result of the repeal of sections 518A.10 and  
16 518A.28.

17 Code chapter 910 is amended to provide that an insurance  
18 company is a victim for purposes of chapter 910 and therefore  
19 eligible for restitution.

20 The bill repeals several sections pertaining to state  
21 mutual insurance associations including sections relating to  
22 advance assessments for losses and expenses, authorization for  
23 state mutual insurance associations to issue policies of fixed  
24 premiums, special assessments associated with damages paid for  
25 hail losses, and receivership of state mutual insurance  
26 associations (such receivership would be governed by Code  
27 chapter 507C, relating to insurers supervision,  
28 rehabilitation, and liquidation).

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SENATE FILE 249

3078

Amend Senate File 249 as follows:

1. Page 1, line 16, by inserting after the word "other" the following: "insurance and financial".

2. Page 4, by inserting after line 33 the following:

"Sec. \_\_\_\_ . Section 513B.13, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The board of the Iowa small employer health reinsurance program, on an ongoing basis, shall review the program and make recommendations as to the continued cost effectiveness of the program to the commissioner, which recommendations may include proposed modifications or suspension of operation of the program. In making such a review, the board shall consider such factors as the population reinsured by the program, the premiums and assessments paid to the program, the number and percentage of carriers electing to utilize the program, health care reform measures implemented in the state, as well as other factors deemed relevant by the board. The commissioner, upon finding that the program is not cost effective, may make modifications to the program or suspend the operation of the program by rule."

3. By renumbering as necessary.

By JOHN W. JENSEN  
PATRICK J. DELUHERY

S-3078 FILED MARCH 16, 1999

*adopted*  
*3/18/99*



1 Section 1. Section 505.17, Code 1999, is amended to read  
2 as follows:

3 505.17 CONFIDENTIAL INFORMATION.

4 Information, records, and documents utilized for the  
5 purpose of, or in the course of, investigation, regulation, or  
6 examination of an insurance company or insurance holding  
7 company, received by the division from some other governmental  
8 entity which treats such information, records, and documents  
9 as confidential, are confidential and shall not be disclosed  
10 by the division and are not subject to subpoena. Such  
11 information, records, and documents do not constitute a public  
12 record under chapter 22.

13 The disclosure of confidential information, administrative  
14 or judicial orders which contain confidential information, or  
15 information regarding other action of the division which is  
16 not a public record subject to disclosure, to other insurance  
17 and financial regulatory officials from this or other states  
18 may be permitted by the commissioner provided that those  
19 officials are subject to, or agree to comply with, standards  
20 of confidentiality comparable to those imposed on the  
21 commissioner.

22 Sec. 2. Section 508B.1, subsection 6, Code 1999, is  
23 amended to read as follows:

24 6. "Reorganized company" means the domestic stock ~~life~~  
25 ~~insurance~~ company into which a mutual company has been  
26 converted, converted and merged, or converted and  
27 consolidated.

28 Sec. 3. Section 508B.6, Code 1999, is amended to read as  
29 follows:

30 508B.6 APPROVAL OF PLAN BY POLICYHOLDERS -- NOTICE OF  
31 ELECTION -- EFFECTIVE DATE.

32 ~~After the plan has been approved by the commissioner as~~  
33 ~~provided in section 508B.7, the~~ The plan of conversion shall  
34 be submitted to and shall not take effect until approved by  
35 two thirds of the policyholders of the mutual company voting

1 on the plan. Notice of a meeting for the purpose of voting on  
2 the conversion plan shall be provided by mail to each  
3 policyholder entitled to vote in accordance with the articles  
4 of incorporation or bylaws of the mutual company. Each  
5 policyholder entitled to vote may cast one vote unless  
6 otherwise provided in the articles of incorporation or bylaws  
7 of the mutual company. Voting shall be by ballot, in person  
8 or by proxy. A quorum shall consist of a quorum as defined in  
9 the articles of incorporation or bylaws of the mutual company.  
10 A copy of the plan of conversion, or a summary of the plan of  
11 conversion, shall accompany the notice of meeting and  
12 election. The notice of meeting may contain the notice of any  
13 planned public hearing. An approved plan of conversion shall  
14 take effect on the date specified in the plan.

15 Sec. 4. Section 508B.12, Code 1999, is amended to read as  
16 follows:

17 508B.12 AMENDMENTS -- WITHDRAWAL.

18 At any time before ~~approval-of-the-plan-of~~ the conversion,  
19 and if done pursuant to rules issued by the commissioner or as  
20 may otherwise be required by the commissioner, the board of  
21 directors of a mutual company may amend the conversion plan.  
22 An amendment to a conversion plan is subject to the prior  
23 approval of the commissioner. The board of directors of a  
24 mutual company may withdraw the plan of conversion at any time  
25 prior to the ~~approval-of-the-plan-of~~ conversion.

26 Sec. 5. Section 508B.13, Code 1999, is amended to read as  
27 follows:

28 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

29 Prior to and for a period of five years following the  
30 effective date of the conversion, and in the case of the plans  
31 of conversion specified in subsections 1 and 3 of section  
32 508B.3, five years following the date of distribution of  
33 consideration to the policyholders in exchange for their  
34 membership interests, a person, other than the reorganized  
35 company, other than an employee benefit plan or employee

1 benefit trust sponsored by the reorganized company, or as  
2 otherwise specifically provided for in the plan of conversion,  
3 shall not directly or indirectly acquire or offer to acquire  
4 the beneficial ownership of more than five percent of any  
5 class of voting security of the reorganized company, and a  
6 person, other than the reorganized company or other than an  
7 employee benefit plan or employee benefit trust sponsored by  
8 the reorganized company, who acquires five percent or more of  
9 any class of voting security of the reorganized company prior  
10 to the conversion or as specifically provided for in the plan  
11 of conversion, shall not directly or indirectly acquire or  
12 offer to acquire the beneficial ownership of additional voting  
13 securities of the reorganized company, unless the acquisition  
14 is made-pursuant-to-a-plan approved by the commissioner, made  
15 pursuant-to-the-plan-of-conversion, or made-after-the-initial  
16 public-offering-from-a-broker-or-dealer-of-registered  
17 securities-with-the-securities-and-exchange-commission-at-the  
18 quoted-price-on-the-date-of-purchase as not being contrary to  
19 the interests of the policyholders of the reorganized company  
20 or its life insurance company subsidiary and by the board of  
21 directors of the reorganized company. The commissioner and  
22 the board of directors may consider the factors set forth in  
23 section 490.1108. The provisions of section 521A.3, except  
24 subsection 4, paragraph "a", shall be applicable to a proposed  
25 acquisition subject to this section. An approved plan of  
26 conversion may include a stock option plan. As used in this  
27 section, "beneficial ownership" means, with respect to a  
28 security, the sole or shared power to vote or direct the  
29 voting of the security or the sole power to dispose or direct  
30 the disposition of the security.

31 Sec. 6. Section 508B.14, Code 1999, is amended to read as  
32 follows:

33 508B.14 LIMITATION OF ACTIONS -- SECURITY FOR ATTORNEY  
34 FEES.

35 The commissioner's order approving or disapproving a plan

1 of conversion shall be considered final agency action under  
2 chapter 17A.

3 An action challenging the validity of a conversion plan, or  
4 any part of a conversion plan, shall not be commenced more  
5 than one hundred eighty days following the date of approval by  
6 the commissioner.

7 The reorganized company or a defendant may petition the  
8 court in such an action to give security for the reasonable  
9 attorney fees which may be incurred by any party to the  
10 action. The amount of the security may be increased or  
11 decreased in the discretion of the court having jurisdiction  
12 if a showing is made that the security provided is or may  
13 become inadequate or excessive.

14 Sec. 7. Section 511.28, Code 1999, is amended to read as  
15 follows:

16 511.28 SERVICE OF PROCESS.

17 Any notice or process, with three copies of the notice or  
18 process, may be mailed to the commissioner at Des Moines,  
19 Iowa, in a certified mail letter addressed to the commissioner  
20 by the commissioner's official title. The commissioner shall  
21 acknowledge service on behalf of the defendant foreign  
22 insurance company by writing, giving the date of receipt of  
23 the notice or process, and shall return the notice or process  
24 in a certified mail letter to the clerk of the court in which  
25 the suit is pending, addressed to the clerk by the clerk's  
26 official title, and shall also mail a copy, with a copy of the  
27 commissioner's acknowledgment of service written thereon, in a  
28 certified mail letter addressed to the person or corporation  
29 named or designated by such company in the written instrument.  
30 Notice or process received prior to ~~12-noon~~ 10 a.m. shall be  
31 forwarded the same working day. Notice or process received  
32 after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.  
33 A fee of fifteen dollars must accompany the request for notice  
34 or process.

35 Sec. 8. Section 513B.13, Code 1999, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 15. The board of the Iowa small employer  
3 health reinsurance program, on an ongoing basis, shall review  
4 the program and make recommendations as to the continued cost  
5 effectiveness of the program to the commissioner, which  
6 recommendations may include proposed modifications or  
7 suspension of operation of the program. In making such a  
8 review, the board shall consider such factors as the  
9 population reinsured by the program, the premiums and  
10 assessments paid to the program, the number and percentage of  
11 carriers electing to utilize the program, health care reform  
12 measures implemented in the state, as well as other factors  
13 deemed relevant by the board. The commissioner, upon finding  
14 that the program is not cost effective, may make modifications  
15 to the program or suspend the operation of the program by  
16 rule.

17 Sec. 9. Section 513C.7, subsection 1, paragraph a, Code  
18 1999, is amended to read as follows:

19 a. The individual is covered or is eligible for coverage  
20 under a health benefit plan provided by the individual's  
21 employer or is covered as the spouse or dependent of another  
22 individual covered or eligible for coverage under a health  
23 benefit plan provided by that individual's employer.

24 Sec. 10. Section 513C.7, subsection 4, paragraph b, Code  
25 1999, is amended to read as follows:

26 b. A carrier or an organized delivery system shall waive  
27 any time period applicable to a preexisting condition  
28 exclusion or limitation period with respect to particular  
29 services in an individual health benefit plan for the period  
30 of time an individual was previously covered by qualifying  
31 previous coverage that provided benefits with respect to such  
32 services, provided that the qualifying previous coverage was  
33 continuous to a date not more than sixty-three days prior to  
34 the effective date of the new coverage. For purposes of this  
35 section, periods of coverage under medical assistance provided

1 pursuant to chapter 249A or Medicare coverage provided  
2 pursuant to Title XVIII of the federal Social Security Act  
3 shall not be counted with respect to the sixty-three day  
4 requirement.

5 Sec. 11. Section 514B.4, subsection 2, Code 1999, is  
6 amended to read as follows:

7 2. Has arrangements established in accordance with rules  
8 adopted by the commissioner for a continuous review of health  
9 care processes and outcomes. If a health maintenance  
10 organization is accredited by the national committee on  
11 quality assurance, or another accreditation entity approved by  
12 the commissioner, an external peer review under rules of the  
13 commissioner shall not be applicable. However, at the  
14 discretion of the commissioner, an on-site inspection of the  
15 health maintenance organization may be conducted.

16 Sec. 12. Section 515.26, Code 1999, is amended to read as  
17 follows:

18 515.26 DIRECTORS.

19 The affairs of a company organized as provided by this  
20 chapter shall be managed by a number of directors, of not less  
21 than five nor more than twenty-one~~7-all-of-whom7-in-case-of-a~~  
22 ~~stock-company7-shall-be-stockholders7-or7-in.~~ In the case of  
23 a mutual company, all such directors shall be policyholders7  
24 ~~or-before-the-company-shall-effect-insurance7-be-subscribers~~  
25 ~~for-stock-or-for-insurance-as-the-case-may-be.~~

26 Sec. 13. Section 515.35, subsection 3, paragraph a,  
27 subparagraph (2), subparagraph subdivision (a), Code 1999, is  
28 amended to read as follows:

29 (a) That the loan will be fully collateralized by cash,  
30 cash equivalents, or obligations issued or guaranteed by the  
31 United States or an agency or an instrumentality of the United  
32 States, and that the collateral will be adjusted as necessary  
33 each business day during the term of the loan to maintain the  
34 required collateralization in the event of market value  
35 changes in the loaned securities or collateral.

1 If the loan is fully collateralized by cash, the  
2 reinvestment of the cash may be made in either individual  
3 securities or a pooled fund comprised of individual  
4 securities. If such reinvestment is made in individual  
5 securities, such securities must mature in less than ninety  
6 days. If such reinvestment is made in a pooled fund, the  
7 average maturity of the securities comprising such pooled fund  
8 must be less than ninety days. Individual securities and  
9 securities comprising the pooled fund shall be investment  
10 grade.

11 Sec. 14. Section 515.74, Code 1999, is amended to read as  
12 follows:

13 515.74 SERVICE OF PROCESS.

14 Any notice or process, with three copies of the notice or  
15 process, may be mailed to the commissioner at Des Moines,  
16 Iowa, in a certified mail letter addressed to the commissioner  
17 by the commissioner's official title. The commissioner shall  
18 acknowledge service on behalf of the defendant foreign  
19 insurance company by writing, giving the date of receipt of  
20 the notice or process, and shall return the notice or process  
21 in a certified mail letter to the clerk of the court in which  
22 the suit is pending, addressed to the clerk by the clerk's  
23 official title, and shall also mail a copy, with a copy of the  
24 commissioner's acknowledgment of service written thereon, in a  
25 certified mail letter addressed to the person or corporation  
26 named or designated by such company in the written instrument.  
27 Notice or process received prior to ~~12-noon~~ 10 a.m. shall be  
28 forwarded the same working day. Notice or process received  
29 after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.  
30 A fee of fifteen dollars must accompany the request for notice  
31 or process.

32 Sec. 15. Section 518.2, Code 1999, is amended to read as  
33 follows:

34 518.2 ARTICLES -- APPROVAL.

35 ~~Each-such~~ An organization shall present to the commissioner

1 of insurance for approval its articles of incorporation, which  
2 shall show its name, objects and purposes, the time and place  
3 of the annual meeting of the members, and the location of its  
4 principal place of business, and any subsequent amendments to  
5 its articles. The commissioner of insurance shall ~~then~~ submit  
6 the articles of incorporation and any subsequent amendments to  
7 the articles to the attorney general for examination, and if  
8 found by the attorney general to be in accordance with the  
9 provisions of this chapter and the Constitution and the laws  
10 of the state, the attorney general shall certify such fact  
11 thereon on the articles of incorporation and on any amendments  
12 to the articles and return ~~the same to said~~ them to the  
13 commissioner, ~~and no articles~~. Articles of incorporation and  
14 amendments to the articles shall not be approved by the  
15 commissioner or recorded unless ~~accompanied by such~~  
16 certificate certified by the attorney general.

17 Sec. 16. Section 518.17, Code 1999, is amended to read as  
18 follows:

19 518.17 REINSURANCE.

20 Any A county mutual insurance association may reinsure a  
21 part or all of its risks with any association operating under  
22 the provisions of this chapter, or with any other association  
23 or company licensed in this state and authorized to write the  
24 kinds of insurance enumerated in section 518.11.

25 ~~The commissioner of insurance may require any county mutual~~  
26 ~~insurance association to obtain reinsurance coverage as~~  
27 ~~provided for in this section if it appears to the commissioner~~  
28 ~~of insurance that the perils insured against and the classes~~  
29 ~~of properties insured may seriously endanger the financial~~  
30 ~~position of the association and the security of its members.~~

31 Reinsurance sufficient to protect the financial stability  
32 of the state mutual association is also required. Reinsurance  
33 coverage obtained by a county mutual insurance association  
34 shall not expose the association to a loss of more than  
35 fifteen percent from surplus in any calendar year. The

1 commissioner of insurance may require additional reinsurance  
2 if necessary to protect the policyholders of the association.

3 Sec. 17. Section 518.25, Code 1999, is amended to read as  
4 follows:

5 518.25 SURPLUS.

6 An association organized under this chapter shall at all  
7 times maintain a surplus of not less than fifty thousand  
8 dollars or one-tenth of one percent of the gross property risk  
9 in force, whichever is greater. ~~Reinsurance-sufficient-to~~  
10 ~~protect-the-financial-stability-of-the-company-is-also~~  
11 ~~required.--The-insurance-commissioner-may-require-additional~~  
12 ~~reinsurance-if-necessary-to-protect-the-policyholders-of-the~~  
13 ~~company.--An-association-authorized-to-transact-business-in~~  
14 ~~this-state-before-July-17-1990,-shall-meet-this-requirement~~  
15 ~~not-later-than-July-17-1993.~~

16 Sec. 18. NEW SECTION. 518A.1A PLAN OF ORGANIZATION.

17 An entity seeking to organize as or convert to a state  
18 mutual insurance association shall submit a plan of  
19 organization to the commissioner for approval.

20 Sec. 19. Section 518A.8, Code 1999, is amended by striking  
21 the section and inserting in lieu thereof the following:

22 518A.8 ARTICLES -- APPROVAL.

23 An organization shall present to the commissioner of  
24 insurance for approval its articles of incorporation, which  
25 shall show its name, objects, and purposes, the time and place  
26 of the annual meeting of the members, and the location of its  
27 principal place of business, and any subsequent amendments.  
28 The commissioner shall submit the articles of incorporation  
29 and any subsequent amendments to the articles to the attorney  
30 general for examination, and if found by the attorney general  
31 to be in accordance with the provisions of this chapter and  
32 the Constitution and the laws of this state, the attorney  
33 general shall certify such fact on the articles of  
34 incorporation and on any amendments to the articles and return  
35 them to the commissioner. Articles of incorporation and

1 amendments to the articles shall not be approved by the  
2 commissioner or recorded unless certified by the attorney  
3 general.

4 Sec. 20. Section 518A.37, Code 1999, is amended to read as  
5 follows:

6 518A.37 SURPLUS.

7 An association organized under this chapter shall at all  
8 times maintain a surplus of not less than one hundred thousand  
9 dollars, or one-tenth of one percent of the gross property  
10 risk in force, whichever is greater. ~~Reinsurance-sufficient~~  
11 ~~to-protect-the-financial-stability-of-the-company-is-also~~  
12 ~~required.--The-insurance-commissioner-may-require-additional~~  
13 ~~reinsurance-if-necessary-to-protect-the-policyholders-of-the~~  
14 ~~company.--An-association-authorized-to-transact-business-in~~  
15 ~~this-state-before-July-17-1990, shall-meet-this-requirement~~  
16 ~~not-later-than-July-17-1992.~~

17 Sec. 21. Section 518A.44, Code 1999, is amended by  
18 striking the section and inserting in lieu thereof the  
19 following:

20 518A.44 REINSURANCE.

21 A state mutual insurance association may reinsure a part or  
22 all of its risks with any association operating under the  
23 provisions of this chapter, or with any other association or  
24 company licensed in this state and authorized to write the  
25 kinds of insurance enumerated in section 518A.1.

26 Reinsurance sufficient to protect the financial stability  
27 of the state mutual association is required. Reinsurance  
28 coverage obtained by an association shall not expose the  
29 association to a loss of more than fifteen percent from  
30 surplus in any calendar year. The commissioner of insurance  
31 may require additional reinsurance if necessary to protect the  
32 policyholders of the association.

33 Sec. 22. Section 519.11, Code 1999, is amended to read as  
34 follows:

35 519.11 LIABILITY TO ASSESSMENTS.

1 The provisions as to maximum liability of members to  
2 assessments when assets are insufficient and to assessments  
3 when the corporation is insolvent, found in sections 518A.9,  
4 ~~518A.10~~, and 518A.14, ~~and 518A.20~~, shall apply to all mutual  
5 insurance corporations organized under ~~the provisions of~~ this  
6 chapter.

7 Sec. 23. Section 910.1, subsections 3 and 5, Code 1999,  
8 are amended to read as follows:

9 3. "Pecuniary damages" means all damages ~~to the extent~~  
10 whether or not paid by an insurer, which a victim could  
11 recover against the offender in a civil action arising out of  
12 the same facts or event, except punitive damages and damages  
13 for pain, suffering, mental anguish, and loss of consortium.  
14 Without limitation, "pecuniary damages" includes damages for  
15 wrongful death and expenses incurred for psychiatric or  
16 psychological services or counseling or other counseling for  
17 the victim which became necessary as a direct result of the  
18 criminal activity.

19 5. "Victim" means a person who has suffered pecuniary  
20 damages as a result of the offender's criminal activities.  
21 ~~However, for purposes of this chapter, an insurer is not a~~  
22 ~~victim and does not have a right of subrogation. The crime~~  
23 ~~victim compensation program is not an insurer for purposes of~~  
24 ~~this chapter, and the~~ right of subrogation provided by section  
25 915.92 does not prohibit restitution to the crime victim  
26 compensation program.

27 Sec. 24. Sections 518A.10, 518A.13, 518A.17, and 518A.28,  
28 Code 1999, are repealed.

29  
30  
31  
32  
33  
34  
35

SENATE FILE 249

H-1434

- 1 Amend Senate File 249, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 11, by striking lines 7 through 26.
- 4 2. By renumbering as necessary.

By HOFFMAN of Crawford

H-1434 FILED APRIL 6, 1999

*adopted 4/8/99 (p. 1175)*

HOUSE AMENDMENT TO  
SENATE FILE 249

S-3329

- 1 Amend Senate File 249, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 11, by striking lines 7 through 26.
- 4 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3329 FILED APRIL 8, 1999

*adopted.*  
*4-12-99*  
*(p. 1068)*

*House*

*Senate*

## AN ACT

RELATING TO THE OPERATION AND REGULATION OF INSURANCE COMPANIES, INCLUDING THE TREATMENT OF CERTAIN CONFIDENTIAL INFORMATION BY THE COMMISSIONER, THE OPERATION OF CERTAIN TYPES OF INSURANCE COMPANIES, AND THE RIGHTS AND DUTIES OF INSURANCE COMPANIES UNDER CERTAIN POLICIES ISSUED IN THIS STATE.

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

Section 1. Section 505.17, Code 1999, is amended to read as follows:

## 505.17 CONFIDENTIAL INFORMATION.

Information, records, and documents utilized for the purpose of, or in the course of, investigation, regulation, or examination of an insurance company or insurance holding company, received by the division from some other governmental entity which treats such information, records, and documents as confidential, are confidential and shall not be disclosed by the division and are not subject to subpoena. Such information, records, and documents do not constitute a public record under chapter 22.

The disclosure of confidential information, administrative or judicial orders which contain confidential information, or information regarding other action of the division which is not a public record subject to disclosure, to other insurance and financial regulatory officials from this or other states may be permitted by the commissioner provided that those officials are subject to, or agree to comply with, standards of confidentiality comparable to those imposed on the commissioner.

Sec. 2. Section 508B.1, subsection 6, Code 1999, is amended to read as follows:

6. "Reorganized company" means the domestic stock ~~life~~ insurance company into which a mutual company has been converted, converted and merged, or converted and consolidated.

Sec. 3. Section 508B.6, Code 1999, is amended to read as follows:

508B.6 APPROVAL OF PLAN BY POLICYHOLDERS -- NOTICE OF ELECTION -- EFFECTIVE DATE.

~~After the plan has been approved by the commissioner as provided in section 508B.77 the~~ The plan of conversion shall be submitted to and shall not take effect until approved by two thirds of the policyholders of the mutual company voting on the plan. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with the articles of incorporation or bylaws of the mutual company. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual company. Voting shall be by ballot, in person or by proxy. A quorum shall consist of a quorum as defined in the articles of incorporation or bylaws of the mutual company. A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. The notice of meeting may contain the notice of any planned public hearing. An approved plan of conversion shall take effect on the date specified in the plan.

Sec. 4. Section 508B.12, Code 1999, is amended to read as follows:

508B.12 AMENDMENTS -- WITHDRAWAL.

At any time before ~~approval of the plan of the~~ conversion, and if done pursuant to rules issued by the commissioner or as may otherwise be required by the commissioner, the board of directors of a mutual company may amend the conversion plan. An amendment to a conversion plan is subject to the prior approval of the commissioner. The board of directors of a mutual company may withdraw the plan of conversion at any time prior to the ~~approval of the plan of~~ conversion.

Sec. 5. Section 508B.13, Code 1999, is amended to read as follows:

508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, a person, other than the reorganized company, other than an employee benefit plan or employee benefit trust sponsored by the reorganized company, or as otherwise specifically provided for in the plan of conversion, shall not directly or indirectly acquire or offer to acquire the beneficial ownership of more than five percent of any class of voting security of the reorganized company, and a person, other than the reorganized company or other than an employee benefit plan or employee benefit trust sponsored by the reorganized company, who acquires five percent or more of any class of voting security of the reorganized company prior to the conversion or as specifically provided for in the plan of conversion, shall not directly or indirectly acquire or offer to acquire the beneficial ownership of additional voting securities of the reorganized company, unless the acquisition is made pursuant to a plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase as not being contrary to the interests of the policyholders of the reorganized company or its life insurance company subsidiary and by the board of directors of the reorganized company. The commissioner and the board of directors may consider the factors set forth in section 490.1108. The provisions of section 521A.3, except subsection 4, paragraph "a", shall be applicable to a proposed acquisition subject to this section. An approved plan of conversion may include a stock option plan. As used in this

section, "beneficial ownership" means, with respect to a security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security.

Sec. 6. Section 508B.14, Code 1999, is amended to read as follows:

508B.14 LIMITATION OF ACTIONS -- SECURITY FOR ATTORNEY FEES.

The commissioner's order approving or disapproving a plan of conversion shall be considered final agency action under chapter 17A.

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than one hundred eighty days following the date of approval by the commissioner.

The reorganized company or a defendant may petition the court in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 7. Section 511.28, Code 1999, is amended to read as follows:

511.28 SERVICE OF PROCESS.

Any notice or process, with three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title. The commissioner shall acknowledge service on behalf of the defendant foreign insurance company by writing, giving the date of receipt of the notice or process, and shall return the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also mail a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a

certified mail letter addressed to the person or corporation named or designated by such company in the written instrument. Notice or process received prior to ~~12-noon~~ 10 a.m. shall be forwarded the same working day. Notice or process received after ~~12-noon~~ 10 a.m. shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 8. Section 513B.13, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The board of the Iowa small employer health reinsurance program, on an ongoing basis, shall review the program and make recommendations as to the continued cost effectiveness of the program to the commissioner, which recommendations may include proposed modifications or suspension of operation of the program. In making such a review, the board shall consider such factors as the population reinsured by the program, the premiums and assessments paid to the program, the number and percentage of carriers electing to utilize the program, health care reform measures implemented in the state, as well as other factors deemed relevant by the board. The commissioner, upon finding that the program is not cost effective, may make modifications to the program or suspend the operation of the program by rule.

Sec. 9. Section 513C.7, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. The individual is covered or is eligible for coverage under a health benefit plan provided by the individual's employer or is covered as the spouse or dependent of another individual covered or eligible for coverage under a health benefit plan provided by that individual's employer.

Sec. 10. Section 513C.7, subsection 4, paragraph b, Code 1999, is amended to read as follows:

b. A carrier or an organized delivery system shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular

services in an individual health benefit plan for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage. For purposes of this section, periods of coverage under medical assistance provided pursuant to chapter 249A or Medicare coverage provided pursuant to Title XVIII of the federal Social Security Act shall not be counted with respect to the sixty-three day requirement.

Sec. 11. Section 514B.4, subsection 2, Code 1999, is amended to read as follows:

2. Has arrangements established in accordance with rules adopted by the commissioner for a continuous review of health care processes and outcomes. If a health maintenance organization is accredited by the national committee on quality assurance, or another accreditation entity approved by the commissioner, an external peer review under rules of the commissioner shall not be applicable. However, at the discretion of the commissioner, an on-site inspection of the health maintenance organization may be conducted.

Sec. 12. Section 515.26, Code 1999, is amended to read as follows:

515.26 DIRECTORS.

The affairs of a company organized as provided by this chapter shall be managed by a number of directors, of not less than five nor more than twenty-one, ~~all of whom, in case of a stock company, shall be stockholders, or, in~~. In the case of a mutual company, all such directors shall be policyholders, or before the company shall effect insurance, be subscribers for stock or for insurance as the case may be.

Sec. 13. Section 515.35, subsection 3, paragraph a, subparagraph (2), subparagraph subdivision (a), Code 1999, is amended to read as follows:

(a) That the loan will be fully collateralized by cash, cash equivalents, or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

If the loan is fully collateralized by cash, the reinvestment of the cash may be made in either individual securities or a pooled fund comprised of individual securities. If such reinvestment is made in individual securities, such securities must mature in less than ninety days. If such reinvestment is made in a pooled fund, the average maturity of the securities comprising such pooled fund must be less than ninety days. Individual securities and securities comprising the pooled fund shall be investment grade.

Sec. 14. Section 515.74, Code 1999, is amended to read as follows:

515.74 SERVICE OF PROCESS.

Any notice or process, with three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title. The commissioner shall acknowledge service on behalf of the defendant foreign insurance company by writing, giving the date of receipt of the notice or process, and shall return the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also mail a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation named or designated by such company in the written instrument. Notice or process received prior to ~~12-noon~~ 10 a.m. shall be forwarded the same working day. Notice or process received after ~~12-noon~~ 10 a.m. shall be forwarded the next working day.

A fee of fifteen dollars must accompany the request for notice or process.

Sec. 15. Section 518.2, Code 1999, is amended to read as follows:

518.2 ARTICLES -- APPROVAL.

~~Each such An~~ organization shall present to the commissioner of insurance for approval its articles of incorporation, which shall show its name, objects and purposes, the time and place of the annual meeting of the members, and the location of its principal place of business, and any subsequent amendments to its articles. The commissioner of insurance shall then submit the articles of incorporation and any subsequent amendments to the articles to the attorney general for examination, and if found by the attorney general to be in accordance with the provisions of this chapter and the Constitution and the laws of the state, the attorney general shall certify such fact thereon on the articles of incorporation and on any amendments to the articles and return ~~the same to said them to the commissioner, and no articles.~~ Articles of incorporation and amendments to the articles shall not be approved by the commissioner or recorded unless ~~accompanied by such certificate~~ certified by the attorney general.

Sec. 16. Section 518.17, Code 1999, is amended to read as follows:

518.17 REINSURANCE.

Any A county mutual insurance association may reinsure a part or all of its risks with any association operating under the provisions of this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518.11.

~~The commissioner of insurance may require any county mutual insurance association to obtain reinsurance coverage as provided for in this section if it appears to the commissioner of insurance that the perils insured against and the classes of properties insured may seriously endanger the financial position of the association and the security of its members.~~

Reinsurance sufficient to protect the financial stability of the state mutual association is also required. Reinsurance coverage obtained by a county mutual insurance association shall not expose the association to a loss of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 17. Section 518.25, Code 1999, is amended to read as follows:

518.25 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross property risk in force, whichever is greater. ~~Reinsurance-sufficient-to-protect-the-financial-stability-of-the-company-is-also-required.--The-insurance-commissioner-may-require-additional-reinsurance-if-necessary-to-protect-the-policyholders-of-the-company.--An-association-authorized-to-transact-business-in-this-state-before-July-17-1990, shall meet this requirement not later than July 17-1993.~~

Sec. 18. NEW SECTION. 518A.1A PLAN OF ORGANIZATION.

An entity seeking to organize as or convert to a state mutual insurance association shall submit a plan of organization to the commissioner for approval.

Sec. 19. Section 518A.8, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.8 ARTICLES -- APPROVAL.

An organization shall present to the commissioner of insurance for approval its articles of incorporation, which shall show its name, objects, and purposes, the time and place of the annual meeting of the members, and the location of its principal place of business, and any subsequent amendments. The commissioner shall submit the articles of incorporation and any subsequent amendments to the attorney general for examination, and if found by the attorney general to be in accordance with the provisions of this chapter and

the Constitution and the laws of this state, the attorney general shall certify such fact on the articles of incorporation and on any amendments to the articles and return them to the commissioner. Articles of incorporation and amendments to the articles shall not be approved by the commissioner or recorded unless certified by the attorney general.

Sec. 20. Section 518A.37, Code 1999, is amended to read as follows:

518A.37 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars, or one-tenth of one percent of the gross property risk in force, whichever is greater. ~~Reinsurance-sufficient-to-protect-the-financial-stability-of-the-company-is-also-required.--The-insurance-commissioner-may-require-additional-reinsurance-if-necessary-to-protect-the-policyholders-of-the-company.--An-association-authorized-to-transact-business-in-this-state-before-July-17-1990, shall meet this requirement not later than July 17-1992.~~

Sec. 21. Section 518A.44, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.44 REINSURANCE.

A state mutual insurance association may reinsure a part or all of its risks with any association operating under the provisions of this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518A.1.

Reinsurance sufficient to protect the financial stability of the state mutual association is required. Reinsurance coverage obtained by an association shall not expose the association to a loss of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 22. Section 519.11, Code 1999, is amended to read as follows:

519.11 LIABILITY TO ASSESSMENTS.

The provisions as to maximum liability of members to assessments when assets are insufficient and to assessments when the corporation is insolvent, found in sections 518A.97, ~~518A.107~~, and 518A.14, ~~and-518A.28~~, shall apply to all mutual insurance corporations organized under ~~the-provisions-of~~ this chapter.

Sec. 23. Sections 518A.10, 518A.13, 518A.17, and 518A.28, Code 1999, are repealed.

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MARY E. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 249, Seventy-eighth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved May 24, 1999

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THOMAS J. VILSACK  
Governor