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SSB-3162

Commerce
Success
S. / HF 2409

SENATE/HOUSE FILE _____
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, mutual insurance associations, benevolent
3 associations, health maintenance organizations, and other
4 insurance or risk-assuming entities, including the rights and
5 duties of such entities and the powers and authority of the
6 insurance commissioner.

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

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1 Section 1. Section 87.4, unnumbered paragraph 2, Code
2 1999, is amended to read as follows:

3 A self-insurance association formed under this section and
4 an association comprised of cities or counties, or both, or
5 community colleges as defined in section 260C.2 or school
6 corporations, or both, or other political subdivisions, which
7 have entered into an agreement under chapter 28E for the
8 purpose of establishing a self-insured program for the payment
9 of workers' compensation benefits are exempt from taxation
10 under section 432.1.

11 Sec. 2. Section 87.4, unnumbered paragraph 4, Code 1999,
12 is amended to read as follows:

13 A self-insured program for the payment of workers'
14 compensation benefits established by an association comprised
15 of cities or counties, or both, or community colleges, as
16 defined in section 260C.2, or other political subdivisions,
17 which have entered into an agreement under chapter 28E, is not
18 insurance, and is not subject to regulation under chapters 505
19 through 523C. Membership in such an association together with
20 payment of premiums due relieves the member from obtaining
21 insurance as required in section 87.1. Such an association is
22 not required to submit its plan or program to the commissioner
23 of insurance for review and approval prior to its
24 implementation and is not subject to rules or rates adopted by
25 the commissioner relating to workers' compensation group self-
26 insurance programs. Such a program is deemed to be in
27 compliance with this chapter.

28 Sec. 3. Section 505.8, subsection 5, Code Supplement 1999,
29 is amended by striking the subsection.

30 Sec. 4. Section 505.8, Code Supplement 1999, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. 7. The commissioner shall adopt rules
33 protecting the privacy of information held by an insurer or an
34 agent consistent with the federal Gramm-Leach-Bliley Act, Pub.
35 L. No. 106-102.

1 Sec. 5. NEW SECTION. 505.23 HEARINGS.

2 If an evidentiary hearing is conducted in a proceeding
3 pursuant to sections 508B.7, 515G.7, 521A.3, or 521A.14, or in
4 a proceeding with respect to a merger or consolidation
5 pursuant to chapter 521, the proceeding is a contested case
6 subject to chapter 17A.

7 Sec. 6. Section 508.4, Code 1999, is amended to read as
8 follows:

9 508.4 APPROVAL OF AMENDMENTS.

10 All amendments to ~~such-articles-and-amendments-hereafter~~
11 ~~made-to~~ the articles of incorporation of companies already
12 organized under the laws of this state shall be approved in
13 like manner.

14 A company shall file with the commissioner bylaws and
15 subsequent amendments to such bylaws within thirty days of the
16 adoption of such bylaws and amendments.

17 Sec. 7. Section 508B.3, unnumbered paragraph 1, Code 1999,
18 is amended to read as follows:

19 A plan of conversion shall ~~not be unfair-or-inequitable~~
20 fair and equitable to policyholders. A plan of conversion is
21 ~~not-unfair-or-inequitable~~ fair and equitable if it satisfies
22 the conditions of subsections 1, 2, or 3. The commissioner
23 may determine ~~that whether~~ any other plan proposed by a mutual
24 company is ~~not-unfair-or-inequitable~~ fair and equitable to its
25 policyholders.

26 Sec. 8. Section 508B.4, Code 1999, is amended to read as
27 follows:

28 508B.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

29 The policyholders who are entitled to notice of and to vote
30 upon approval of a plan of conversion and entitled to notice
31 of a public hearing are the policyholders whose policies or
32 contracts are in force on the date of adoption of the plan of
33 conversion. Each policyholder whose policy has been in force
34 for at least one year prior to the date is entitled to the
35 consideration, if any, provided for the policyholder in the

1 plan based on the policyholder's membership interest
2 determined pursuant to this chapter, but only ~~to the extent~~
3 ~~that if~~ the policyholder's membership interest arose from
4 ~~policies or contracts~~ a policy or contract in force on the
5 effective date of the conversion and ~~which were in force~~ such
6 membership interest has been held continuously for at least
7 one year prior to the date of adoption of the plan. For this
8 purpose, any changes in status of, or premiums in excess of
9 those required on the policies or contracts occurring or made
10 after the date one year prior to the date of adoption of the
11 plan shall be disregarded.

12 Sec. 9. Section 508B.7, Code 1999, is amended to read as
13 follows:

14 508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING
15 AUTHORIZED -- APPROVAL.

16 The commissioner of insurance shall review the plan. The
17 commissioner shall approve the plan if the commissioner finds
18 the plan complies with all provisions of law, the plan is not
19 ~~unfair or inequitable~~ fair and equitable to the mutual company
20 and its policyholders, and that the reorganized company will
21 have the amount of capital and surplus deemed by the
22 commissioner to be reasonably necessary for its future
23 solvency. The commissioner may order a hearing on the
24 fairness and equity of the terms of the plan after giving
25 written notice of the hearing to the mutual company, its
26 policyholders, and other interested persons, all of whom have
27 the right to appear at the hearing. Costs incurred in
28 connection with the notice shall be paid by the company.

29 Sec. 10. Section 508B.9, unnumbered paragraph 1, Code
30 1999, is amended to read as follows:

31 When the commissioner and the policyholders approve the
32 conversion plan as provided in this chapter, the commissioner
33 shall issue a new certificate of authority to the reorganized
34 company effective on the effective date specified of the
35 conversion as provided in the plan. The reorganized company

1 is a continuation of the mutual life insurance company and the
2 conversion shall not annul or modify any of the mutual
3 company's existing suits, contracts, or liabilities except as
4 provided in the approved conversion plan. All rights,
5 franchises, and interests of the mutual company in and to
6 property, assets, and other interests shall be transferred to
7 and shall vest in the reorganized company and the reorganized
8 company shall assume all obligations and liabilities of the
9 mutual company.

10 Sec. 11. Section 508B.14, unnumbered paragraph 2, Code
11 Supplement 1999, is amended to read as follows:

12 An action challenging the validity of a conversion plan, or
13 any part of a conversion plan, shall not be commenced more
14 than one-hundred-eighty thirty days following the date of
15 approval by the commissioner, unless an application for
16 rehearing is filed pursuant to section 17A.16, subsection 2.

17 If an application for rehearing is filed, then such action
18 must be filed within thirty days after that application is
19 denied or deemed denied or, if the application is granted,
20 within thirty days after the issuance of the commissioner's
21 final decision on rehearing.

22 Sec. 12. NEW SECTION. 512A.10 AMENDMENTS TO ARTICLES AND
23 BYLAWS.

24 1. An organization shall present to the commissioner of
25 insurance for approval its articles of incorporation and any
26 subsequent amendment. The commissioner shall submit the
27 articles of incorporation and any subsequent amendment to the
28 attorney general for examination, and if found by the attorney
29 general to be in accordance with this chapter, and the
30 constitution and laws of the state, the attorney general shall
31 certify such fact on the articles of incorporation or
32 amendment and return the articles or amendment to the
33 commissioner. Articles of incorporation or an amendment to
34 the articles shall not be approved by the commissioner or
35 recorded unless certified by the attorney general.

1 2. The directors of a benevolent association shall have
2 the authority to enact such bylaws and regulations not
3 inconsistent with law as they consider necessary for the
4 regulation and conduct of the business. A change in the
5 bylaws shall not limit coverage under existing certificates.
6 A benevolent association shall file with the commissioner
7 bylaws and amendments to the bylaws within thirty days of
8 adoption of such bylaws or amendments.

9 Sec. 13. Section 513B.2, subsections 2, 13, and 15, Code
10 1999, are amended to read as follows:

11 2. "Base premium rate" means, for each class of business
12 as to a rating period, the lowest premium rate charged or
13 which could have been charged under a rating system for that
14 class of business, by the small employer carrier to small
15 employers ~~with-similar-case-characteristics~~ for health
16 insurance plans with the same or similar coverage.

17 13. "Index rate" means for each class of business for
18 small employers ~~with-similar-case-characteristics~~ the average
19 of the applicable base premium rate and the corresponding
20 highest premium rate.

21 15. "New business premium rate" means, for each class of
22 business as to a rating period, the lowest premium rate
23 charged or offered by the small employer carrier to small
24 employers ~~with-similar-case-characteristics~~ for newly issued
25 health insurance coverages with the same or similar coverage.

26 Sec. 14. Section 513C.10, subsection 6, Code 1999, is
27 amended to read as follows:

28 6. Rates for basic and standard coverages as provided in
29 this chapter shall be determined by each carrier or organized
30 delivery system as the average-of product of a basic and
31 standard factor and the lowest rate available for issuance by
32 that carrier or organized delivery system adjusted for rating
33 characteristics and benefits ~~and-the-maximum-rate-allowable-by~~
34 ~~law-after-adjustments-for-rate-characteristics-and-benefits.~~
35 Basic and standard factors shall be established annually by

1 the Iowa individual health benefit reinsurance association
 2 board with the approval of the commissioner. Multiple basic
 3 and standard factors for a distinct grouping of basic and
 4 standard policies, may be established. A basic and standard
 5 factor is limited to a minimum value defined as the ratio of
 6 the average of the lowest rate available for issuance and the
 7 maximum rate allowable by law divided by the lowest rate
 8 available for issuance. A basic and standard factor is
 9 limited to a maximum value defined as the ratio of the maximum
 10 rate allowable by law divided by the lowest rate available for
 11 issuance. The maximum rate allowable by law and the lowest
 12 rate available for issuance is determined based on the rate
 13 restrictions under this chapter. However, to maintain
 14 assessable loss assessments at or below one percent of total
 15 health insurance premiums or payments as determined in
 16 accordance with subsection 10, the Iowa individual health
 17 benefit reinsurance association board with the approval of the
 18 commissioner may increase the value for any basic and standard
 19 factor greater than the maximum value and with the approval of
 20 the commissioner may increase cost sharing provisions
 21 including, but not limited to, basic and standard plan
 22 deductibles, coinsurance, or copayments.

23 Sec. 15. Section 514.3, Code 1999, is amended to read as
 24 follows:

25 514.3 APPROVAL BY COMMISSIONER.

26 The articles of incorporation, and any subsequent
 27 amendments, of such a corporation shall have endorsed thereon
 28 on or annexed thereto to the approval of the commissioner of
 29 insurance before the same shall be filed for record. A
 30 corporation shall file with the commissioner bylaws and
 31 subsequent amendments to the bylaws within thirty days of the
 32 adoption of the bylaws and amendments.

33 Sec. 16. Section 514.4, unnumbered paragraph 7, Code 1999,
 34 is amended by striking the paragraph.

35 Sec. 17. NEW SECTION. 514B.3A APPROVAL BY COMMISSIONER

1 AND ATTORNEY GENERAL.

2 The articles of incorporation, and any subsequent
3 amendment, of a corporation shall have endorsed on or annexed
4 to such articles or amendment the approval of the commissioner
5 of insurance and the attorney general before filing for
6 record. A corporation shall file with the commissioner bylaws
7 and subsequent amendments to the bylaws within thirty days of
8 the adoption of the bylaws and amendments.

9 Sec. 18. Section 514B.24, unnumbered paragraph 1, Code
10 1999, is amended to read as follows:

11 The commissioner shall make an examination of the affairs
12 of ~~any~~ a health maintenance organization and its providers as
13 often as the commissioner deems necessary for the protection
14 of the interests of the people of this state, but not less
15 frequently than once every ~~three~~ five years.

16 Sec. 19. NEW SECTION. 514B.25A INSOLVENCY PROTECTION --
17 ASSESSMENT.

18 1. Upon a health maintenance organization or organized
19 delivery system authorized to do business in this state and
20 licensed by the director of public health being declared
21 insolvent by the district court, the commissioner may levy an
22 assessment on each health maintenance organization or
23 organized delivery system doing business in this state and
24 licensed by the director of public health, as applicable, to
25 pay claims for uncovered expenditures for enrollees. The
26 commissioner shall not assess an amount in any one calendar
27 year which is more than two percent of the aggregate premium
28 written by each health maintenance organization or organized
29 delivery system.

30 2. The commissioner may use funds obtained through an
31 assessment under subsection 1 to pay claims for uncovered
32 expenditures for enrollees of an insolvent health maintenance
33 organization or organized delivery system and administrative
34 costs. The commissioner, by rule, may prescribe the time,
35 manner, and form for filing claims under this section. The

1 commissioner may require claims to be allowed by an ancillary
2 receiver or the domestic receiver or liquidator.

3 3. a. A receiver or liquidator of an insolvent health
4 maintenance organization or organized delivery system shall
5 allow a claim in the proceeding in an amount equal to
6 uncovered expenditures and administrative costs paid under
7 this section.

8 b. A person receiving benefits under this section for
9 uncovered expenditures is deemed to have assigned the rights
10 under the covered health care plan certificates to the
11 commissioner to the extent of the benefits received. The
12 commissioner may require an assignment of such rights by a
13 payee, enrollee, or beneficiary, to the commissioner as a
14 condition precedent to the receipt of such benefits. The
15 commissioner is subrogated to these rights against the assets
16 of the insolvent health maintenance organization or organized
17 delivery system that are held by a receiver or liquidator of a
18 foreign jurisdiction.

19 c. The assigned subrogation rights of the commissioner and
20 allowed claims under this subsection have the same priority
21 against the assets of the insolvent health maintenance
22 organization or organized delivery system as those claims of
23 persons entitled to receive benefits under this section or for
24 similar expenses in the receivership or liquidation.

25 4. If funds assessed under subsection 1 are unused
26 following the completion of the liquidation of an insolvent
27 health maintenance organization or organized delivery system,
28 the commissioner shall distribute the remaining amounts, if
29 such amounts are not de minimis, to the health maintenance
30 organizations or organized delivery systems that were
31 assessed.

32 5. The aggregate coverage of uncovered expenditures under
33 this section shall not exceed three hundred thousand dollars
34 with respect to one individual. Continuation of coverage
35 shall cease after the lesser of one year after the health

1 maintenance organization or organized delivery system is
2 terminated by insolvency or the remaining term of the
3 contract. The commissioner may provide continuation of
4 coverage on a reasonable basis, including, but not limited to,
5 continuation of the health maintenance organization or
6 organized delivery system contract or substitution of
7 indemnity coverage in a form as determined by the
8 commissioner.

9 6. The commissioner may waive an assessment of a health
10 maintenance organization or organized delivery system if such
11 organization or system is impaired financially or would be
12 impaired financially as a result of such assessment. A health
13 maintenance organization or organized delivery system that
14 fails to pay an assessment within thirty days after notice of
15 the assessment is subject to a civil forfeiture of not more
16 than one thousand dollars for each day the failure continues,
17 and suspension or revocation of its certificate of authority.
18 An action taken by the commissioner to enforce an assessment
19 under this section may be appealed by the health maintenance
20 organization or organized delivery system pursuant to chapter
21 17A.

22 Sec. 20. Section 515.2, Code 1999, is amended to read as
23 follows:

24 515.2 ARTICLES -- APPROVAL

25 Each such organization shall present to the commissioner of
26 insurance its articles of incorporation, which shall show its
27 name, objects, location of its principal place of business,
28 and amount of its capital stock, who shall submit it to the
29 attorney general for examination, and if found by the attorney
30 general to be in accordance with the provisions of this title,
31 the laws of the United States, and the Constitution and laws
32 of the state, the attorney general shall certify such fact
33 thereon and return the same to said commissioner, and no
34 articles shall be approved by the commissioner or recorded
35 unless accompanied with such certificate. A company shall

1 file with the commissioner bylaws and subsequent amendments to
2 the bylaws within thirty days of the adoption of the bylaws
3 and amendments.

4 Sec. 21. Section 515.47, subsection 6, Code 1999, is
5 amended by striking the subsection.

6 Sec. 22. Section 515B.2, subsection 5, Code 1999, is
7 amended to read as follows:

8 5. "Insurer" means an insurer licensed to transact
9 insurance business in this state under either chapter 515 or
10 chapter 520, either at the time the policy was issued or when
11 the insured event occurred. It does not include county or
12 state mutual assessment insurance associations licensed under
13 chapter 518 or chapter 518A, or fraternal beneficiary
14 societies, orders, or associations licensed under chapter
15 512B, or corporations operating nonprofit service plans under
16 chapter 514, or life insurance companies or life, accident, or
17 health associations licensed under chapter 508, or those
18 professions under chapter 519.

19 Sec. 23. Section 515F.3, subsection 6, Code 1999, is
20 amended to read as follows:

21 6. Insurance written by a county mutual assessment
22 insurance association as provided in chapter 518A.

23 Sec. 24. Section 515G.7, Code 1999, is amended to read as
24 follows:

25 515G.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING
26 AUTHORIZED -- APPROVAL.

27 The commissioner of insurance shall review the plan. The
28 commissioner shall approve the plan if the commissioner finds
29 the plan complies with all provisions of law, the plan is not
30 unfair-or-inequitable fair and equitable to the mutual insurer
31 and its policyholders, and that the reorganized company will
32 have the amount of capital and surplus deemed by the
33 commissioner to be reasonably necessary for its future
34 solvency. The commissioner may order a hearing on the
35 fairness and equity of the terms of the plan after giving

1 written notice of the hearing to the mutual insurer, and its
2 policyholders, all of whom have the right to appear at the
3 hearing.

4 Sec. 25. Section 515G.14, unnumbered paragraph 1, Code
5 1999, is amended to read as follows:

6 An action challenging the validity of a conversion plan, or
7 any part of a conversion plan, shall not be commenced more
8 than thirty days following the date of approval by the
9 commissioner, unless an application for rehearing is filed
10 pursuant to section 17A.16, subsection 2. If an application
11 for rehearing is filed, then such action must be filed within
12 thirty days after that application is denied or deemed denied
13 or, if the application is granted, within thirty days after
14 the issuance of the commissioner's final decision on
15 rehearing.

16 Sec. 26. Section 518.7, Code 1999, is amended to read as
17 follows:

18 518.7 OFFICERS AND DIRECTORS -- ELECTION.

19 Officers or directors shall be elected in the manner and
20 for the length of time prescribed in the articles of
21 incorporation. The same person shall not simultaneously hold
22 the offices of president and secretary. A director shall be a
23 member of the association.

24 Sec. 27. Section 518.8, Code 1999, is amended to read as
25 follows:

26 518.8 BYLAWS.

27 The directors of the association shall have the authority
28 to enact such bylaws and regulations not inconsistent with law
29 as they consider necessary for the regulation and conduct of
30 the business. No change in the bylaws shall have the effect
31 of limiting coverage under existing policies of insurance. An
32 association shall file with the commissioner bylaws and
33 subsequent amendments to the bylaws within thirty days of the
34 adoption of the bylaws and amendments.

35 Sec. 28. NEW SECTION. 518.13A ASSESSMENTS PROHIBITED.

1 An association doing business under this chapter shall not
2 levy an assessment on any member of the association.

3 Sec. 29. Section 518.17, Code Supplement 1999, is amended
4 to read as follows:

5 518.17 REINSURANCE.

6 A county mutual insurance association may reinsure a part
7 or all of its ~~risks~~ coverages written pursuant to this chapter
8 with ~~any an~~ association operating under ~~the-provisions-of~~ this
9 chapter, or with any other association or company licensed in
10 this state and authorized to write the kinds of insurance
11 enumerated in section 518.11.

12 Reinsurance sufficient to protect the financial stability
13 of the state mutual association is also required. Reinsurance
14 coverage obtained by a county mutual insurance association
15 shall not expose the association to ~~a-loss~~ losses from
16 coverages written pursuant to this chapter 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. 30. Section 518.23, Code 1999, is amended to read as
21 follows:

22 518.23 CANCELLATION OF POLICIES.

23 1. CANCELLATION BY INSURED. Any A policy shall be
24 canceled at any time at the request of the insured upon the
25 return of the policy to the home office of the association,
26 and the payment of all premium charges against such policy, ~~or~~
27 ~~by-the-association-by-giving-five-days'-notice-of-such~~
28 ~~cancellation.~~ Such-service

29 2. CANCELLATION BY ASSOCIATION.

30 a. Except as provided in paragraph "b", notice of
31 cancellation is not effective unless mailed or delivered by
32 the association to the named insured at least twenty days
33 before the effective date of cancellation.

34 b. Notice of cancellation resulting from nonpayment of a
35 premium or installment provided for in the policy, or provided

1 for in a note or contract for the payment of such premium or
2 installment, is not effective unless mailed or delivered by
3 the association to the named insured at least ten days prior
4 to the date of cancellation.

5 c. If a notice of cancellation under paragraph "a" or "b"
6 fails to include the reason for such cancellation, the
7 association, upon receipt of a timely request by the named
8 insured, shall provide in writing the reason for the
9 cancellation.

10 3. NONRENEWAL BY ASSOCIATION. A notice of intention not
11 to renew is not effective unless mailed or delivered by the
12 insurer to the named insured at least thirty days prior to the
13 expiration date of the policy. If the reason does not
14 accompany the notice of nonrenewal, the association, upon
15 receipt of a timely request by the named insured, shall
16 provide the reason for the nonrenewal in writing.

17 4. NOTICE. Service of notice under subsection 2 or 3 may
18 be made in person, or by mailing such notice by certified mail
19 deposited in the post office and directed to the insured at
20 the insured's post office address as given in or upon the
21 policy, or to such other address as the insured shall have
22 given to the association in writing. A post office department
23 receipt of certified or registered mail shall be deemed proof
24 of receipt of such notice. If in either case the cash
25 payments shall exceed the amount properly chargeable, the
26 excess will shall be refunded to the insured upon the
27 surrender of the policy to the association at its home office.

28 Sec. 31. Section 518A.6, Code 1999, is amended to read as
29 follows:

30 518A.6 OFFICERS -- ELECTION.

31 Officers or directors shall be elected in the manner and
32 for the length of time prescribed in the articles of
33 incorporation or bylaws. The same person shall not
34 simultaneously hold the offices of president and secretary. A
35 director shall be a member of the association.

1 Sec. 32. NEW SECTION. 518A.6A BYLAWS.

2 The directors of the association may enact the bylaws and
3 regulations not inconsistent with law as they consider
4 necessary for the regulation and conduct of the business. A
5 change in the bylaws shall not limit coverage under existing
6 policies of insurance. An association shall file with the
7 commissioner bylaws and amendments to bylaws within thirty
8 days of adoption.

9 Sec. 33. Section 518A.7, Code 1999, is amended to read as
10 follows:

11 518A.7 POLICIES -- ISSUANCE -- CONDITIONS.

12 No A state mutual assessment insurance association shall
13 not issue policies until at least one hundred twenty-five
14 applications have been received in any class as shown by
15 section 518A.1, representing the following amount of
16 insurance: Classes one, two, three, and five, two hundred
17 fifty thousand dollars each; class four, one hundred thousand
18 dollars, and ~~no-county-mutual-assessment-association-shall~~
19 ~~issue-policies-until-applications-for-insurance-to-the-amount~~
20 ~~of-fifty-thousand-dollars-representing-at-least-fifty~~
21 ~~applicants-have-been-received,-and-no~~ an application for
22 insurance during the period of organization shall not exceed
23 two percent of the amount required for organization, or after
24 one year of organization, one percent of the total insurance
25 in force, any reinsurance taking effect simultaneously with
26 the policy being deducted in determining such maximum single
27 risk.

28 Sec. 34. Section 518A.9, Code 1999, is amended by striking
29 and inserting in lieu thereof the following:

30 518A.9 PREMIUM CHARGES.

31 An association, by action of its board of directors, may
32 establish premium charges for the purpose of payment of losses
33 and expenses and for the establishment or maintenance of a
34 reserve fund.

35 A policy shall stand suspended if any default is made in

1 the payment of any premium on or before the date specified in
2 a written notice requiring the payment of such premium and
3 mailed to the insured and directed to the insured's last known
4 address not less than thirty days prior to such suspension
5 date. The notice shall specify the amount and due date of the
6 premium. The association is not liable for any loss occurring
7 during such period of suspension.

8 Sec. 35. NEW SECTION. 518A.9A ASSESSMENTS PROHIBITED.

9 An association doing business under this chapter shall not
10 levy an assessment on any member of the association.

11 Sec. 36. Section 518A.12, subsection 1, paragraphs a and
12 c, Code 1999, is amended to read as follows:

13 a. This section applies to the investments of state mutual
14 casualty-assessment insurance associations.

15 c. Financial terms relating to state mutual casualty
16 assessment insurance associations have the meanings assigned
17 to them under statutory accounting methods. Financial terms
18 relating to companies other than state mutual casualty
19 assessment insurance associations have the meanings assigned
20 to them under generally accepted accounting principles.

21 Sec. 37. Section 518A.18, Code 1999, is amended to read as
22 follows:

23 518A.18 ANNUAL REPORT.

24 An association doing business under this chapter shall, on
25 or before March 1 of each year, ~~report-to-the-commissioner-of~~
26 ~~insurance-the-facts-required-of-domestic-insurance-companies~~
27 ~~organizing-under-chapter-5157-which-are-applicable-to-this~~
28 ~~chapter.--These-reports shall prepare under oath and file with~~
29 the commissioner of insurance an accurate and complete
30 statement of the condition of the association as of the last
31 day of the preceding calendar year. The statement shall
32 conform to the annual statement blank prepared pursuant to
33 instructions prescribed by the commissioner. All financial
34 information reflected in the annual report shall be kept and
35 prepared pursuant to accounting practices and procedures

1 prescribed by the commissioner. Statements filed with the
2 commissioner pursuant to this section shall be tabulated and
3 published by the commissioner of insurance in the annual
4 report of insurance.

5 Sec. 38. Section 518A.29, Code 1999, is amended by
6 striking the section and inserting in lieu thereof the
7 following:

8 518A.29 CANCELLATION BY ASSOCIATION -- NOTICE.

9 1. CANCELLATION BY INSURED. A policy shall be canceled at
10 any time at the request of the insured upon the return of the
11 policy to the home office of the association and the payment
12 of all premium charges against such policy.

13 2. CANCELLATION BY ASSOCIATION.

14 a. Except as provided in paragraph "b", notice of
15 cancellation is not effective unless mailed or delivered by
16 the association to the named insured at least twenty days
17 before the effective date of cancellation.

18 b. Notice of cancellation resulting from nonpayment of a
19 premium or installment provided for in the policy, or provided
20 for in a note or contract for the payment of such premium or
21 installment, is not effective unless mailed or delivered by
22 the association to the named insured at least ten days prior
23 to the date of cancellation.

24 c. If a notice of cancellation under paragraph "a" or "b"
25 fails to include the reason for such cancellation, the
26 association, upon receipt of a timely request by the named
27 insured, shall provide the reason for the cancellation in
28 writing.

29 3. NONRENEWAL BY ASSOCIATION. A notice of intention not
30 to renew is not effective unless mailed or delivered by the
31 insurer to the named insured at least thirty days prior to the
32 expiration date of the policy. If the reason does not
33 accompany the notice of nonrenewal, the association, upon
34 receipt of a timely request by the named insured, shall
35 provide in writing the reason for the nonrenewal.

1 4. NOTICE. Service of notice under subsection 2 or 3 may
2 be made in person, or by mailing such notice by certified mail
3 deposited in the post office and directed to the insured at
4 the insured's post office address as given in or upon the
5 policy, or to such other address as the insured shall have
6 given to the association in writing. A post office department
7 receipt of certified or registered mail shall be deemed proof
8 of receipt of such notice. If in either case the cash
9 payments exceed the amount properly chargeable, the excess
10 shall be refunded upon the surrender of the policy to the
11 association at its home office.

12 Sec. 39. Section 518A.35, Code 1999, is amended to read as
13 follows:

14 518A.35 ANNUAL TAX.

15 Every A state mutual insurance association doing business
16 under this chapter shall on or before the first day of March,
17 each year, pay to the director of the department of revenue
18 and finance, or a depository designated by the director, a sum
19 equivalent to two percent of the gross receipts from premiums,
20 ~~assessments, and~~ fees, ~~and promissory obligations~~ for business
21 done within the state, including all insurance upon property
22 situated in the state without including or deducting any
23 amounts received or paid for reinsurance ~~except that any.~~
24 However, a company reinsuring windstorm or hail risks written
25 by county mutual associations ~~shall be~~ is required to pay a
26 two percent tax on the gross amount of reinsurance premiums
27 received upon such risks, but after deducting the amount
28 returned upon canceled policies and rejected applications
29 covering property situated within the state, and dividends
30 returned to policyholders on property situated within the
31 state.

32 Sec. 40. Section 518A.44, Code Supplement 1999, is amended
33 to read as follows:

34 518A.44 REINSURANCE.

35 A state mutual insurance association may reinsure a part or

1 all of its risks coverages written pursuant to this chapter
2 with any an association operating under ~~the-provisions-of~~ this
3 chapter, or with any other association or company licensed in
4 this state and authorized to write the kinds of insurance
5 enumerated in section 518A.1.

6 Reinsurance sufficient to protect the financial stability
7 of the state mutual insurance association is required.

8 Reinsurance coverage obtained by an association shall not
9 expose the association to ~~a-loss~~ losses from coverages written
10 pursuant to this chapter of more than fifteen percent from
11 surplus in any calendar year. The commissioner of insurance
12 may require additional reinsurance if necessary to protect the
13 policyholders of the association.

14 Sec. 41. Section 518A.52, Code 1999, is amended to read as
15 follows:

16 518A.52 FORM -- APPROVAL.

17 The form of all policies, applications, agreements, and
18 endorsements modifying the provisions of policies, and all
19 permits and riders used in this state, issued or proposed to
20 be issued by a state mutual ~~casualty-assessment~~ insurance
21 association doing business in this state under ~~the-provisions~~
22 ~~of~~ this chapter, shall first be examined and approved by the
23 commissioner of insurance.

24 Sec. 42. Section 518A.53, Code 1999, is amended to read as
25 follows:

26 518A.53 FAILURE TO FILE COPY.

27 Upon the failure of a state mutual ~~casualty-assessment~~
28 insurance association to file a copy of its forms of policies
29 or contracts pursuant to section 518A.52, the commissioner of
30 insurance may suspend its authority to transact business
31 within the state until such forms of policies or contracts
32 have been filed and approved.

33 Sec. 43. Section 518A.54, Code 1999, is amended to read as
34 follows:

35 518A.54 DISAPPROVAL OF FILINGS.

1 If the commissioner finds that a filing does not meet the
2 requirements of this chapter, written notice of disapproval
3 shall be sent to the state mutual casualty-assessment
4 insurance association specifying in what respect the filing
5 fails to meet the requirements of this chapter and stating
6 that the filing is not effective. If a filing is disapproved
7 by the commissioner, the association may request a hearing on
8 the disapproval within thirty days. The association bears the
9 burden of proving compliance with the standards established by
10 this chapter.

11 If, at any time after a form has been approved, the
12 commissioner finds that the form no longer meets the
13 requirements of this chapter, the commissioner may order the
14 discontinuance of the use of the form. The order of
15 discontinuance shall be in writing and may be issued only
16 after a hearing with at least ten days' prior notice to all
17 state mutual casualty-assessment insurance associations
18 affected by the order. The order shall state the grounds upon
19 which the order is based and when the order of discontinuance
20 is effective.

21 Sec. 44. Section 518A.55, Code 1999, is amended to read as
22 follows:

23 518A.55 CERTIFICATE SUSPENSION.

24 The commissioner of insurance may suspend a state mutual
25 casualty-assessment insurance association's certificate of
26 authority to do business if the association neglects or fails
27 to comply with this chapter.

28 Sec. 45. Section 519.10, Code 1999, is amended to read as
29 follows:

30 519.10 POWERS OF COMMISSIONER.

31 The commissioner of insurance shall have and exercise the
32 same control over such corporations as the commissioner now
33 has over state mutual assessment insurance associations
34 organized and doing business under chapter 518A.

35 Sec. 46. Section 519.11, Code Supplement 1999, is amended

1 to read as follows:

2 519.11 LIABILITY TO ASSESSMENTS.

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

8 Sec. 47. Section 521E.1, subsection 4, paragraph e, Code
9 1999, is amended to read as follows:

10 e. A state mutual ~~casualty-assessment~~ insurance
11 association organized under chapter 518A.

12 Sec. 48. Section 522.3, unnumbered paragraph 3, Code 1999,
13 is amended by striking the unnumbered paragraph.

14 Sec. 49. Section 573.3, Code 1999, is amended by adding
15 the following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. A public corporation, with
17 respect to a public improvement which is or has been
18 competitively bid or negotiated, shall not require a
19 contractor to procure a bond, as required under section 573.2,
20 from a particular insurance or surety company, agent, or
21 broker.

22 Sec. 50. Sections 518A.11, 518A.14, 518A.15, 518A.30,
23 518A.31, and 518A.32, Code 1999, are repealed.

24 EXPLANATION

25 This bill amends provisions relating to the regulation of
26 insurance entities in this state.

27 Code section 87.4 is amended to exempt cities, counties,
28 community colleges, and political subdivisions that establish
29 a program of self-insurance for workers' compensation
30 insurance from regulation by the insurance division.

31 Code section 505.8 is amended by striking the requirement
32 that the commissioner annually prepare a report identifying
33 the premium volume of nonqualified insurance annuities issued
34 by domestic insurance companies doing a volume of at least
35 \$5,000,000 per annum.

1 Code section 505.8 is amended to require the commissioner
2 to adopt rules protecting the privacy of information held by
3 an insurer or an agent consistent with federal legislation.

4 New Code section 505.23 is created and provides that if an
5 evidentiary hearing is conducted in certain proceedings, the
6 proceeding is a contested case subject to Code chapter 17A.

7 Code section 508.4 is amended to require that a life
8 insurance company incorporated under Iowa law must file its
9 bylaws and any amendments to such bylaws within 30 days of the
10 adoption of such bylaws and amendments.

11 The bill amends provisions of Code chapter 508B relating to
12 the conversion of a mutual life insurance company to a stock
13 life insurance company. The bill provides that such plan of
14 conversion must be fair and equitable to policyholders.

15 Currently, such plan is not to be unfair or inequitable to
16 policyholders. The bill provides that the commissioner is to
17 review the plan and make a finding that the plan is fair and
18 equitable to the mutual company and its policyholders, rather
19 than a finding that the plan is not unfair or inequitable.

20 The bill provides that a new certificate of authority to a
21 reorganized company is effective on the effective date of the
22 conversion as provided in the plan of conversion. Currently,
23 such certificate is effective on the date specified in the
24 plan of conversion. The bill also reduces the time within
25 which a person may commence an action challenging a conversion
26 under Code chapter 508B from 180 days to 30 days, unless an
27 application for rehearing is filed. The bill provides that if
28 an application for rehearing is filed, then such action
29 challenging the conversion must be filed within 30 days after
30 that application is denied or deemed denied or, if the
31 application is granted, within 30 days after the issuance of
32 the commissioner's final decision on rehearing.

33 New Code section 512A.10 is created and requires a
34 benevolent association to file its articles of incorporation
35 and amendments to the articles with the commissioner for

1 approval. The Code section also requires a benevolent
2 association to file its bylaws and amendments to the bylaws
3 with the commissioner within 30 days of adoption.

4 Code section 513B.2 is amended by striking, for purposes of
5 determining premium rates for a class of business, the use
6 small employers with similar case characteristics.

7 Code section 513C.10 is amended to provide that rates for
8 basic and standard health care coverages are to be determined
9 as a product of a basic and standard factor and the lowest
10 rate available for issuance by an insurance carrier or
11 organized delivery system. The section is also amended to
12 provide for the manner in which basic and standard factors are
13 to be determined.

14 Code section 514.3 is amended and provides that a nonprofit
15 health service corporation must file its bylaws and any
16 amendments to such bylaws within 30 days of the adoption of
17 such bylaws and amendments.

18 Code section 514.4 is amended to strike language
19 prohibiting a corporation from reimbursing or compensating a
20 director of a nonprofit health service corporation who is a
21 provider or a subscriber more than per diem plus necessary and
22 actual expenses for attendance at a meeting of the board of
23 directors.

24 New Code section 514B.3A is created and provides that the
25 articles of incorporation of a health maintenance organization
26 be approved by both the commissioner and the attorney general.
27 The new Code section also requires a health maintenance
28 organization to file its bylaws and any amendments to such
29 bylaws within 30 days of the adoption of such bylaws and
30 amendments.

31 Code section 514B.24 is amended to increase the maximum
32 time which a health maintenance organization may go without
33 examination by the commissioner from three to five years.

34 New Code section 514B.25A is created and establishes an
35 assessment mechanism in the event that a health maintenance

1 organization or an organized delivery system is found to be
2 insolvent.

3 Code section 515.2 is amended and provides that an
4 insurance company, other than a life insurance company, must
5 file its bylaws and any amendments to such bylaws within 30
6 days of the adoption of such bylaws and amendments.

7 Code section 515.47 is amended by striking a provision
8 which requires mutual companies or associations organized or
9 doing business under Code chapter 515 to hold as a reserve for
10 unearned premiums an amount equal to at least 40 percent of
11 the aggregate gross premiums written in all policies in force
12 less deductions for reinsurance.

13 The bill amends provision of Code sections 515G.7 and
14 515G.14 relating to the conversion of a mutual property and
15 casualty insurance company to a stock property and casualty
16 insurance company. The bill provides that the commissioner is
17 to review the plan and make a finding that the plan is fair
18 and equitable to the mutual insurer and its policyholders,
19 rather than a finding that the plan is not unfair or
20 inequitable. The bill also provides that if an application
21 for rehearing is filed after the commissioner approves the
22 conversion, then an action challenging the conversion must be
23 filed within 30 days after that application is denied or
24 deemed denied or, if the application is granted, within 30
25 days after the issuance of the commissioner's final decision
26 on rehearing.

27 Code section 518.7 is amended and requires that a director
28 of a county mutual insurance association also be a member of
29 such association.

30 Code section 518.8 is amended and provides that a county
31 mutual insurance association must file its bylaws and any
32 amendments to such bylaws within 30 days of the adoption of
33 such bylaws and amendments.

34 New Code section 518.13A is created and prohibits a county
35 mutual insurance association from levying an assessment on

1 members of the association.

2 Code section 518.17 is amended to provide that reinsurance
3 obtained by a county mutual insurance association will cover
4 losses incurred only from coverages written under Code chapter
5 518.

6 Code section 518.23 is amended and provides the manner for
7 cancellation and nonrenewal of a policy issued by a county
8 mutual insurance association.

9 Code section 518A.6 is amended and requires that a director
10 of a state mutual insurance association also be a member of
11 such association.

12 New Code section 518A.6A is created and authorizes the
13 directors of a state mutual insurance association to adopt
14 bylaws and regulations necessary for the regulation and
15 conduct of business, and requires that the bylaws and
16 amendments to the bylaws be filed with the commissioner within
17 30 days of adoption.

18 Code sections 515B.2, 515F.3, 518A.7, 518A.12, 518A.35,
19 518A.52, 518A.53, 518A.54, 518A.55, 519.10, and 521E.1 are
20 amended to conform to the change in the name of the
21 association from mutual casualty assessment insurance
22 association to the state mutual insurance association.

23 Code section 518A.9 is rewritten and strikes the authority
24 of a state mutual insurance association to assess members of
25 the association and authorizes the association to establish
26 premium charges for the purpose of payment of losses and
27 expenses and the establishment or maintenance of a reserve
28 fund. The Code section also provides for the suspension of a
29 policy for nonpayment of premium.

30 New Code section 518A.9A is created and prohibits a state
31 mutual insurance association from levying an assessment on
32 members of the association.

33 Code section 518A.18 is amended and provides that a state
34 mutual association is required to annually prepare a statement
35 of the condition of the association for the preceding calendar

1 year. The statement is to conform to the statement blank
2 prescribed by the commissioner.

3 Code section 518A.29 is amended and provides the manner for
4 cancellation and nonrenewal of a policy issued by a state
5 mutual insurance association.

6 Code section 518A.44 is amended to provide that reinsurance
7 obtained by a state mutual insurance association will cover
8 losses incurred only from coverages written under Code chapter
9 518A.

10 Code section 522.3 is amended by striking language
11 requiring that a first-time applicant for a license as an
12 insurance agent pay to the commissioner an application fee of
13 \$10 for each line of insurance.

14 Code section 573.3 is amended to provide that a public
15 corporation, with respect to a public improvement which is or
16 has been competitively bid or negotiated, shall not require a
17 contractor to procure a bond from a particular insurance or
18 surety company, agent, or broker.

19 The bill repeals sections relating to the state mutual
20 insurance association concerning the borrowing of money,
21 liability of members, reserves for unearned premium,
22 cancellation of policies by insureds, unearned assessments,
23 and pro rata assessments of association members.

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H-3/6/00 Commerce + Reg.
H-3/15/00 Do Pass

FILED FEB 29 '00

2409

SENATE FILE
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3162)

Passed Senate, Date 3/2/00 (p.518) Passed House, Date 3/22/00 (p.901)
Vote: Ayes 46 Nays 0 Vote: Ayes 98 Nays 0
Approved March 30, 2000

A BILL FOR

1 An Act relating to the operation and regulation of insurance
2 companies, mutual insurance associations, benevolent
3 associations, health maintenance organizations, and other
4 insurance or risk-assuming entities, including the rights and
5 duties of such entities and the powers and authority of the
6 insurance commissioner and providing effective dates.

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

SS 2409

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1 Section 1. Section 87.4, unnumbered paragraph 2, Code
2 1999, is amended to read as follows:

3 A self-insurance association formed under this section and
4 an association comprised of cities or counties, or both, or
5 community colleges as defined in section 260C.2 or school
6 corporations, or both, or other political subdivisions, which
7 have entered into an agreement under chapter 28E for the
8 purpose of establishing a self-insured program for the payment
9 of workers' compensation benefits are exempt from taxation
10 under section 432.1.

11 Sec. 2. Section 87.4, unnumbered paragraph 4, Code 1999,
12 is amended to read as follows:

13 A self-insured program for the payment of workers'
14 compensation benefits established by an association comprised
15 of cities or counties, or both, or community colleges, as
16 defined in section 260C.2, or other political subdivisions,
17 which have entered into an agreement under chapter 28E, is not
18 insurance, and is not subject to regulation under chapters 505
19 through 523C. Membership in such an association together with
20 payment of premiums due relieves the member from obtaining
21 insurance as required in section 87.1. Such an association is
22 not required to submit its plan or program to the commissioner
23 of insurance for review and approval prior to its
24 implementation and is not subject to rules or rates adopted by
25 the commissioner relating to workers' compensation group self-
26 insurance programs. Such a program is deemed to be in
27 compliance with this chapter.

28 Sec. 3. Section 100A.1, Code 1999, is amended by adding
29 the following new paragraph:

30 NEW PARAGRAPH. j. The fraud bureau within the insurance
31 division of the department of commerce.

32 Sec. 4. Section 505.8, subsection 5, Code Supplement 1999,
33 is amended by striking the subsection.

34 Sec. 5. Section 505.8, Code Supplement 1999, is amended by
35 adding the following new subsection:

1 NEW SUBSECTION. 7. The commissioner shall adopt rules
2 protecting the privacy of information held by an insurer or an
3 agent consistent with the federal Gramm-Leach-Bliley Act, Pub.
4 L. No. 106-102.

5 Sec. 6. NEW SECTION. 505.23 HEARINGS.

6 If an evidentiary hearing is conducted in a proceeding
7 pursuant to sections 508B.7, 515G.7, 521A.3, or 521A.14, or in
8 a proceeding with respect to a merger or consolidation
9 pursuant to chapter 521, the proceeding is a contested case
10 subject to chapter 17A.

11 Sec. 7. Section 508.4, Code 1999, is amended to read as
12 follows:

13 508.4 APPROVAL OF AMENDMENTS.

14 All amendments to ~~such articles and amendments hereafter~~
15 ~~made to~~ the articles of incorporation of companies already
16 organized under the laws of this state shall be approved in
17 like manner.

18 A company shall file with the commissioner bylaws and
19 subsequent amendments to such bylaws within thirty days of the
20 adoption of such bylaws and amendments.

21 Sec. 8. Section 508B.3, unnumbered paragraph 1, Code 1999,
22 is amended to read as follows:

23 A plan of conversion shall ~~not be unfair or inequitable~~
24 fair and equitable to policyholders. A plan of conversion is
25 ~~not unfair or inequitable~~ fair and equitable if it satisfies
26 the conditions of subsections 1, 2, or 3. The commissioner
27 may determine that whether any other plan proposed by a mutual
28 company is ~~not unfair or inequitable~~ fair and equitable to its
29 policyholders.

30 Sec. 9. Section 508B.4, Code 1999, is amended to read as
31 follows:

32 508B.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

33 The policyholders who are entitled to notice of and to vote
34 upon approval of a plan of conversion and entitled to notice
35 of a public hearing are the policyholders whose policies or

1 contracts are in force on the date of adoption of the plan of
2 conversion. Each policyholder whose policy has been in force
3 for at least one year prior to the date is entitled to the
4 consideration, if any, provided for the policyholder in the
5 plan based on the policyholder's membership interest
6 determined pursuant to this chapter, but only ~~to the extent~~
7 that if the policyholder's membership interest arose from
8 ~~policies or contracts~~ a policy or contract in force on the
9 effective date of the conversion and ~~which were in force~~ such
10 membership interest has been held continuously for at least
11 one year prior to the date of adoption of the plan. For this
12 purpose, any changes in status of, or premiums in excess of
13 those required on the policies or contracts occurring or made
14 after the date one year prior to the date of adoption of the
15 plan shall be disregarded.

16 Sec. 10. Section 508B.7, Code 1999, is amended to read as
17 follows:

18 508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING
19 AUTHORIZED -- APPROVAL.

20 The commissioner of insurance shall review the plan. The
21 commissioner shall approve the plan if the commissioner finds
22 the plan complies with all provisions of law, the plan is not
23 ~~unfair or inequitable~~ fair and equitable to the mutual company
24 and its policyholders, and that the reorganized company will
25 have the amount of capital and surplus deemed by the
26 commissioner to be reasonably necessary for its future
27 solvency. The commissioner may order a hearing on the
28 fairness and equity of the terms of the plan after giving
29 written notice of the hearing to the mutual company, its
30 policyholders, and other interested persons, all of whom have
31 the right to appear at the hearing. Costs incurred in
32 connection with the notice shall be paid by the company.

33 Sec. 11. Section 508B.9, unnumbered paragraph 1, Code
34 1999, is amended to read as follows:

35 When the commissioner and the policyholders approve the

1 conversion plan as provided in this chapter, the commissioner
2 shall issue a new certificate of authority to the reorganized
3 company effective on the effective date specified of the
4 conversion as provided in the plan. The reorganized company
5 is a continuation of the mutual life insurance company and the
6 conversion shall not annul or modify any of the mutual
7 company's existing suits, contracts, or liabilities except as
8 provided in the approved conversion plan. All rights,
9 franchises, and interests of the mutual company in and to
10 property, assets, and other interests shall be transferred to
11 and shall vest in the reorganized company and the reorganized
12 company shall assume all obligations and liabilities of the
13 mutual company.

14 Sec. 12. Section 508B.14, unnumbered paragraph 2, Code
15 Supplement 1999, is amended to read as follows:

16 An action challenging the validity of a conversion plan, or
17 any part of a conversion plan, shall not be commenced more
18 than one-hundred-eighty thirty days following the date of
19 approval by the commissioner, unless an application for
20 rehearing is filed pursuant to section 17A.16, subsection 2.
21 If an application for rehearing is filed, then such action
22 must be filed within thirty days after that application is
23 denied or deemed denied or, if the application is granted,
24 within thirty days after the issuance of the commissioner's
25 final decision on rehearing.

26 Sec. 13. Section 508C.3, subsection 3, Code 1999, is
27 amended by adding the following new paragraphs:

28 NEW PARAGRAPH. j. An obligation that does not arise under
29 the express written terms of a covered policy.

30 NEW PARAGRAPH. k. A contractual agreement that
31 establishes a member insurer's obligations to provide a book
32 value accounting guaranty for defined contribution benefit
33 plan participants by reference to a portfolio of assets that
34 is owned by the benefit plan or its trustee, which in each
35 case is not an affiliate of the member insurer.

1 NEW PARAGRAPH. 1. A portion of a covered policy to the
2 extent it provides for interest or other change in value to be
3 determined by the use of an index or other external reference
4 stated in the covered policy, but which has not been credited
5 to the covered policy, or as to which the covered policy
6 owner's rights are subject to forfeiture, as of the date the
7 member insurer becomes an impaired or insolvent insurer under
8 this chapter, whichever is earlier. If a covered policy's
9 interest or change in value is credited less frequently than
10 annually, then for purposes of determining the values that
11 have been credited and are not subject to forfeiture under the
12 covered policy, the interest or change in value determined by
13 using the procedures defined in the covered policy will be
14 credited as if the contractual date of crediting interest or
15 changing values was the date of impairment or insolvency,
16 whichever is earlier, and will not be subject to forfeiture.

17 Sec. 14. Section 508C.9, subsection 5, paragraph a, Code
18 1999, is amended to read as follows:

19 a. The total of all assessments upon a member insurer for
20 each account shall not in any one calendar year exceed two
21 percent of the average of the insurer's premiums received in
22 this state during the three most recent calendar years for
23 which information is available, preceding the year in which
24 the insurer becomes impaired or insolvent, on the policies
25 related to that account. However, if two or more assessments
26 are authorized in one calendar year with respect to insurers
27 that become impaired or insolvent in different calendar years,
28 the average annual premiums for purposes of the aggregate
29 assessment percentage limitation of this paragraph shall be
30 equal, and limited, to the higher of the three-year average
31 annual premiums for the applicable account as calculated
32 pursuant to this section. If the maximum assessment for an
33 account, together with the other assets of the association in
34 the account, does not provide in any one year in the account
35 an amount sufficient to carry out the responsibilities of the

1 association, the necessary additional funds shall be assessed
2 for the account in succeeding years as soon as permitted by
3 this chapter.

4 Sec. 15. Section 511.8, subsection 5, paragraph b,
5 unnumbered paragraph 1, Code 1999, is amended to read as
6 follows:

7 If adjustment, income or other contingent interest
8 obligations, the net earnings of the issuing, assuming or
9 guaranteeing corporation available for its fixed charges for a
10 period of five fiscal years next preceding the date of
11 acquisition of the obligations by such insurance company shall
12 have averaged per year not less than one and one-half times
13 such average annual fixed charges of the issuing, assuming or
14 guaranteeing corporation and its average annual maximum
15 contingent interest applicable to such period and, during at
16 least one of the last two years of such period, its net
17 earnings shall have been not less than one and one-half times
18 the sum of its fixed charges and maximum contingent interest
19 for such year, or if, at the date of acquisition, the
20 obligations are adequately secure and have investment
21 qualities and characteristics and speculative elements are not
22 predominant.

23 Sec. 16. Section 511.8, subsection 5, paragraph b,
24 unnumbered paragraph 4, Code 1999, is amended to read as
25 follows:

26 The term "corporation" as used in this chapter includes a
27 joint stock association, a limited liability company, a
28 partnership, or a trust.

29 Sec. 17. Section 511.8, subsection 17, paragraph b, Code
30 1999, is amended by striking the paragraph.

31 Sec. 18. Section 511.8, Code 1999, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 22. FINANCIAL INSTRUMENTS USED IN HEDGING
34 TRANSACTIONS.

35 a. As used in this subsection, unless the context

1 otherwise requires:

2 (1) "Financial instrument" means an agreement, option,
3 instrument, or any series or combination agreement, option, or
4 instrument that provides for either of the following:

5 (a) To make or take delivery of, or assume or relinquish,
6 a specified amount of one or more underlying interests, or to
7 make a cash settlement in lieu of such delivery or
8 relinquishment.

9 (b) Which has a price, performance, value, or cash flow
10 based primarily upon the actual or expected price, level,
11 performance, value, or cash flow of one or more underlying
12 interests.

13 (2) "Financial instrument transaction" means a transaction
14 involving the use of one or more financial instruments.

15 (3) "Hedging transaction" means a financial instrument
16 transaction which is entered into and maintained to reduce
17 either of the following:

18 (a) The risk of a change in the value, yield, price, cash
19 flow, or quality of assets or liabilities which the domestic
20 insurer has acquired and maintains as qualified assets in its
21 legal reserve deposit or which liabilities the domestic
22 insurer has incurred and form the basis for calculation of its
23 legal reserve.

24 (b) The currency exchange-rate risk or the degree of
25 exposure as to assets or liabilities which the domestic
26 insurer has acquired or incurred.

27 b. Financial instruments used in hedging transactions must
28 meet the qualifications established in subsection 5 for bonds
29 or other evidences of indebtedness issued, assumed, or
30 guaranteed by a corporation incorporated under the laws of the
31 United States or Canada, or the qualifications established in
32 subsection 19 for bonds or other evidences of indebtedness
33 issued, assumed, or guaranteed by a corporation incorporated
34 under the laws of a foreign government other than Canada.

35 c. Investments in financial instruments used in hedging

1 transactions are not eligible in excess of two percent of the
2 legal reserve in the financial instruments of any one
3 corporation, less any securities of that corporation owned by
4 the company or association and in which its legal reserve is
5 invested, except insofar as the financial instruments are
6 collateralized by cash or United States government obligations
7 as authorized by subsection 1 deposited with a custodian bank
8 as defined in subsection 21, and held under a written
9 agreement with the custodian bank that complies with
10 subsection 21 and provides for the proceeds of the collateral,
11 subject to the terms and conditions of the applicable
12 collateral or other credit support agreement, to be remitted
13 to the legal reserve deposit of the company or association and
14 to vest in the state in accordance with section 508.18
15 whenever proceedings under that section are instituted.

16 d. Investments in financial instruments used in hedging
17 transactions are not eligible in excess of ten percent of the
18 legal reserve, except insofar as the financial instruments are
19 collateralized by cash or United States government obligations
20 as authorized by subsection 1 deposited with a custodian bank
21 as defined in subsection 21, and held under a written
22 agreement with the custodian bank that complies with
23 subsection 21 and provides for the proceeds of the collateral,
24 subject to the terms and conditions of the applicable
25 collateral or other credit support agreement, to be remitted
26 to the legal reserve deposit of the company or association and
27 to vest in the state in accordance with section 508.18
28 whenever proceedings under this section are instituted.

29 e. Investments in financial instruments of foreign
30 governments or foreign corporate obligations, other than
31 Canada, used in hedging transactions are not eligible in
32 excess of ten percent of the legal reserve, less any foreign
33 investment authorized by subsection 19 owned by the company or
34 association and in which its legal reserve is invested, except
35 insofar as the financial instruments are collateralized by

1 cash or United States government obligations as authorized by
2 subsection 1 deposited with a custodian bank as defined in
3 subsection 21, and held under a written agreement with the
4 custodian bank that complies with subsection 21 and provides
5 for the proceeds of the collateral, subject to the terms and
6 conditions of the applicable collateral or other credit
7 support agreement, to be remitted to the legal reserve deposit
8 of the company or association and to vest in the state in
9 accordance with section 508.18 whenever proceedings under that
10 section are instituted.

11 f. Prior to engaging in hedging transactions under this
12 subsection, a domestic insurer shall develop and adequately
13 document policies and procedures regarding hedging transaction
14 strategies and objectives. Such policies and procedures shall
15 address authorized hedging transactions, limitations, internal
16 controls, documentation, and authorization and approval
17 procedures. Such policies and procedures shall also provide
18 for review of hedging transactions by the domestic insurer's
19 board of directors or the board of directors' designee.

20 g. A domestic insurer shall be able to demonstrate to the
21 commissioner the intended hedging characteristics of hedging
22 transactions under this subsection and the ongoing
23 effectiveness of each hedging transaction or combination of
24 hedging transactions.

25 h. Financial instruments used in hedging transactions
26 shall only be eligible in accordance with this subsection
27 after the commissioner has adopted rules pursuant to chapter
28 17A regulating hedging transactions under this subsection.

29 Sec. 19. NEW SECTION. 512A.10 AMENDMENTS TO ARTICLES AND
30 BYLAWS.

31 1. An organization shall present to the commissioner of
32 insurance for approval its articles of incorporation and any
33 subsequent amendment. The commissioner shall submit the
34 articles of incorporation and any subsequent amendment to the
35 attorney general for examination, and if found by the attorney

1 general to be in accordance with this chapter, and the
2 constitution and laws of the state, the attorney general shall
3 certify such fact on the articles of incorporation or
4 amendment and return the articles or amendment to the
5 commissioner. Articles of incorporation or an amendment to
6 the articles shall not be approved by the commissioner or
7 recorded unless certified by the attorney general.

8 2. The directors of a benevolent association shall have
9 the authority to enact such bylaws and regulations not
10 inconsistent with law as they consider necessary for the
11 regulation and conduct of the business. A change in the
12 bylaws shall not limit coverage under existing certificates.
13 A benevolent association shall file with the commissioner
14 bylaws and amendments to the bylaws within thirty days of
15 adoption of such bylaws or amendments.

16 Sec. 20. Section 513B.2, subsections 2, 13, and 15, Code
17 1999, are amended to read as follows:

18 2. "Base premium rate" means, for each class of business
19 as to a rating period, the lowest premium rate charged or
20 which could have been charged under a rating system for that
21 class of business, by the small employer carrier to small
22 employers with-similar-case-characteristics for health
23 insurance plans with the same or similar coverage.

24 13. "Index rate" means for each class of business for
25 small employers with-similar-case-characteristics the average
26 of the applicable base premium rate and the corresponding
27 highest premium rate.

28 15. "New business premium rate" means, for each class of
29 business as to a rating period, the lowest premium rate
30 charged or offered by the small employer carrier to small
31 employers with-similar-case-characteristics for newly issued
32 health insurance coverages with the same or similar coverage.

33 Sec. 21. Section 513C.10, subsection 6, Code 1999, is
34 amended to read as follows:

35 6. Rates for basic and standard coverages as provided in

1 this chapter shall be determined by each carrier or organized
2 delivery system as the average-of product of a basic and
3 standard factor and the lowest rate available for issuance by
4 that carrier or organized delivery system adjusted for rating
5 characteristics and benefits ~~and-the-maximum-rate-allowable-by~~
6 ~~law-after-adjustments-for-rate-characteristics-and-benefits.~~
7 Basic and standard factors shall be established annually by
8 the Iowa individual health benefit reinsurance association
9 board with the approval of the commissioner. Multiple basic
10 and standard factors for a distinct grouping of basic and
11 standard policies, may be established. A basic and standard
12 factor is limited to a minimum value defined as the ratio of
13 the average of the lowest rate available for issuance and the
14 maximum rate allowable by law divided by the lowest rate
15 available for issuance. A basic and standard factor is
16 limited to a maximum value defined as the ratio of the maximum
17 rate allowable by law divided by the lowest rate available for
18 issuance. The maximum rate allowable by law and the lowest
19 rate available for issuance is determined based on the rate
20 restrictions under this chapter. However, to maintain
21 assessable loss assessments at or below one percent of total
22 health insurance premiums or payments as determined in
23 accordance with subsection 10, the Iowa individual health
24 benefit reinsurance association board with the approval of the
25 commissioner may increase the value for any basic and standard
26 factor greater than the maximum value and with the approval of
27 the commissioner may increase cost sharing provisions
28 including, but not limited to, basic and standard plan
29 deductibles, coinsurance, or copayments.

30 Sec. 22. Section 514.3, Code 1999, is amended to read as
31 follows:

32 514.3 APPROVAL BY COMMISSIONER.

33 The articles of incorporation, and any subsequent
34 amendments, of such a corporation shall have endorsed thereon
35 on or annexed thereto to the approval of the commissioner of

1 insurance before the same shall be filed for record. A
2 corporation shall file with the commissioner bylaws and
3 subsequent amendments to the bylaws within thirty days of the
4 adoption of the bylaws and amendments.

5 Sec. 23. Section 514.4, unnumbered paragraph 7, Code 1999,
6 is amended by striking the unnumbered paragraph.

7 Sec. 24. NEW SECTION. 514B.3A APPROVAL BY COMMISSIONER
8 AND ATTORNEY GENERAL.

9 The articles of incorporation, and any subsequent
10 amendment, of a corporation shall have endorsed on or annexed
11 to such articles or amendment the approval of the commissioner
12 of insurance and the attorney general before filing for
13 record. A corporation shall file with the commissioner bylaws
14 and subsequent amendments to the bylaws within thirty days of
15 the adoption of the bylaws and amendments.

16 Sec. 25. Section 514B.24, unnumbered paragraph 1, Code
17 1999, is amended to read as follows:

18 The commissioner shall make an examination of the affairs
19 of any a health maintenance organization and its providers as
20 often as the commissioner deems necessary for the protection
21 of the interests of the people of this state, but not less
22 frequently than once every three five years.

23 Sec. 26. NEW SECTION. 514B.25A INSOLVENCY PROTECTION --
24 ASSESSMENT.

25 1. Upon a health maintenance organization or organized
26 delivery system authorized to do business in this state and
27 licensed by the director of public health being declared
28 insolvent by the district court, the commissioner may levy an
29 assessment on each health maintenance organization or
30 organized delivery system doing business in this state and
31 licensed by the director of public health, as applicable, to
32 pay claims for uncovered expenditures for enrollees. The
33 commissioner shall not assess an amount in any one calendar
34 year which is more than two percent of the aggregate premium
35 written by each health maintenance organization or organized

1 delivery system.

2 2. The commissioner may use funds obtained through an
3 assessment under subsection 1 to pay claims for uncovered
4 expenditures for enrollees of an insolvent health maintenance
5 organization or organized delivery system and administrative
6 costs. The commissioner, by rule, may prescribe the time,
7 manner, and form for filing claims under this section. The
8 commissioner may require claims to be allowed by an ancillary
9 receiver or the domestic receiver or liquidator.

10 3. a. A receiver or liquidator of an insolvent health
11 maintenance organization or organized delivery system shall
12 allow a claim in the proceeding in an amount equal to
13 uncovered expenditures and administrative costs paid under
14 this section.

15 b. A person receiving benefits under this section for
16 uncovered expenditures is deemed to have assigned the rights
17 under the covered health care plan certificates to the
18 commissioner to the extent of the benefits received. The
19 commissioner may require an assignment of such rights by a
20 payee, enrollee, or beneficiary, to the commissioner as a
21 condition precedent to the receipt of such benefits. The
22 commissioner is subrogated to these rights against the assets
23 of the insolvent health maintenance organization or organized
24 delivery system that are held by a receiver or liquidator of a
25 foreign jurisdiction.

26 c. The assigned subrogation rights of the commissioner and
27 allowed claims under this subsection have the same priority
28 against the assets of the insolvent health maintenance
29 organization or organized delivery system as those claims of
30 persons entitled to receive benefits under this section or for
31 similar expenses in the receivership or liquidation.

32 4. If funds assessed under subsection 1 are unused
33 following the completion of the liquidation of an insolvent
34 health maintenance organization or organized delivery system,
35 the commissioner shall distribute the remaining amounts, if

1 such amounts are not de minimis, to the health maintenance
2 organizations or organized delivery systems that were
3 assessed.

4 5. The aggregate coverage of uncovered expenditures under
5 this section shall not exceed three hundred thousand dollars
6 with respect to one individual. Continuation of coverage
7 shall cease after the lesser of one year after the health
8 maintenance organization or organized delivery system is
9 terminated by insolvency or the remaining term of the
10 contract. The commissioner may provide continuation of
11 coverage on a reasonable basis, including, but not limited to,
12 continuation of the health maintenance organization or
13 organized delivery system contract or substitution of
14 indemnity coverage in a form as determined by the
15 commissioner.

16 6. The commissioner may waive an assessment of a health
17 maintenance organization or organized delivery system if such
18 organization or system is impaired financially or would be
19 impaired financially as a result of such assessment. A health
20 maintenance organization or organized delivery system that
21 fails to pay an assessment within thirty days after notice of
22 the assessment is subject to a civil forfeiture of not more
23 than one thousand dollars for each day the failure continues,
24 and suspension or revocation of its certificate of authority.
25 An action taken by the commissioner to enforce an assessment
26 under this section may be appealed by the health maintenance
27 organization or organized delivery system pursuant to chapter
28 17A.

29 Sec. 27. Section 515.2, Code 1999, is amended to read as
30 follows:

31 515.2 ARTICLES -- APPROVAL.

32 Each such organization shall present to the commissioner of
33 insurance its articles of incorporation, which shall show its
34 name, objects, location of its principal place of business,
35 and amount of its capital stock, who shall submit it to the

1 attorney general for examination, and if found by the attorney
2 general to be in accordance with the provisions of this title,
3 the laws of the United States, and the Constitution and laws
4 of the state, the attorney general shall certify such fact
5 thereon and return the same to said commissioner, and no ...
6 articles shall be approved by the commissioner or recorded
7 unless accompanied with such certificate. A company shall
8 file with the commissioner bylaws and subsequent amendments to
9 the bylaws within thirty days of the adoption of the bylaws
10 and amendments.

11 Sec. 28. Section 515.46, Code 1999, is amended to read as
12 follows:

13 515.46 FORFEITURE OF CERTIFICATE OF AUTHORITY.

14 Any dividend made contrary to the provisions of **sections**
15 section 515.44 and ~~515.45~~ or rules adopted by the commissioner
16 shall subject the company making it to forfeiture of its
17 certificate of authority.

18 Sec. 29. Section 515.71, unnumbered paragraph 1, Code
19 1999, is amended to read as follows:

20 Every alien insurer authorized to transact business in this
21 state shall at all times maintain a deposit with the
22 commissioner of insurance in cash or in securities in which
23 insurance companies are authorized to invest, of a sum equal
24 to the greater of the reserve on all policies covering risks
25 located in this state or one million dollars. The securities
26 shall be approved, and the amount of the deposit shall be
27 determined, by the commissioner ~~in accordance with section~~
28 ~~515.47~~. The commissioner, in the commissioner's discretion,
29 may permit the withdrawal of interest earnings.

30 Sec. 30. Section 515B.2, subsection 5, Code 1999, is
31 amended to read as follows:

32 5. "Insurer" means an insurer licensed to transact
33 insurance business in this state under either chapter 515 or
34 chapter 520, either at the time the policy was issued or when
35 the insured event occurred. It does not include county or

1 state mutual assessment insurance associations licensed under
2 chapter 518 or chapter 518A, or fraternal beneficiary
3 societies, orders, or associations licensed under chapter
4 512B, or corporations operating nonprofit service plans under
5 chapter 514, or life insurance companies or life, accident, or
6 health associations licensed under chapter 508, or those
7 professions under chapter 519.

8 Sec. 31. Section 515C.3, Code 1999, is amended to read as
9 follows:

10 515C.3 BASES FOR COMPUTATIONS.

11 The unearned premium reserve shall be computed in
12 ~~accordance with section 515.47, except that all premiums on~~
13 ~~risks written for one year or less must be reserved on a~~
14 ~~monthly pro-rata basis, and the reserve for those policies~~
15 ~~covering a risk period of more than five years shall be~~
16 ~~computed in accordance with formulae filed by the insurer and~~
17 approved pursuant to rules adopted by the commissioner of
18 insurance.

19 Sec. 32. Section 515F.3, subsection 6, Code 1999, is
20 amended to read as follows:

21 6. Insurance written by a county mutual assessment
22 insurance association as provided in chapter 518A.

23 Sec. 33. Section 515G.7, Code 1999, is amended to read as
24 follows:

25 515G.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING
26 AUTHORIZED -- APPROVAL.

27 The commissioner of insurance shall review the plan. The
28 commissioner shall approve the plan if the commissioner finds
29 the plan complies with all provisions of law, the plan is not
30 unfair or inequitable fair and equitable to the mutual insurer
31 and its policyholders, and that the reorganized company will
32 have the amount of capital and surplus deemed by the
33 commissioner to be reasonably necessary for its future
34 solvency. The commissioner may order a hearing on the
35 fairness and equity of the terms of the plan after giving

1 written notice of the hearing to the mutual insurer, and its
2 policyholders, all of whom have the right to appear at the
3 hearing.

4 Sec. 34. Section 515G.14, unnumbered paragraph 1, Code
5 1999, is amended to read as follows:

6 An action challenging the validity of a conversion plan, or
7 any part of a conversion plan, shall not be commenced more
8 than thirty days following the date of approval by the
9 commissioner, unless an application for rehearing is filed
10 pursuant to section 17A.16, subsection 2. If an application
11 for rehearing is filed, then such action must be filed within
12 thirty days after that application is denied or deemed denied
13 or, if the application is granted, within thirty days after
14 the issuance of the commissioner's final decision on
15 rehearing.

16 Sec. 35. Section 518.7, Code 1999, is amended to read as
17 follows:

18 518.7 OFFICERS AND DIRECTORS -- ELECTION.

19 Officers or directors shall be elected in the manner and
20 for the length of time prescribed in the articles of
21 incorporation. The same person shall not simultaneously hold
22 the offices of president and secretary. A director shall be a
23 member of the association.

24 Sec. 36. Section 518.8, Code 1999, is amended to read as
25 follows:

26 518.8 BYLAWS.

27 The directors of the association shall have the authority
28 to enact such bylaws and regulations not inconsistent with law
29 as they consider necessary for the regulation and conduct of
30 the business. No change in the bylaws shall have the effect
31 of limiting coverage under existing policies of insurance. An
32 association shall file with the commissioner bylaws and
33 subsequent amendments to the bylaws within thirty days of the
34 adoption of the bylaws and amendments.

35 Sec. 37. NEW SECTION. 518.13A ASSESSMENTS PROHIBITED.

1 An association doing business under this chapter shall not
2 levy an assessment on any member of the association.

3 Sec. 38. Section 518.17, Code Supplement 1999, is amended
4 to read as follows:

5 518.17 REINSURANCE.

6 A county mutual insurance association may reinsure a part
7 or all of its ~~risks~~ coverages written pursuant to this chapter
8 with any an association operating under ~~the-provisions-of~~ this
9 chapter, or with any other association or company licensed in
10 this state and authorized to write the kinds of insurance
11 enumerated in section 518.11.

12 Reinsurance sufficient to protect the financial stability
13 of the state mutual association is also required. Reinsurance
14 coverage obtained by a county mutual insurance association
15 shall not expose the association to ~~a-loss~~ losses from
16 coverages written pursuant to this chapter 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. 39. Section 518.23, Code 1999, is amended to read as
21 follows:

22 518.23 CANCELLATION OF POLICIES.

23 1. CANCELLATION BY INSURED. Any A policy shall be
24 canceled at any time at the request of the insured upon the
25 return of the policy to the home office of the association,
26 and the payment of all premium charges against such policy, ~~or~~
27 ~~by-the-association-by-giving-five-days-notice-of-such~~
28 ~~cancellation.~~ Such ~~service~~

29 2. CANCELLATION BY ASSOCIATION.

30 a. Except as provided in paragraph "b", notice of
31 cancellation is not effective unless mailed or delivered by
32 the association to the named insured at least twenty days
33 before the effective date of cancellation.

34 b. Notice of cancellation resulting from nonpayment of a
35 premium or installment provided for in the policy, or provided

1 for in a note or contract for the payment of such premium or
2 installment, is not effective unless mailed or delivered by
3 the association to the named insured at least ten days prior
4 to the date of cancellation.

5 c. If a notice of cancellation under paragraph "a" or "b"
6 fails to include the reason for such cancellation, the
7 association, upon receipt of a timely request by the named
8 insured, shall provide in writing the reason for the
9 cancellation.

10 3. NONRENEWAL BY ASSOCIATION. A notice of intention not
11 to renew is not effective unless mailed or delivered by the
12 insurer to the named insured at least thirty days prior to the
13 expiration date of the policy. If the reason does not
14 accompany the notice of nonrenewal, the association, upon
15 receipt of a timely request by the named insured, shall
16 provide the reason for the nonrenewal in writing.

17 4. NOTICE. Service of notice under subsection 2 or 3 may
18 be made in person, or by mailing such notice by certified mail
19 deposited in the post office and directed to the insured at
20 the insured's post office address as given in or upon the
21 policy, or to such other address as the insured shall have
22 given to the association in writing. A post office department
23 receipt of certified or registered mail shall be deemed proof
24 of receipt of such notice. If in either case the cash
25 payments shall exceed the amount properly chargeable, the
26 excess will shall be refunded to the insured upon the
27 surrender of the policy to the association at its home office.

28 Sec. 40. Section 518A.6, Code 1999, is amended to read as
29 follows:

30 518A.6 OFFICERS -- ELECTION.

31 Officers or directors shall be elected in the manner and
32 for the length of time prescribed in the articles of
33 incorporation or bylaws. The same person shall not
34 simultaneously hold the offices of president and secretary. A
35 director shall be a member of the association.

1 Sec. 41. NEW SECTION. 518A.6A BYLAWS.

2 The directors of the association may enact the bylaws and
3 regulations not inconsistent with law as they consider
4 necessary for the regulation and conduct of the business. A
5 change in the bylaws shall not limit coverage under existing
6 policies of insurance. An association shall file with the
7 commissioner bylaws and amendments to bylaws within thirty
8 days of adoption.

9 Sec. 42. Section 518A.7, Code 1999, is amended to read as
10 follows:

11 518A.7 POLICIES -- ISSUANCE -- CONDITIONS.

12 No A state mutual assessment insurance association shall
13 not issue policies until at least one hundred twenty-five
14 applications have been received in any class as shown by
15 section 518A.1, representing the following amount of
16 insurance: Classes one, two, three, and five, two hundred
17 fifty thousand dollars each; class four, one hundred thousand
18 dollars, and ~~no-county-mutual-assessment-association-shall~~
19 ~~issue-policies-until-applications-for-insurance-to-the-amount~~
20 ~~of-fifty-thousand-dollars-representing-at-least-fifty~~
21 ~~applicants-have-been-received, and no~~ an application for
22 insurance during the period of organization shall not exceed
23 two percent of the amount required for organization, or after
24 one year of organization, one percent of the total insurance
25 in force, any reinsurance taking effect simultaneously with
26 the policy being deducted in determining such maximum single
27 risk.

28 Sec. 43. Section 518A.9, Code 1999, is amended by striking
29 and inserting in lieu thereof the following:

30 518A.9 PREMIUM CHARGES.

31 An association, by action of its board of directors, may
32 establish premium charges for the purpose of payment of losses
33 and expenses and for the establishment or maintenance of a
34 reserve fund.

35 A policy shall stand suspended if any default is made in

1 the payment of any premium on or before the date specified in
2 a written notice requiring the payment of such premium and
3 mailed to the insured and directed to the insured's last known
4 address not less than thirty days prior to such suspension
5 date. The notice shall specify the amount and due date of the
6 premium. The association is not liable for any loss occurring
7 during such period of suspension.

8 Sec. 44. NEW SECTION. 518A.9A ASSESSMENTS PROHIBITED.

9 An association doing business under this chapter shall not
10 levy an assessment on any member of the association.

11 Sec. 45. Section 518A.12, subsection 1, paragraphs a and
12 c, Code 1999, is amended to read as follows:

13 a. This section applies to the investments of state mutual
14 ~~casualty-assessment~~ insurance associations.

15 c. Financial terms relating to state mutual ~~casualty~~
16 ~~assessment~~ insurance associations have the meanings assigned
17 to them under statutory accounting methods. Financial terms
18 relating to companies other than state mutual ~~casualty~~
19 ~~assessment~~ insurance associations have the meanings assigned
20 to them under generally accepted accounting principles.

21 Sec. 46. Section 518A.18, Code 1999, is amended to read as
22 follows:

23 518A.18 ANNUAL REPORT.

24 . An association doing business under this chapter shall, on
25 or before March 1 of each year, ~~report-to-the-commissioner-of~~
26 ~~insurance-the-facts-required-of-domestic-insurance-companies~~
27 ~~organizing-under-chapter-5157-which-are-applicable-to-this~~
28 ~~chapter.--These-reports~~ shall prepare under oath and file with
29 the commissioner of insurance an accurate and complete
30 statement of the condition of the association as of the last
31 day of the preceding calendar year. The statement shall
32 conform to the annual statement blank prepared pursuant to
33 instructions prescribed by the commissioner. All financial
34 information reflected in the annual report shall be kept and
35 prepared pursuant to accounting practices and procedures

1 prescribed by the commissioner. Statements filed with the
2 commissioner pursuant to this section shall be tabulated and
3 published by the commissioner of insurance in the annual
4 report of insurance.

5 Sec. 47. Section 518A.29, Code 1999, is amended by
6 striking the section and inserting in lieu thereof the
7 following:

8 518A.29 CANCELLATION BY ASSOCIATION -- NOTICE.

9 1. CANCELLATION BY INSURED. A policy shall be canceled at
10 any time at the request of the insured upon the return of the
11 policy to the home office of the association and the payment
12 of all premium charges against such policy.

13 2. CANCELLATION BY ASSOCIATION.

14 a. Except as provided in paragraph "b", notice of
15 cancellation is not effective unless mailed or delivered by
16 the association to the named insured at least twenty days
17 before the effective date of cancellation.

18 b. Notice of cancellation resulting from nonpayment of a
19 premium or installment provided for in the policy, or provided
20 for in a note or contract for the payment of such premium or
21 installment, is not effective unless mailed or delivered by
22 the association to the named insured at least ten days prior
23 to the date of cancellation.

24 c. If a notice of cancellation under paragraph "a" or "b"
25 fails to include the reason for such cancellation, the
26 association, upon receipt of a timely request by the named
27 insured, shall provide the reason for the cancellation in
28 writing.

29 3. NONRENEWAL BY ASSOCIATION. A notice of intention not
30 to renew is not effective unless mailed or delivered by the
31 insurer to the named insured at least thirty days prior to the
32 expiration date of the policy. If the reason does not
33 accompany the notice of nonrenewal, the association, upon
34 receipt of a timely request by the named insured, shall
35 provide in writing the reason for the nonrenewal.

1 4. NOTICE. Service of notice under subsection 2 or 3 may
2 be made in person, or by mailing such notice by certified mail
3 deposited in the post office and directed to the insured at
4 the insured's post office address as given in or upon the
5 policy, or to such other address as the insured shall have
6 given to the association in writing. A post office department
7 receipt of certified or registered mail shall be deemed proof
8 of receipt of such notice. If in either case the cash
9 payments exceed the amount properly chargeable, the excess
10 shall be refunded upon the surrender of the policy to the
11 association at its home office.

12 Sec. 48. Section 518A.35, Code 1999, is amended to read as
13 follows:

14 518A.35 ANNUAL TAX.

15 Every A state mutual insurance association doing business
16 under this chapter shall on or before the first day of March,
17 each year, pay to the director of the department of revenue
18 and finance, or a depository designated by the director, a sum
19 equivalent to two percent of the gross receipts from premiums,
20 ~~assessments, and fees, and promissory obligations~~ for business
21 done within the state, including all insurance upon property
22 situated in the state without including or deducting any
23 amounts received or paid for reinsurance ~~except that any.~~
24 However, a company reinsuring windstorm or hail risks written
25 by county mutual associations ~~shall be~~ is required to pay a
26 two percent tax on the gross amount of reinsurance premiums
27 received upon such risks, but after deducting the amount
28 returned upon canceled policies and rejected applications
29 covering property situated within the state, and dividends
30 returned to policyholders on property situated within the
31 state.

32 Sec. 49. Section 518A.44, Code Supplement 1999, is amended
33 to read as follows:

34 518A.44 REINSURANCE.

35 A state mutual insurance association may reinsure a part or

1 all of its ~~risks~~ coverages written pursuant to this chapter
2 with ~~any an~~ association operating under ~~the-provisions-of~~ this
3 chapter, or with any other association or company licensed in
4 this state and authorized to write the kinds of insurance
5 enumerated in section 518A.1.

6 Reinsurance sufficient to protect the financial stability
7 of the state mutual insurance association is required.

8 Reinsurance coverage obtained by an association shall not
9 expose the association to ~~a-loss~~ losses from coverages written
10 pursuant to this chapter of more than fifteen percent from
11 surplus in any calendar year. The commissioner of insurance
12 may require additional reinsurance if necessary to protect the
13 policyholders of the association.

14 Sec. 50. Section 518A.52, Code 1999, is amended to read as
15 follows:

16 518A.52 FORM -- APPROVAL.

17 The form of all policies, applications, agreements, and
18 endorsements modifying the provisions of policies, and all
19 permits and riders used in this state, issued or proposed to
20 be issued by a state mutual ~~casualty-assessment~~ insurance
21 association doing business in this state under ~~the-provisions~~
22 ~~of~~ this chapter, shall first be examined and approved by the
23 commissioner of insurance.

24 Sec. 51. Section 518A.53, Code 1999, is amended to read as
25 follows:

26 518A.53 FAILURE TO FILE COPY.

27 Upon the failure of a state mutual ~~casualty-assessment~~
28 insurance association to file a copy of its forms of policies
29 or contracts pursuant to section 518A.52, the commissioner of
30 insurance may suspend its authority to transact business
31 within the state until such forms of policies or contracts
32 have been filed and approved.

33 Sec. 52. Section 518A.54, Code 1999, is amended to read as
34 follows:

35 518A.54 DISAPPROVAL OF FILINGS.

1 If the commissioner finds that a filing does not meet the
2 requirements of this chapter, written notice of disapproval
3 shall be sent to the state mutual casualty-assessment
4 insurance association specifying in what respect the filing
5 fails to meet the requirements of this chapter and stating
6 that the filing is not effective. If a filing is disapproved
7 by the commissioner, the association may request a hearing on
8 the disapproval within thirty days. The association bears the
9 burden of proving compliance with the standards established by
10 this chapter.

11 If, at any time after a form has been approved, the
12 commissioner finds that the form no longer meets the
13 requirements of this chapter, the commissioner may order the
14 discontinuance of the use of the form. The order of
15 discontinuance shall be in writing and may be issued only
16 after a hearing with at least ten days' prior notice to all
17 state mutual casualty-assessment insurance associations
18 affected by the order. The order shall state the grounds upon
19 which the order is based and when the order of discontinuance
20 is effective.

21 Sec. 53. Section 518A.55, Code 1999, is amended to read as
22 follows:

23 518A.55 CERTIFICATE SUSPENSION.

24 The commissioner of insurance may suspend a state mutual
25 casualty-assessment insurance association's certificate of
26 authority to do business if the association neglects or fails
27 to comply with this chapter.

28 Sec. 54. Section 519.10, Code 1999, is amended to read as
29 follows:

30 519.10 POWERS OF COMMISSIONER.

31 The commissioner of insurance shall have and exercise the
32 same control over such corporations as the commissioner now
33 has over state mutual assessment insurance associations
34 organized and doing business under chapter 518A.

35 Sec. 55. Section 519.11, Code Supplement 1999, is amended

1 to read as follows:

2 519.11 LIABILITY TO ASSESSMENTS.

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

8 Sec. 56. Section 521E.1, subsection 4, paragraph e, Code
9 1999, is amended to read as follows:

10 e. A state mutual ~~casualty-assessment~~ insurance
11 association organized under chapter 518A.

12 Sec. 57. Section 522.3, unnumbered paragraph 3, Code 1999,
13 is amended by striking the unnumbered paragraph.

14 Sec. 58. Section 573.3, Code 1999, is amended by adding
15 the following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. A public corporation, with
17 respect to a public improvement which is or has been
18 competitively bid or negotiated, shall not require a
19 contractor to procure a bond, as required under section 573.2,
20 from a particular insurance or surety company, agent, or
21 broker.

22 Sec. 59. Sections 515.45, 515.47, 518A.11, 518A.14,
23 518A.15, 518A.30, 518A.31, and 518A.32, Code 1999, are
24 repealed.

25 Sec. 60. EFFECTIVE DATES.

26 1. Section 8 of this Act, which amends section 508B.3, and
27 section 10 of this Act, which amends section 508B.7, being
28 deemed of immediate importance, take effect upon enactment.

29 2. Section 17 of this Act, which amends section 511.8 by
30 striking subsection 17, paragraph "b", section 28 of this Act,
31 which amends section 515.46, section 29 of this Act, which
32 amends section 515.71, and section 31 of this Act, which
33 amends section 515C.3, and the repeal of sections 515.45 and
34 515.47, take effect on January 1, 2001.

35

EXPLANATION

1 This bill amends provisions relating to the regulation of
2 insurance entities in this state.

3 Code section 87.4 is amended to exempt cities, counties,
4 community colleges, and political subdivisions that establish
5 a program of self-insurance for workers' compensation
6 insurance from regulation by the insurance division.

7 Code section 100A.1 is amended to add to the list of
8 authorized agencies the fraud bureau within the insurance
9 division of the department of commerce. Code chapter 100A
10 relates to arson investigations and provides for the release
11 of information by an insurance company to an authorized agency
12 upon a written request for such information.

13 Code section 505.8 is amended by striking the requirement
14 that the commissioner annually prepare a report identifying
15 the premium volume of nonqualified insurance annuities issued
16 by domestic insurance companies doing a volume of at least
17 \$5,000,000 per annum.

18 Code section 505.8 is amended to require the commissioner
19 to adopt rules protecting the privacy of information held by
20 an insurer or an agent consistent with federal legislation.

21 New Code section 505.23 is created and provides that if an
22 evidentiary hearing is conducted in certain proceedings, the
23 proceeding is a contested case subject to Code chapter 17A.

24 Code section 508.4 is amended to require that a life
25 insurance company incorporated under Iowa law must file its
26 bylaws and any amendments to such bylaws within 30 days of the
27 adoption of such bylaws and amendments.

28 The bill amends provisions of Code chapter 508B relating to
29 the conversion of a mutual life insurance company to a stock
30 life insurance company. The bill provides that such plan of
31 conversion must be fair and equitable to policyholders.

32 Currently, such plan is not to be unfair or inequitable to
33 policyholders. The bill provides that the commissioner is to
34 review the plan and make a finding that the plan is fair and
35 equitable to the mutual company and its policyholders, rather

1 than a finding that the plan is not unfair or inequitable.
2 The bill provides that a new certificate of authority to a
3 reorganized company is effective on the effective date of the
4 conversion as provided in the plan of conversion. Currently,
5 such certificate is effective on the date specified in the
6 plan of conversion. The bill also reduces the time within
7 which a person may commence an action challenging a conversion
8 under Code chapter 508B from 180 days to 30 days, unless an
9 application for rehearing is filed. The bill provides that if
10 an application for rehearing is filed, then such action
11 challenging the conversion must be filed within 30 days after
12 that application is denied or deemed denied or, if the
13 application is granted, within 30 days after the issuance of
14 the commissioner's final decision on rehearing.

15 Code section 508C.3 is amended to include in the list of
16 items to which the Iowa life and health insurance guaranty
17 association does not apply an obligation that does not arise
18 under the express written terms of a covered policy, a
19 contractual agreement that establishes a member insurer's
20 obligations to provide a book value accounting guaranty for
21 defined contribution benefit plan participants by reference to
22 a portfolio of assets that is owned by the benefit plan or its
23 trustee, or a portion of a covered policy to the extent it
24 provides for interest or other change in value to be
25 determined by the use of an index or other external reference
26 stated in the covered policy.

27 Code section 508C.9 is amended to provide that if two or
28 more assessments are authorized in one calendar year with
29 respect to insurers that become impaired or insolvent in
30 different calendar years, the average annual premiums for
31 purposes of the aggregate assessment percentage limitation is
32 equal, and limited, to the higher of the three-year average
33 annual premiums for the applicable account as calculated under
34 the Code section.

35 Code section 511.8, which relates to investment of funds by

1 an insurance company, is amended to provide that the
2 qualifications of certain corporate obligations in which an
3 insurance company may invest includes, at the date of
4 acquisition, that the obligations are adequately secure and
5 have investment qualities and characteristics, and that
6 speculative elements are not predominant. The Code section is
7 amended to include a limited liability company in the
8 definition of "corporation". The Code section is amended to
9 include financial instruments used in hedging transactions as
10 a permissible investment option. The bill establishes certain
11 criteria which such financial instruments must meet. The Code
12 section is also amended by striking a subsection which relates
13 to the rules of valuation of certain assets.

14 New Code section 512A.10 is created and requires a
15 benevolent association to file its articles of incorporation
16 and amendments to the articles with the commissioner for
17 approval. The Code section also requires a benevolent
18 association to file its bylaws and amendments to the bylaws
19 with the commissioner within 30 days of adoption.

20 Code section 513B.2 is amended by striking, for purposes of
21 determining premium rates for a class of business, the use of
22 small employers with similar case characteristics.

23 Code section 513C.10 is amended to provide that rates for
24 basic and standard health care coverages are to be determined
25 as a product of a basic and standard factor and the lowest
26 rate available for issuance by an insurance carrier or
27 organized delivery system. The section is also amended to
28 provide for the manner in which basic and standard factors are
29 to be determined.

30 Code section 514.3 is amended and provides that a nonprofit
31 health service corporation must file its bylaws and any
32 amendments to such bylaws within 30 days of the adoption of
33 such bylaws and amendments.

34 Code section 514.4 is amended to strike language
35 prohibiting a corporation from reimbursing or compensating a

1 director of a nonprofit health service corporation who is a
2 provider or a subscriber more than per diem plus necessary and
3 actual expenses for attendance at a meeting of the board of
4 directors.

5 New Code section 514B.3A is created and provides that the
6 articles of incorporation of a health maintenance organization
7 be approved by both the commissioner and the attorney general.
8 The new Code section also requires a health maintenance
9 organization to file its bylaws and any amendments to such
10 bylaws within 30 days of the adoption of such bylaws and
11 amendments.

12 Code section 514B.24 is amended to increase the maximum
13 time which a health maintenance organization may go without
14 examination by the commissioner from three to five years.

15 New Code section 514B.25A is created and establishes an
16 assessment mechanism in the event that a health maintenance
17 organization or an organized delivery system is found to be
18 insolvent.

19 Code section 515.2 is amended and provides that an
20 insurance company, other than a life insurance company, must
21 file its bylaws and any amendments to such bylaws within 30
22 days of the adoption of such bylaws and amendments.

23 Code section 515.46 is amended to conform to the repeal of
24 Code section 515.45 and to provide that a dividend made
25 contrary to the rules adopted by the commissioner subjects the
26 company making it to forfeiture of its certificate of
27 authority.

28 Code section 515.71 is amended to conform to the repeal of
29 Code section 515.47.

30 Code section 515C.3 is amended to conform to the repeal of
31 Code section 515.47 and to provide that unearned premium
32 reserves, with respect to mortgage guaranty insurance, are to
33 be computed pursuant to rules of the commissioner of
34 insurance.

35 The bill amends provisions of Code sections 515G.7 and

1 515G.14 relating to the conversion of a mutual property and
2 casualty insurance company to a stock property and casualty
3 insurance company. The bill provides that the commissioner is
4 to review the plan and make a finding that the plan is fair
5 and equitable to the mutual insurer and its policyholders,
6 rather than a finding that the plan is not unfair or
7 inequitable. The bill also provides that if an application
8 for rehearing is filed after the commissioner approves the
9 conversion, then an action challenging the conversion must be
10 filed within 30 days after that application is denied or
11 deemed denied or, if the application is granted, within 30
12 days after the issuance of the commissioner's final decision
13 on rehearing.

14 Code section 518.7 is amended and requires that a director
15 of a county mutual insurance association also be a member of
16 such association.

17 Code section 518.8 is amended and provides that a county
18 mutual insurance association must file its bylaws and any
19 amendments to such bylaws within 30 days of the adoption of
20 such bylaws and amendments.

21 New Code section 518.13A is created and prohibits a county
22 mutual insurance association from levying an assessment on
23 members of the association.

24 Code section 518.17 is amended to provide that reinsurance
25 obtained by a county mutual insurance association will cover
26 losses incurred only from coverages written under Code chapter
27 518.

28 Code section 518.23 is amended and provides the manner for
29 cancellation and nonrenewal of a policy issued by a county
30 mutual insurance association.

31 Code section 518A.6 is amended and requires that a director
32 of a state mutual insurance association also be a member of
33 such association.

34 New Code section 518A.6A is created and authorizes the
35 directors of a state mutual insurance association to adopt

1 bylaws and regulations necessary for the regulation and
2 conduct of business, and requires that the bylaws and
3 amendments to the bylaws be filed with the commissioner within
4 30 days of adoption.

5 Code sections 515B.2, 515F.3, 518A.7, 518A.12, 518A.35,
6 518A.52, 518A.53, 518A.54, 518A.55, 519.10, and 521E.1 are
7 amended to conform to the change in the name of the
8 association from mutual casualty assessment insurance
9 association to the state mutual insurance association.

10 Code section 518A.9 is rewritten and strikes the authority
11 of a state mutual insurance association to assess members of
12 the association and authorizes the association to establish
13 premium charges for the purpose of payment of losses and
14 expenses and the establishment or maintenance of a reserve
15 fund. The Code section also provides for the suspension of a
16 policy for nonpayment of premium.

17 New Code section 518A.9A is created and prohibits a state
18 mutual insurance association from levying an assessment on
19 members of the association.

20 Code section 518A.18 is amended and provides that a state
21 mutual association is required to annually prepare a statement
22 of the condition of the association for the preceding calendar
23 year. The statement is to conform to the statement blank
24 prescribed by the commissioner.

25 Code section 518A.29 is amended and provides the manner for
26 cancellation and nonrenewal of a policy issued by a state
27 mutual insurance association.

28 Code section 518A.44 is amended to provide that reinsurance
29 obtained by a state mutual insurance association will cover
30 losses incurred only from coverages written under Code chapter
31 518A.

32 Code section 522.3 is amended by striking language
33 requiring that a first-time applicant for a license as an
34 insurance agent pay to the commissioner an application fee of
35 \$10 for each line of insurance.

1 Code section 573.3 is amended to provide that a public
 2 corporation, with respect to a public improvement which is or
 3 has been competitively bid or negotiated, shall not require a
 4 contractor to procure a bond from a particular insurance or
 5 surety company, agent, or broker.

6 The bill repeals sections relating to required reserve
 7 funds, unearned premium reserves, the state mutual insurance
 8 association concerning the borrowing of money, liability of
 9 members, reserves for unearned premium, cancellation of
 10 policies by insureds, unearned assessments, and pro rata
 11 assessments of association members.

12 Portions of the bill are effect upon enactment; July 1,
 13 2000; and January 1, 2001.

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SENATE FILE 2409

AN ACT

RELATING TO THE OPERATION AND REGULATION OF INSURANCE COMPANIES, MUTUAL INSURANCE ASSOCIATIONS, BENEVOLENT ASSOCIATIONS, HEALTH MAINTENANCE ORGANIZATIONS, AND OTHER INSURANCE OR RISK-ASSUMING ENTITIES, INCLUDING THE RIGHTS AND DUTIES OF SUCH ENTITIES AND THE POWERS AND AUTHORITY OF THE INSURANCE COMMISSIONER AND PROVIDING EFFECTIVE DATES.

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

Section 1. Section 87.4, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, or community colleges as defined in section 260C.2 or school corporations, or both, or other political subdivisions, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

Sec. 2. Section 87.4, unnumbered paragraph 4, Code 1999, is amended to read as follows:

A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities or counties, or both, or community colleges, as defined in section 260C.2, or other political subdivisions, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its

implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

Sec. 3. Section 100A.1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The fraud bureau within the insurance division of the department of commerce.

Sec. 4. Section 505.8, subsection 5, Code Supplement 1999, is amended by striking the subsection.

Sec. 5. Section 505.8, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.

Sec. 6. NEW SECTION. 505.23 HEARINGS.

If an evidentiary hearing is conducted in a proceeding pursuant to sections 508B.7, 515G.7, 521A.3, or 521A.14, or in a proceeding with respect to a merger or consolidation pursuant to chapter 521, the proceeding is a contested case subject to chapter 17A.

Sec. 7. Section 508.4, Code 1999, is amended to read as follows:

508.4 APPROVAL OF AMENDMENTS.

All amendments to ~~such articles and amendments hereafter made to~~ the articles of incorporation of companies already organized under the laws of this state shall be approved in like manner.

A company shall file with the commissioner bylaws and subsequent amendments to such bylaws within thirty days of the adoption of such bylaws and amendments.

Sec. 8. Section 508B.3, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A plan of conversion shall not be ~~unfair or inequitable~~ fair and equitable to policyholders. A plan of conversion is ~~not unfair or inequitable~~ fair and equitable if it satisfies the conditions of subsections 1, 2, or 3. The commissioner may determine ~~that whether~~ any other plan proposed by a mutual company is ~~not unfair or inequitable~~ fair and equitable to its policyholders.

Sec. 9. Section 508B.4, Code 1999, is amended to read as follows:

508B.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies or contracts are in force on the date of adoption of the plan of conversion. Each policyholder whose policy has been in force for at least one year prior to the date is entitled to the consideration, if any, provided for the policyholder in the plan based on the policyholder's membership interest determined pursuant to this chapter, but only ~~to the extent that~~ if the policyholder's membership interest arose from policies or contracts a policy or contract in force on the effective date of the conversion and ~~which were in force~~ such membership interest has been held continuously for at least one year prior to the date of adoption of the plan. For this purpose, any changes in status of, or premiums in excess of those required on the policies or contracts occurring or made after the date one year prior to the date of adoption of the plan shall be disregarded.

Sec. 10. Section 508B.7, Code 1999, is amended to read as follows:

508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING AUTHORIZED -- APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, the plan is not

~~unfair or inequitable~~ fair and equitable to the mutual company and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders, and other interested persons, all of whom have the right to appear at the hearing. Costs incurred in connection with the notice shall be paid by the company.

Sec. 11. Section 508B.9, unnumbered paragraph 1, Code 1999, is amended to read as follows:

When the commissioner and the policyholders approve the conversion plan as provided in this chapter, the commissioner shall issue a new certificate of authority to the reorganized company effective on the effective date specified of the conversion as provided in the plan. The reorganized company is a continuation of the mutual life insurance company and the conversion shall not annul or modify any of the mutual company's existing suits, contracts, or liabilities except as provided in the approved conversion plan. All rights, franchises, and interests of the mutual company in and to property, assets, and other interests shall be transferred to and shall vest in the reorganized company and the reorganized company shall assume all obligations and liabilities of the mutual company.

Sec. 12. Section 508B.14, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

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 thirty days following the date of approval by the commissioner, unless an application for rehearing is filed pursuant to section 17A.16, subsection 2. If an application for rehearing is filed, then such action must be filed within thirty days after that application is

denied or deemed denied or, if the application is granted, within thirty days after the issuance of the commissioner's final decision on rehearing.

Sec. 13. Section 509C.3, subsection 3, Code 1999, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. An obligation that does not arise under the express written terms of a covered policy.

NEW PARAGRAPH. k. A contractual agreement that establishes a member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

NEW PARAGRAPH. l. A portion of a covered policy to the extent it provides for interest or other change in value to be determined by the use of an index or other external reference stated in the covered policy, but which has not been credited to the covered policy, or as to which the covered policy owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a covered policy's interest or change in value is credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under the covered policy, the interest or change in value determined by using the procedures defined in the covered policy will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture.

Sec. 14. Section 508C.9, subsection 5, paragraph a, Code 1999, is amended to read as follows:

a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the average of the insurer's premiums received in this state during the three most recent calendar years for

which information is available, preceding the year in which the insurer becomes impaired or insolvent, on the policies related to that account. However, if two or more assessments are authorized in one calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation of this paragraph shall be equal, and limited, to the higher of the three-year average annual premiums for the applicable account as calculated pursuant to this section. If the maximum assessment for an account, together with the other assets of the association in the account, does not provide in any one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account in succeeding years as soon as permitted by this chapter.

Sec. 15. Section 511.8, subsection 5, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If adjustment, income or other contingent interest obligations, the net earnings of the issuing, assuming or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition of the obligations by such insurance company shall have averaged per year not less than one and one-half times such average annual fixed charges of the issuing, assuming or guaranteeing corporation and its average annual maximum contingent interest applicable to such period and, during at least one of the last two years of such period, its net earnings shall have been not less than one and one-half times the sum of its fixed charges and maximum contingent interest for such year, or if, at the date of acquisition, the obligations are adequately secure and have investment qualities and characteristics and speculative elements are not predominant.

Sec. 16. Section 511.8, subsection 5, paragraph b, unnumbered paragraph 4, Code 1999, is amended to read as follows:

The term "corporation" as used in this chapter includes a joint stock association, a limited liability company, a partnership, or a trust.

Sec. 17. Section 511.8, subsection 17, paragraph b, Code 1999, is amended by striking the paragraph.

Sec. 18. Section 511.8, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22. FINANCIAL INSTRUMENTS USED IN HEDGING TRANSACTIONS.

a. As used in this subsection, unless the context otherwise requires:

(1) "Financial instrument" means an agreement, option, instrument, or any series or combination agreement, option, or instrument that provides for either of the following:

(a) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu of such delivery or relinquishment.

(b) Which has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

(2) "Financial instrument transaction" means a transaction involving the use of one or more financial instruments.

(3) "Hedging transaction" means a financial instrument transaction which is entered into and maintained to reduce either of the following:

(a) The risk of a change in the value, yield, price, cash flow, or quality of assets or liabilities which the domestic insurer has acquired and maintains as qualified assets in its legal reserve deposit or which liabilities the domestic insurer has incurred and form the basis for calculation of its legal reserve.

(b) The currency exchange-rate risk or the degree of exposure as to assets or liabilities which the domestic insurer has acquired or incurred.

b. Financial instruments used in hedging transactions must meet the qualifications established in subsection 5 for bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or Canada, or the qualifications established in subsection 19 for bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of a foreign government other than Canada.

c. Investments in financial instruments used in hedging transactions are not eligible in excess of two percent of the legal reserve in the financial instruments of any one corporation, less any securities of that corporation owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

d. Investments in financial instruments used in hedging transactions are not eligible in excess of ten percent of the legal reserve, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral,

subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under this section are instituted.

e. Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions are not eligible in excess of ten percent of the legal reserve, less any foreign investment authorized by subsection 19 owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

f. Prior to engaging in hedging transactions under this subsection, a domestic insurer shall develop and adequately document policies and procedures regarding hedging transaction strategies and objectives. Such policies and procedures shall address authorized hedging transactions, limitations, internal controls, documentation, and authorization and approval procedures. Such policies and procedures shall also provide for review of hedging transactions by the domestic insurer's board of directors or the board of directors' designee.

g. A domestic insurer shall be able to demonstrate to the commissioner the intended hedging characteristics of hedging transactions under this subsection and the ongoing effectiveness of each hedging transaction or combination of hedging transactions.

h. Financial instruments used in hedging transactions shall only be eligible in accordance with this subsection after the commissioner has adopted rules pursuant to chapter 17A regulating hedging transactions under this subsection.

Sec. 19. NEW SECTION. 512A.10 AMENDMENTS TO ARTICLES AND BYLAWS.

1. An organization shall present to the commissioner of insurance for approval its articles of incorporation and any subsequent amendment. The commissioner shall submit the articles of incorporation and any subsequent amendment to the attorney general for examination, and if found by the attorney general to be in accordance with this chapter, and the constitution and laws of the state, the attorney general shall certify such fact on the articles of incorporation or amendment and return the articles or amendment to the commissioner. Articles of incorporation or an amendment to the articles shall not be approved by the commissioner or recorded unless certified by the attorney general.

2. The directors of a benevolent association shall have the authority to enact such bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. A change in the bylaws shall not limit coverage under existing certificates. A benevolent association shall file with the commissioner bylaws and amendments to the bylaws within thirty days of adoption of such bylaws or amendments.

Sec. 20. Section 513B.2, subsections 2, 13, and 15, Code 1999, are amended to read as follows:

2. "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business, by the small employer carrier to small employers ~~with similar case characteristics~~ for health insurance plans with the same or similar coverage.

13. "Index rate" means for each class of business for small employers with-similar-case-characteristics the average of the applicable base premium rate and the corresponding highest premium rate.

15. "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered by the small employer carrier to small employers with-similar-case-characteristics for newly issued health insurance coverages with the same or similar coverage.

Sec. 21. Section 513C.10, subsection 6, Code 1999, is amended to read as follows:

6. Rates for basic and standard coverages as provided in this chapter shall be determined by each carrier or organized delivery system as the average-of product of a basic and standard factor and the lowest rate available for issuance by that carrier or organized delivery system adjusted for rating characteristics and benefits and-the-maximum-rate-allowable-by-law-after-adjustments-for-rate-characteristics-and-benefits. Basic and standard factors shall be established annually by the Iowa individual health benefit reinsurance association board with the approval of the commissioner. Multiple basic and standard factors for a distinct grouping of basic and standard policies, may be established. A basic and standard factor is limited to a minimum value defined as the ratio of the average of the lowest rate available for issuance and the maximum rate allowable by law divided by the lowest rate available for issuance. A basic and standard factor is limited to a maximum value defined as the ratio of the maximum rate allowable by law divided by the lowest rate available for issuance. The maximum rate allowable by law and the lowest rate available for issuance is determined based on the rate restrictions under this chapter. However, to maintain assessable loss assessments at or below one percent of total health insurance premiums or payments as determined in accordance with subsection 10, the Iowa individual health

benefit reinsurance association board with the approval of the commissioner may increase the value for any basic and standard factor greater than the maximum value and with the approval of the commissioner may increase cost sharing provisions including, but not limited to, basic and standard plan deductibles, coinsurance, or copayments.

Sec. 22. Section 514.3, Code 1999, is amended to read as follows:

514.3 APPROVAL BY COMMISSIONER.

The articles of incorporation, and any subsequent amendments, of such a corporation shall have endorsed thereon on or annexed thereto to the approval of the commissioner of insurance before the same shall be filed for record. A corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 23. Section 514.4, unnumbered paragraph 7, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 24. NEW SECTION. 514B.3A APPROVAL BY COMMISSIONER AND ATTORNEY GENERAL.

The articles of incorporation, and any subsequent amendment, of a corporation shall have endorsed on or annexed to such articles or amendment the approval of the commissioner of insurance and the attorney general before filing for record. A corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 25. Section 514B.24, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The commissioner shall make an examination of the affairs of any a health maintenance organization and its providers as often as the commissioner deems necessary for the protection of the interests of the people of this state, but not less frequently than once every three five years.

Sec. 26. NEW SECTION. 514B.25A INSOLVENCY PROTECTION -- ASSESSMENT.

1. Upon a health maintenance organization or organized delivery system authorized to do business in this state and licensed by the director of public health being declared insolvent by the district court, the commissioner may levy an assessment on each health maintenance organization or organized delivery system doing business in this state and licensed by the director of public health, as applicable, to pay claims for uncovered expenditures for enrollees. The commissioner shall not assess an amount in any one calendar year which is more than two percent of the aggregate premium written by each health maintenance organization or organized delivery system.

2. The commissioner may use funds obtained through an assessment under subsection 1 to pay claims for uncovered expenditures for enrollees of an insolvent health maintenance organization or organized delivery system and administrative costs. The commissioner, by rule, may prescribe the time, manner, and form for filing claims under this section. The commissioner may require claims to be allowed by an ancillary receiver or the domestic receiver or liquidator.

3. a. A receiver or liquidator of an insolvent health maintenance organization or organized delivery system shall allow a claim in the proceeding in an amount equal to uncovered expenditures and administrative costs paid under this section.

b. A person receiving benefits under this section for uncovered expenditures is deemed to have assigned the rights under the covered health care plan certificates to the commissioner to the extent of the benefits received. The commissioner may require an assignment of such rights by a payee, enrollee, or beneficiary, to the commissioner as a condition precedent to the receipt of such benefits. The commissioner is subrogated to these rights against the assets

of the insolvent health maintenance organization or organized delivery system that are held by a receiver or liquidator of a foreign jurisdiction.

c. The assigned subrogation rights of the commissioner and allowed claims under this subsection have the same priority against the assets of the insolvent health maintenance organization or organized delivery system as those claims of persons entitled to receive benefits under this section or for similar expenses in the receivership or liquidation.

4. If funds assessed under subsection 1 are unused following the completion of the liquidation of an insolvent health maintenance organization or organized delivery system, the commissioner shall distribute the remaining amounts, if such amounts are not de minimis, to the health maintenance organizations or organized delivery systems that were assessed.

5. The aggregate coverage of uncovered expenditures under this section shall not exceed three hundred thousand dollars with respect to one individual. Continuation of coverage shall cease after the lesser of one year after the health maintenance organization or organized delivery system is terminated by insolvency or the remaining term of the contract. The commissioner may provide continuation of coverage on a reasonable basis, including, but not limited to, continuation of the health maintenance organization or organized delivery system contract or substitution of indemnity coverage in a form as determined by the commissioner.

6. The commissioner may waive an assessment of a health maintenance organization or organized delivery system if such organization or system is impaired financially or would be impaired financially as a result of such assessment. A health maintenance organization or organized delivery system that fails to pay an assessment within thirty days after notice of the assessment is subject to a civil forfeiture of not more

than one thousand dollars for each day the failure continues, and suspension or revocation of its certificate of authority. An action taken by the commissioner to enforce an assessment under this section may be appealed by the health maintenance organization or organized delivery system pursuant to chapter 17A.

Sec. 27. Section 515.2, Code 1999, is amended to read as follows:

515.2 ARTICLES -- APPROVAL.

Each such organization shall present to the commissioner of insurance its articles of incorporation, which shall show its name, objects, location of its principal place of business, and amount of its capital stock, who shall submit it to the attorney general for examination, and if found by the attorney general to be in accordance with the provisions of this title, the laws of the United States, and the Constitution and laws of the state, the attorney general shall certify such fact thereon and return the same to said commissioner, and no articles shall be approved by the commissioner or recorded unless accompanied with such certificate. A company shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 28. Section 515.46, Code 1999, is amended to read as follows:

515.46 FORFEITURE OF CERTIFICATE OF AUTHORITY.

Any dividend made contrary to the provisions of sections section 515.44 and 515.45 or rules adopted by the commissioner shall subject the company making it to forfeiture of its certificate of authority.

Sec. 29. Section 515.71, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every alien insurer authorized to transact business in this state shall at all times maintain a deposit with the commissioner of insurance in cash or in securities in which

insurance companies are authorized to invest, of a sum equal to the greater of the reserve on all policies covering risks located in this state or one million dollars. The securities shall be approved, and the amount of the deposit shall be determined, by the commissioner ~~in accordance with section 515.47~~. The commissioner, in the commissioner's discretion, may permit the withdrawal of interest earnings.

Sec. 30. Section 515B.2, subsection 5, Code 1999, is amended to read as follows:

5. "Insurer" means an insurer licensed to transact insurance business in this state under either chapter 515 or chapter 520, either at the time the policy was issued or when the insured event occurred. It does not include county or state mutual assessment insurance associations licensed under chapter 518 or chapter 518A, or fraternal beneficiary societies, orders, or associations licensed under chapter 512B, or corporations operating nonprofit service plans under chapter 514, or life insurance companies or life, accident, or health associations licensed under chapter 508, or those professions under chapter 519.

Sec. 31. Section 515C.3, Code 1999, is amended to read as follows:

515C.3 BASES FOR COMPUTATIONS.

The unearned premium reserve shall be computed ~~in accordance with section 515.47, except that all premiums on risks written for one year or less must be reserved on a monthly pro-rata basis, and the reserve for those policies covering a risk period of more than five years shall be computed in accordance with formulae filed by the insurer and approved pursuant to rules adopted~~ by the commissioner of insurance.

Sec. 32. Section 515F.3, subsection 6, Code 1999, is amended to read as follows:

6. Insurance written by a county mutual assessment insurance association as provided in chapter 518A.

Sec. 33. Section 515G.7, Code 1999, is amended to read as follows:

515G.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING AUTHORIZED -- APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, the plan is not unfair or inequitable fair and equitable to the mutual insurer and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual insurer, and its policyholders, all of whom have the right to appear at the hearing.

Sec. 34. Section 515G.14, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than thirty days following the date of approval by the commissioner, unless an application for rehearing is filed pursuant to section 17A.16, subsection 2. If an application for rehearing is filed, then such action must be filed within thirty days after that application is denied or deemed denied or, if the application is granted, within thirty days after the issuance of the commissioner's final decision on rehearing.

Sec. 35. Section 518.7, Code 1999, is amended to read as follows:

518.7 OFFICERS AND DIRECTORS -- ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation. The same person shall not simultaneously hold the offices of president and secretary. A director shall be a member of the association.

Sec. 36. Section 518.8, Code 1999, is amended to read as follows:

518.8 BYLAWS.

The directors of the association shall have the authority to enact such bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. No change in the bylaws shall have the effect of limiting coverage under existing policies of insurance. An association shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 37. NEW SECTION. 518.13A ASSESSMENTS PROHIBITED.

An association doing business under this chapter shall not levy an assessment on any member of the association.

Sec. 38. Section 518.17, Code Supplement 1999, is amended to read as follows:

518.17 REINSURANCE.

A county mutual insurance association may reinsure a part or all of its risks coverages written pursuant to this chapter with any an 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.

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~~ losses from coverages written pursuant to this chapter 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. 39. Section 518.23, Code 1999, is amended to read as follows:

518.23 CANCELLATION OF POLICIES.

1. CANCELLATION BY INSURED. Any A policy shall be canceled at any time at the request of the insured upon the return of the policy to the home office of the association, and the payment of all premium charges against such policy; ~~or by the association by giving five days' notice of such cancellation.~~ Such service

2. CANCELLATION BY ASSOCIATION.

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least twenty days before the effective date of cancellation.

b. Notice of cancellation resulting from nonpayment of a premium or installment provided for in the policy, or provided for in a note or contract for the payment of such premium or installment, is not effective unless mailed or delivered by the association to the named insured at least ten days prior to the date of cancellation.

c. If a notice of cancellation under paragraph "a" or "b" fails to include the reason for such cancellation, the association, upon receipt of a timely request by the named insured, shall provide in writing the reason for the cancellation.

3. NONRENEWAL BY ASSOCIATION. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. If the reason does not accompany the notice of nonrenewal, the association, upon receipt of a timely request by the named insured, shall provide the reason for the nonrenewal in writing.

4. NOTICE. Service of notice under subsection 2 or 3 may be made in person, or by mailing such notice by certified mail deposited in the post office and directed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department

receipt of certified or registered mail shall be deemed proof of receipt of such notice. If in either case the cash payments ~~shall~~ exceed the amount properly chargeable, the excess ~~will~~ shall be refunded to the insured upon the surrender of the policy to the association at its home office.

Sec. 40. Section 518A.6, Code 1999, is amended to read as follows:

518A.6 OFFICERS -- ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation or bylaws. The same person shall not simultaneously hold the offices of president and secretary. A director shall be a member of the association.

Sec. 41. NEW SECTION. 518A.6A BYLAWS.

The directors of the association may enact the bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. A change in the bylaws shall not limit coverage under existing policies of insurance. An association shall file with the commissioner bylaws and amendments to bylaws within thirty days of adoption.

Sec. 42. Section 518A.7, Code 1999, is amended to read as follows:

518A.7 POLICIES -- ISSUANCE -- CONDITIONS.

No A state mutual assessment insurance association shall not issue policies until at least one hundred twenty-five applications have been received in any class as shown by section 518A.1, representing the following amount of insurance: Classes one, two, three, and five, two hundred fifty thousand dollars each; class four, one hundred thousand dollars, and no county mutual assessment association shall issue policies until applications for insurance to the amount of fifty thousand dollars representing at least fifty applicants have been received; and no an application for insurance during the period of organization shall not exceed

two percent of the amount required for organization, or after one year of organization, one percent of the total insurance in force, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

Sec. 43. Section 518A.9, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.9 PREMIUM CHARGES.

An association, by action of its board of directors, may establish premium charges for the purpose of payment of losses and expenses and for the establishment or maintenance of a reserve fund.

A policy shall stand suspended if any default is made in the payment of any premium on or before the date specified in a written notice requiring the payment of such premium and mailed to the insured and directed to the insured's last known address not less than thirty days prior to such suspension date. The notice shall specify the amount and due date of the premium. The association is not liable for any loss occurring during such period of suspension.

Sec. 44. NEW SECTION. 518A.9A ASSESSMENTS PROHIBITED.

An association doing business under this chapter shall not levy an assessment on any member of the association.

Sec. 45. Section 518A.12, subsection 1, paragraphs a and c, Code 1999, are amended to read as follows:

a. This section applies to the investments of state mutual ~~casualty-assessment~~ insurance associations.

c. Financial terms relating to state mutual ~~casualty assessment~~ insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than state mutual ~~casualty assessment~~ insurance associations have the meanings assigned to them under generally accepted accounting principles.

Sec. 46. Section 518A.18, Code 1999, is amended to read as follows:

518A.18 ANNUAL REPORT.

An association doing business under this chapter shall, on or before March 1 of each year, ~~report to the commissioner of insurance the facts required of domestic insurance companies organizing under chapter 5157, which are applicable to this chapter.~~ These reports shall be prepared under oath and file with the commissioner of insurance an accurate and complete statement of the condition of the association as of the last day of the preceding calendar year. The statement shall conform to the annual statement blank prepared pursuant to instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared pursuant to accounting practices and procedures prescribed by the commissioner. Statements filed with the commissioner pursuant to this section shall be tabulated and published by the commissioner of insurance in the annual report of insurance.

Sec. 47. Section 518A.29, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

518A.29 CANCELLATION BY ASSOCIATION -- NOTICE.

1. CANCELLATION BY INSURED. A policy shall be canceled at any time at the request of the insured upon the return of the policy to the home office of the association and the payment of all premium charges against such policy.

2. CANCELLATION BY ASSOCIATION.

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least twenty days before the effective date of cancellation.

b. Notice of cancellation resulting from nonpayment of a premium or installment provided for in the policy, or provided for in a note or contract for the payment of such premium or installment, is not effective unless mailed or delivered by the association to the named insured at least ten days prior to the date of cancellation.

c. If a notice of cancellation under paragraph "a" or "b" fails to include the reason for such cancellation, the association, upon receipt of a timely request by the named insured, shall provide the reason for the cancellation in writing.

3. NONRENEWAL BY ASSOCIATION. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. If the reason does not accompany the notice of nonrenewal, the association, upon receipt of a timely request by the named insured, shall provide in writing the reason for the nonrenewal.

4. NOTICE. Service of notice under subsection 2 or 3 may be made in person, or by mailing such notice by certified mail deposited in the post office and directed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department receipt of certified or registered mail shall be deemed proof of receipt of such notice. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded upon the surrender of the policy to the association at its home office.

Sec. 48. Section 518A.35, Code 1999, is amended to read as follows:

518A.35 ANNUAL TAX.

Every A state mutual insurance association doing business under this chapter shall on or before the first day of March, each year, pay to the director of the department of revenue and finance, or a depository designated by the director, a sum equivalent to two percent of the gross receipts from premiums, assessments, and fees, ~~and promissory obligations~~ for business done within the state, including all insurance upon property situated in the state without including or deducting any amounts received or paid for reinsurance ~~except that any~~.

~~However, a~~ company reinsuring windstorm or hail risks written by county mutual associations ~~shall be~~ is required to pay a two percent tax on the gross amount of reinsurance premiums received upon such risks, but after deducting the amount returned upon canceled policies and rejected applications covering property situated within the state, and dividends returned to policyholders on property situated within the state.

Sec. 49. Section 518A.44, Code Supplement 1999, is amended to read as follows:

518A.44 REINSURANCE.

A state mutual insurance association may reinsure a part or all of its ~~risks~~ coverages written pursuant to this chapter with ~~any an~~ 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 insurance association is required. Reinsurance coverage obtained by an association shall not expose the association to ~~a loss~~ losses from coverages written pursuant to this chapter 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. 50. Section 518A.52, Code 1999, is amended to read as follows:

518A.52 FORM -- APPROVAL.

The form of all policies, applications, agreements, and endorsements modifying the provisions of policies, and all permits and riders used in this state, issued or proposed to be issued by a state mutual ~~casualty-assessment~~ insurance association doing business in this state under ~~the provisions of~~ this chapter, shall first be examined and approved by the commissioner of insurance.

Sec. 51. Section 518A.53, Code 1999, is amended to read as follows:

518A.53 FAILURE TO FILE COPY.

Upon the failure of a state mutual casualty-assessment insurance association to file a copy of its forms of policies or contracts pursuant to section 518A.52, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

Sec. 52. Section 518A.54, Code 1999, is amended to read as follows:

518A.54 DISAPPROVAL OF FILINGS.

If the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the state mutual casualty-assessment insurance association specifying in what respect the filing fails to meet the requirements of this chapter and stating that the filing is not effective. If a filing is disapproved by the commissioner, the association may request a hearing on the disapproval within thirty days. The association bears the burden of proving compliance with the standards established by this chapter.

If, at any time after a form has been approved, the commissioner finds that the form no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the use of the form. The order of discontinuance shall be in writing and may be issued only after a hearing with at least ten days' prior notice to all state mutual casualty-assessment insurance associations affected by the order. The order shall state the grounds upon which the order is based and when the order of discontinuance is effective.

Sec. 53. Section 518A.55, Code 1999, is amended to read as follows:

518A.55 CERTIFICATE SUSPENSION.

The commissioner of insurance may suspend a state mutual casualty-assessment insurance association's certificate of authority to do business if the association neglects or fails to comply with this chapter.

Sec. 54. Section 519.10, Code 1999, is amended to read as follows:

519.10 POWERS OF COMMISSIONER.

The commissioner of insurance shall have and exercise the same control over such corporations as the commissioner now has over state mutual assessment insurance associations organized and doing business under chapter 518A.

Sec. 55. Section 519.11, Code Supplement 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 section 518A.9 and 518A.14, shall apply to all mutual insurance corporations organized under this chapter.

Sec. 56. Section 521E.1, subsection 4, paragraph e, Code 1999, is amended to read as follows:

e. A state mutual casualty-assessment insurance association organized under chapter 518A.

Sec. 57. Section 522.3, unnumbered paragraph 3, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 58. Section 573.3, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A public corporation, with respect to a public improvement which is or has been competitively bid or negotiated, shall not require a contractor to procure a bond, as required under section 573.2, from a particular insurance or surety company, agent, or broker.

Sec. 59. Sections 515.45, 515.47, 518A.11, 518A.14, 518A.15, 518A.30, 518A.31, and 518A.32, Code 1999, are repealed.

Sec. 60. EFFECTIVE DATES.

1. Section 8 of this Act, which amends section 508B.3, and section 10 of this Act, which amends section 508B.7, being deemed of immediate importance, take effect upon enactment.

2. Section 17 of this Act, which amends section 511.8 by striking subsection 17, paragraph "b", section 28 of this Act, which amends section 515.46, section 29 of this Act, which amends section 515.71, and section 31 of this Act, which amends section 515C.3, and the repeal of sections 515.45 and 515.47, take effect on January 1, 2001.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2409, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 3/30, 2000

THOMAS J. VILSACK
Governor