

That the banking laws contained in Code chapter 524, as identified by the superintendent of banking, are suspended to the extent that the laws restrict any state or nationally chartered bank located in Iowa or bank holding company owning a bank located in Iowa in the acquisition of savings associations eligible for assistance or their assets or liabilities. Such suspension shall remain in effect until July 1, 1992 ~~1993~~. On and after July 1, 1992 ~~1993~~, the restrictions in Code chapter 524 shall be applied as though acquisitions made pursuant to this resolution had not been made.

Approved April 28, 1992

CHAPTER 1162

INSURANCE DIVISION — MISCELLANEOUS PROVISIONS

S.F. 2354

AN ACT relating to the regulation of insurance, requiring certain reports to the commissioner, establishing and continuing certain requirements for insurance companies doing business in Iowa and for agents, amending provisions relating to guaranty funds, self-insurers, and charitable organizations, increasing allowable credit life insurance amounts, amending provisions relating to the regulation of health maintenance organizations, increasing certain fees, and establishing penalties.

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

Section 1. Section 79.17, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Any annuity purchased with moneys deducted pursuant to this section is deemed to be an individual annuity for purposes of chapter 508C, and not an unallocated annuity.

Sec. 2. **NEW SECTION. 506.12 PRINCIPAL EXECUTIVE OFFICE.**

An insurance company incorporated under the laws of this state for the purpose of engaging in the business of insurance shall maintain a principal executive office in this state unless otherwise allowed by the commissioner of insurance. The location of the principal executive office in this state of an insurance company incorporated under chapter 490 shall be identified in the insurance company's articles of incorporation.

Sec. 3. Section 507B.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. Failing to designate on an insurance policy application the licensee who has solicited and written the policy.

Sec. 4. Section 508.9, Code 1991, is amended to read as follows:

508.9 MUTUAL COMPANIES — CONDITIONS.

Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of five million dollars shall be made with the commissioner, which shall constitute a ~~guaranty~~ security fund for the protection of policyholders. The contribution to the

~~guaranty security~~ fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The ~~guaranty security~~ fund may be repaid to the contributors to the ~~guaranty security~~ fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of ~~two five~~ million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter.

Sec. 5. Section 508.29, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A company insuring risks authorized by this section shall invest or hold in cash, funds equal to seventy-five percent of the aggregate reserves and policy and contract claims for such risks. Investments required by this paragraph shall only be made in securities enumerated in section 511.8, and are subject to the same limitations as provided for the investment of legal reserve, and are subject to section 511.8, subsections 16, 17, and 21.

Sec. 6. Section 508C.3, subsection 3, paragraph a, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Any portion of a policy or contract to the extent that the rate of interest on which it is based, averaged over the period of four years prior to the date on which the association becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average for the same four-year period or over such lesser period if the policy or contract was issued less than four years before the association became obligated; and on or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

Sec. 7. Section 508C.3, subsection 3, paragraph h, Code 1991, is amended to read as follows:

h. An annuity contract issued to a government lottery ~~or to a liability insurer in connection with a structured settlement.~~

Sec. 8. Section 508C.8, subsection 3, paragraph d, Code Supplement 1991, is amended to read as follows:

d. The association may offer modifications to the owners of policies or contracts or classes of policies or contracts issued by the insolvent insurer, if the association finds that under the policies or contracts the benefits provided, provisions pertaining to renewal, or the premiums charged or which may be charged are not reasonable. If the owner of a policy or contract to be modified fails or refuses to accept the modification as approved by the court, the association may terminate the policy or contract as of a date not less than one hundred eighty days after the modification is sent to the owner. The association shall have no liability under the policy or contract for any claim incurred or continuing beyond the termination date. However, this paragraph does not apply to interest adjustments made pursuant to section 508C.3, subsection 3, paragraph "a".

Sec. 9. Section 508C.9, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. Class A assessments in excess of one hundred dollars per company per calendar year and class B assessments against member insurers for each account shall be in the proportion that the average of the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts related to that account for the three most recent calendar years for which information is available, preceding the year in which the insurer became impaired or insolvent, is to the average of the aggregate premiums received on business in this state by all assessed member insurers on policies related to that account for the three most recent calendar years for which information is available preceding the assessment.

Sec. 10. Section 508C.9, subsection 5, paragraph a, Code 1991, 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. 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. 11. Section 509.1, subsection 3, paragraph d, Code Supplement 1991, is amended to read as follows:

d. The amount of insurance on the life of a debtor shall not exceed the amount owed by the debtor to the creditor, or the face amount of a totally or partially executed loan or loan commitment creating personal liability and made in good faith for general agricultural or horticultural purposes to a debtor with seasonal income. However, in no event shall the amount of insurance exceed fifty two hundred thousand dollars.

Sec. 12. Section 509A.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:
509A.14 APPROVAL OF SELF-INSURANCE PLANS.

The commissioner of insurance shall adopt rules for self-insurance plans for life insurance and accident and health insurance for ~~the state, a political subdivision of the state, or a school corporation, or any other public body in the state.~~ The rules adopted shall include, but are not limited to, the following:

Sec. 13. NEW SECTION. 509.17A COLLATERAL INSURANCE AND FORCED PLACEMENT.

1. The commissioner shall review all collateral insurance forms and rates to assure that the rates are not excessive in comparison to the benefits provided to consumers.

2. The commissioner may adopt by rule procedures and restrictions to protect consumers from abusive practices in forced placement or collateral insurance. Rules may include, but are not limited to, the following:

a. Notice requirements, to assure that consumers have an opportunity to exercise reasonable choice in the placement, of a collateral insurance policy.

b. A prohibition or limitation on the receipt of a sales commission or other fee by the person making a forced placement, or the person's employer.

3. For purposes of this section, unless the context otherwise requires:

a. "Collateral insurance" means an insurance policy solely or primarily intended to provide security for a loan or to insure collateral for a loan.

b. "Forced placement" means the purchase of an insurance policy by a third person when the law or a contract obligates another person to pay the insurance premium.

Sec. 14. Section 509A.15, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Within ~~thirty~~ ninety days following the end of a ~~self-insurance plan's~~ fiscal year, the governing body of a ~~self-insurance plan of a political subdivision or a school corporation~~ shall file with the commissioner of insurance a certificate of compliance. The certificate of compliance shall be accompanied by a filing fee of one hundred dollars. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

Sec. 15. Section 511.28, Code 1991, is amended to read as follows:

511.28 SERVICE OF PROCESS.

~~Such~~ Any notice or process, with a ~~copy thereof~~ three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the

commissioner by the commissioner's official title, and the. The commissioner shall immediately upon its receipt acknowledge service thereon on behalf of the defendant foreign insurance company by writing thereon, giving the date thereof of receipt of the notice or process, and shall immediately return such the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also forthwith mail such a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation who shall be named or designated by such company in such the written instrument. Notice or process received prior to 12 noon shall be forwarded the same working day. Notice or process received after 12 noon shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 16. NEW SECTION. 511.39 CHARITABLE ORGANIZATIONS – INSURABLE INTEREST.

A charitable organization described in section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3, has an insurable interest in the life of a person who, when purchasing a life insurance policy, makes a donation to the charitable organization or makes the charitable organization the beneficiary of all or a part of the proceeds of the policy or joins with a charitable organization in applying for an insurance policy which when issued will insure that person's life and name the organization as owner or beneficiary of all or any portion of the benefits of the life insurance policy.

Sec. 17. Section 512B.24, subsection 1, Code 1991, is amended to read as follows:

1. A society transacting business in this state, on or before March 1 annually, unless for cause shown the time has been extended by the commissioner, shall file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and shall pay a fee of ~~twenty-five~~ fifty dollars. The statement shall may be in general form and content as approved by the national association of insurance commissioners for fraternal benefit societies and shall be supplemented by additional information as adopted by rule of the commissioner.

Sec. 18. Section 512B.25, Code 1991, is amended to read as follows:

512B.25 ANNUAL LICENSE.

A society which is authorized to transact business in this state on January 1, 1991, and a society licensed on or after January 1, 1991, may continue in business until ~~April 30~~ June 1, 1991. The authority of the society may thereafter be renewed annually. A license terminates on the succeeding ~~April 30~~ June 1. However, a license issued shall continue in full force and effect until a new license is issued or specifically refused. For each license or renewal the society shall pay the commissioner a fee of ~~twenty-five~~ fifty dollars. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 19. Section 513A.5, Code Supplement 1991, is amended to read as follows:

513A.5 SUBJECT TO STATE LAWS.

A third-party payor unable to establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, is subject to all appropriate provisions of Title XX regarding the conduct of the business of the third-party payor including, but not limited to, filing with and approval by the commissioner of the form of the health benefit policy, contract, or certificate.

Sec. 20. Section 514A.13, Code Supplement 1991, is amended to read as follows:

514A.13 FILING REQUIREMENT – PRIOR APPROVAL.

A policy of insurance against loss or expense from sickness or from the bodily injury or death by accident of the insured shall not be issued or delivered to any person in this state and an application, rider, or endorsement shall not be used in connection with the policy until a copy

of the policy form and of the classification of risks and the premium rates, or, in the case of cooperatives or assessment companies the estimated costs pertaining to the policy, have been filed with and approved by the commissioner.

A filing is deemed to be approved unless disapproved by the commissioner within thirty days of receipt of the filing by the commissioner. Subsequent rate changes are also subject to this section.

Sec. 21. Section 514B.4, Code 1991, is amended to read as follows:

514B.4 DUTIES OF THE DIRECTOR OF PUBLIC HEALTH APPLICANT FOR CERTIFICATE OF AUTHORITY.

The ~~director of public health~~ commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

1. Has demonstrated the willingness and potential ability to assure the availability, accessibility, and continuity of service through adequate personnel and facilities.

2. Has arrangements established in accordance with ~~regulations promulgated~~ rules adopted by the ~~director of public health~~ commissioner for a continuous review of health care processes and outcomes.

3. Has a procedure established in accordance with ~~regulations of rules adopted by the director of public health~~ commissioner to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and other matters as may be reasonably required by the ~~director of public health~~ commissioner.

The ~~director of public health~~ commissioner, in carrying out the obligations under administering this section and sections 514B.25 and 514B.26, may contract with qualified persons to make recommendations concerning the determinations required to be made by the ~~director of public health~~ commissioner. Such recommendations may be accepted in full or in part by the ~~director of public health~~ commissioner.

~~Within a reasonable period of time from the receipt of the application for a certificate of authority, the director of public health shall certify to the commissioner whether the proposed health maintenance organization meets the requirements of this section. If the director of public health certifies that the health maintenance organization does not meet these requirements, the director of public health shall specify in what respects it is deficient.~~

Sec. 22. Section 514B.5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 514B.3 within a reasonable period of time ~~after receiving certification from the director of public health~~. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 514B.22 if the commissioner is satisfied that the following conditions are met:

Sec. 23. Section 514B.5, subsections 2 and 7, Code 1991, are amended to read as follows:

2. The ~~director of public health~~ certifies commissioner finds that the health maintenance organization's proposed plan of operation meets the requirements of section 514B.4.

7. ~~Any deficiencies certified by the director of public health have been corrected.~~

Sec. 24. Section 514B.6, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A health maintenance organization shall file notice with the commissioner before the exercise of any power granted in subsections 1 and 2. ~~The notice shall be accompanied by adequate supporting information obtained from the director of public health relating to the health maintenance organization's need for physical facilities.~~ The commissioner shall disapprove the exercise of power if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may ~~promulgate~~ adopt rules exempting from the filing requirement of this section those activities having a minimum effect.

Sec. 25. Section 514B.12, Code 1991, is amended to read as follows:

514B.12 ANNUAL REPORT.

A health maintenance organization shall annually before the first day of March file with the commissioner, ~~with a copy to the director of public health,~~ a report verified by at least two of its principal officers and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

1. Financial statements of the organization including a balance sheet as of the end of the preceding calendar year and statement of profit and loss for the year then ended, certified by a certified public accountant or an independent public accountant.

2. Any material changes in the information submitted pursuant to section 514B.3.

3. The number of persons enrolled during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year.

4. ~~A summary of information compiled pursuant to section 514B.4, subsection 3, in the form required by the director of public health.~~

5. Other information relating to the performance of the health maintenance organization as is necessary to enable the commissioner to carry out the commissioner's duties under this chapter.

Sec. 26. Section 514B.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A health maintenance organization shall establish and maintain a complaint system which has been approved by the commissioner ~~in consultation with the director of public health~~ and which shall provide for the resolution of written complaints initiated by enrollees concerning health care services. A health maintenance organization shall submit to the commissioner ~~and to the director of public health~~ an annual report in a form prescribed by the commissioner ~~in consultation with the director of public health,~~ which shall include:

Sec. 27. Section 514B.23, Code 1991, is amended to read as follows:

514B.23 RULES.

The commissioner ~~and the director of public health~~ may promulgate shall adopt rules, pursuant to chapter 17A, as are necessary to carry out the provisions of administer this chapter, subject to review in accordance with chapter 17A.

Sec. 28. Section 514B.24, Code 1991, is amended to read as follows:

514B.24 EXAMINATIONS PERMITTED.

The commissioner shall make an examination of the affairs of any 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 years.

~~The director of public health shall make an examination concerning the quality of health care services provided through any health maintenance organization as often as the director of public health deems necessary for the protection of the interests of the people of this state, but not less frequently than once every three years.~~

Every health maintenance organization and provider shall submit its books and records to the commissioner ~~and the director of public health~~ and in every way facilitate the examination. For the purpose of examinations, the commissioner of insurance ~~and the director of public health~~ may administer oaths to and examine the officers and agents of the health maintenance organization and the principals of its providers concerning their business. The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner ~~or director of public health~~ as the case may be.

In lieu of the examination required by this section, the commissioner of insurance ~~or the director of public health~~ may accept the report of an examination made by the appropriate departments in other states.

Sec. 29. Section 514B.26, unnumbered paragraphs 1 and 3, Code 1991, are amended to read as follows:

When the commissioner has cause to believe that grounds for the denial, suspension, or revocation of a certificate of authority exist, the commissioner shall notify the health maintenance organization in writing of the particular grounds for denial, suspension, or revocation and shall issue a notice of a time fixed for a hearing, which shall be held not less than ten days after the receipt by the health maintenance organization of the notice. ~~The director of public health or the director of public health's designee shall participate in the proceedings of the hearing and the director of public health's recommendation and findings with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority, or in connection with an order to the health maintenance organization by the commissioner to cease from methods or practices in violation of this chapter, shall be conclusive and binding upon the commissioner.~~

After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the commissioner shall take action as the commissioner deems advisable and which is permitted by the commissioner under the provisions of this chapter and shall reduce the findings to writing. Copies of the written findings shall be mailed to the health maintenance organization charged with violation of this chapter ~~and to the director of public health.~~

Sec. 30. Section 514B.27, Code 1991, is amended to read as follows:

514B.27 JUDICIAL REVIEW.

The action of the commissioner ~~and the recommendation and findings of the director of public health~~ under section 514B.26 ~~shall be~~ is subject to judicial review in accordance with the terms of the Iowa administrative procedure Act chapter 17A.

Sec. 31. Section 514B.30, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~No~~ An officer, director, trustee, partner, or employee of a health maintenance organization shall not testify as to ~~nor~~ or make other public disclosure of any communication made to a provider and deemed privileged under section 622.10, and which communication has come into the knowledge or possession of such officer, director, trustee, partner, or employee by reason of employment with ~~said~~ the health maintenance organization. To the extent necessary to effectuate the examinations provided in section 514B.24 only, the commissioner ~~or the director of public health~~ shall ~~have the right to~~ may examine medical or hospital records of a person receiving basic health care services under the provisions of this chapter but shall not testify as to such confidential communications or make other public disclosure thereof without the express consent of ~~said~~ the person or the person's legal representative, if the person ~~be~~ is deceased or incompetent. The provisions of section 622.10 respecting waiver shall apply to this section.

Sec. 32. Section 514C.4, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.

Sec. 33. Section 514C.4, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 34. Section 514D.4, subsection 5, Code 1991, is amended to read as follows:

5. The commissioner may upon notice and hearing at any time after the initial filing or approval of any individual accident and sickness policy or subscriber contract form, withdraw approval or suspend further sale of the form if the benefits provided are unreasonable in relation to the premium charge. The commissioner shall establish reasonable and creditable anticipated minimum loss ratios for medicare supplement and other accident and sickness insurance policies. ~~For purposes of establishing loss ratios, policies issued as a result of solicitations of individuals through the mails or by mass media advertising, including both print and broadcast advertising, shall be deemed to be individual policies, including any certificates issued under these policies.~~

Sec. 35. Section 514H.12, subsection 6, Code Supplement 1991, is amended to read as follows:

6. The premium credit provided by this section is only available in connection with a either of the following:

- a. A basic benefit plan approved by the commissioner which satisfies
b. A major medical policy approved by the commissioner providing coverage to an eligible individual either on a group or individual basis.

The policy shall also satisfy any conditions imposed by rules adopted pursuant to subsection 1 which the commissioner determines are necessary or convenient to implement and administer the premium credit.

Sec. 36. Section 515.69, Code 1991, is amended to read as follows:

515.69 FOREIGN COMPANIES – CAPITAL REQUIRED.

A stock insurance company organized under or by the laws of any other state or foreign government for the purpose specified in this chapter, shall not, directly or indirectly, take risks or transact business of insurance in this state unless the company has ~~one~~ two and one-half million dollars of actual paid-up capital, and a surplus in cash or invested in securities authorized by law of not less than ~~one~~ two and one-half million dollars, exclusive of assets deposited in a state, territory, district, or country for the special benefit or security of those insured ~~therein in that state, territory, district, or country.~~

Sec. 37. Section 515.71, Code 1991, is amended to read as follows:

515.71 DEPOSIT OF SECURITIES – AMOUNT.

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 unearned premium greater of the reserve on all policies covering risks located in this state or one million dollars. ~~Such~~ The securities shall be approved, and the amount of ~~such~~ the deposit shall be determined, by the commissioner in accordance with section 515.47, ~~provided, that the minimum amount of any deposit shall be twenty-five thousand dollars.~~ The commissioner, in the commissioner's discretion, may permit the withdrawal of interest earnings.

In lieu of the deposit provided ~~herein any such~~ in this section, an alien insurer may file with the commissioner a bond of equal amount executed by a licensed United States surety company, so conditioned for the protection of Iowa creditors and policyholders.

~~No such~~ An alien insurer shall not be granted a certificate of authority to transact business in this state, or a renewal ~~thereof of the certificate,~~ until such deposit ~~shall have been~~ is made, and the commissioner may revoke the certificate of authority of ~~any such an~~ an alien insurer which fails to make ~~such the~~ the deposit within a reasonable period of time after ~~April 23, 1941.~~

Sec. 38. Section 515.74, Code 1991, is amended to read as follows:

515.74 MANNER OF SERVICE OF PROCESS.

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

Sec. 39. Section 515A.4, subsection 4, Code 1991, is amended to read as follows:

4. Subject to the exception specified in subsection 5 of this section, each filing shall be on file for a waiting period of fifteen thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if the

commissioner gives written notice within ~~such~~ the waiting period to the insurer or rating organization which made the filing that the commissioner needs ~~such~~ additional time for the consideration of ~~such~~ the filing. Upon written application by ~~such~~ the insurer or rating organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension ~~thereof~~ of the period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within thirty days of receipt ~~thereof~~ by the commissioner.

Sec. 40. Section 515B.5, subsection 1, paragraph b, Code Supplement 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Be obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy of the insolvent insurer.

Sec. 41. Section 515B.5, subsection 2, paragraph g, Code Supplement 1991, is amended to read as follows:

g. If at any time the board of directors finds that the amount assessed for any insolvency exceeds the actual and projected liabilities of that insolvency, it may refund such excess to member insurers in the same proportion that each contributed to the original assessment or assessments. The board of directors, in its discretion, may from time to time refund excess amounts to member insurers that are not needed for current or projected liabilities of a particular insolvency. The amount of each refund is equal to the net direct written premiums of the member insurer for the preceding calendar year divided by the net written premiums of all member insurers for the preceding calendar year, multiplied by the total amount to be refunded to all members. Any assessments or refunds of any member insurer in amounts not to exceed twenty-five dollars may, at the discretion of the board of directors, be waived.

Sec. 42. Section 515B.15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As to any covered claims based on the default of an insurer who is or who becomes insolvent, or based on the failure of an insurer to defend an insured, the association, on its own behalf or on behalf of the insured, is entitled to set the default aside and defend such claim on its merits.

Sec. 43. Section 515E.3, Code 1991, is amended to read as follows:

515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.

To be organized as a risk retention group in this state, the group must be organized and licensed as a liability insurance company authorized by the insurance laws of this state. Except as provided elsewhere in this chapter, a risk retention group organized in this state must comply with all of the laws, rules, and requirements applicable to liability insurers organized in this state. Additionally, a risk retention group organized in this state must comply with section 515E.4. These requirements do not exempt risk retention groups from a duty imposed by any other law or rule of the state. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of insurance of this state a plan of operation or a feasibility study, and revisions of the plan or study, within ten days of any change. The name under which a risk retention group may be chartered and licensed shall be a brief description of its membership followed by the phrase "risk retention group" and, unless its membership consists solely of insurers, shall not include the terms "insurance", "mutual", "reciprocal", or any similar term. All risk retention groups chartered in this state shall file with the division and the national association of insurance commissioners an annual statement blank prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual statement shall be kept and prepared in accordance with accounting practices and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

Sec. 44. Section 515E.8, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The commissioner may require the notice to be in a form prescribed by the national association of insurance commissioners.

Sec. 45. Section 515F.5, subsection 3, Code 1991, is amended to read as follows:

3. Subject to the exception in subsection 4, a filing shall be on file for a waiting period of fifteen ~~thirty~~ days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if written notice is given within the waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or an extension of the waiting period. A filing ~~shall be~~ is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or an extension of the waiting period.

Sec. 46. Section 516A.3, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

An insurer's insolvency protection is applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect and only if the liability insurer of the tort-feasor is insolvent at the time of such an accident or becomes insolvent after the accident.

Sec. 47. Section 522.1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A person shall not, directly or indirectly, act within this state as agent, or otherwise, in receiving or procuring applications for insurance or reinsurance, or in doing or transacting any kind of insurance business for a company or association unless exempt from the provisions of this chapter by section 512B.31, except that the licensing of persons so acting for county mutuals is subject only to section 518.16, until the person has procured a license from the commissioner of insurance for those lines of insurance for which the person is transacting or engaging in business. This requirement includes a person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance which could be issued in this state.

This chapter applies to the following professionals except when in the course of their professional capacity they provide information, recommendations, advice, or services, not including solicitation, relating to the business of insurance:

1. An attorney licensed to practice law in this state.
2. A certified public accountant licensed pursuant to chapter 116.
3. An actuary who is a member in good standing of the American academy of actuaries, the society of actuaries, or the casualty actuarial society.
4. A bank trust officer.

Sec. 48. Section 522.4, Code 1991, is amended to read as follows:

522.4 FEE – INSURERS TO CERTIFY AGENTS.

The fee charged for an agent's license shall be ~~ten~~ fifty dollars. Every insurer authorized to transact business in this state shall certify its agents to the commissioner who shall keep a list of the agents and charge an annual appointment fee of five dollars for each agent. The commissioner shall remit the fees collected to the treasurer of state for deposit in the general fund of the state.

Sec. 49. RULES. The commissioner shall adopt by rule objective standards as necessary to facilitate implementation of section 20 of this Act.

Sec. 50. Section 32 of this Act shall not apply to a medicare supplemental policy delivered, issued for delivery, continued, or renewed before January 1, 1992.

Sec. 51. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, is amended to read as follows:

SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, 1993 1994.

Sec. 52. Section 508.9, as amended by this Act, does not affect a life insurance company authorized to transact business in Iowa on or before July 1, 1990.

Approved April 28, 1992

CHAPTER 1163

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 2172

AN ACT relating to nonsubstantive code corrections.

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

Section 1. Section 7E.5, subsection 1, paragraph t, Code 1991, is amended to read as follows:

t. The department of human rights, created in section 601K.1, which has primary responsibility for services relating to Latino persons, ~~children, youth, and families~~, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of ~~blacks~~ African-Americans, and deaf persons.

Sec. 2. Section 9B.1, subsection 5, Code Supplement 1991, is amended to read as follows:

5. The secretary of state shall require that a waste tire hauler have on file with the secretary of state before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of a minimum of ten thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days' notice in writing to the waste tire hauler and to the secretary of state indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the waste tire hauler's willingness to comply with this section. The surety's liability under this subsection is limited to the amount of the bond or the amount of the damages or moneys due, whichever is less. However, this subsection does not limit the amount of damages recoverable from a waste tire hauler to the amount of the surety bond. ~~This subsection shall not limit the recovery of damages to the amount of the surety bond.~~ The bond shall be made in a form prescribed by the commissioner of insurance and written by a company authorized by the commissioner of insurance to do business in this state.

Sec. 3. Section 13B.2A, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

An indigent defense advisory commission is established within the department to advise and make recommendations to the state public defender regarding the establishment and implementation of cost-effective methods to provide indigent defense. The advisory commission shall consist of nine members: four members to be appointed by the governor, subject to senate confirmation, including two members from ~~nominees~~ nominations made by the Iowa state bar association, and two members from ~~nominees~~ nominations made by the Iowa judges association; two members appointed by the governor, subject to senate confirmation; one member to be appointed by the governor, subject to senate confirmation, from ~~nominees~~ nominations made by the Iowa county attorneys association; and two members, one from each chamber of the general assembly, to be appointed by the legislative council with no more than one