

CHAPTER 165**OPERATION AND REGULATION OF INSURANCE COMPANIES**

S.F. 249

AN ACT relating to the operation and regulation of insurance companies, including the treatment of certain confidential information by the commissioner, the operation of certain types of insurance companies, and the rights and duties of insurance companies under certain policies issued in this state.

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

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

505.17 CONFIDENTIAL INFORMATION.

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

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

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

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

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

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

~~After the plan has been approved by the commissioner as provided in section 508B.7, the~~ The plan of conversion shall be submitted to and shall not take effect until approved by two thirds of the policyholders of the mutual company voting on the plan. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with the articles of incorporation or bylaws of the mutual company. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual company. Voting shall be by ballot, in person or by proxy. A quorum shall consist of a quorum as defined in the articles of incorporation or bylaws of the mutual company. A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. The notice of meeting may contain the notice of any planned public hearing. An approved plan of conversion shall take effect on the date specified in the plan.

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

508B.12 AMENDMENTS — WITHDRAWAL.

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

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

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

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

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

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

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

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

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

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

511.28 SERVICE OF PROCESS.

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

Sec. 8. Section 513B.13, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 15. The board of the Iowa small employer health reinsurance program, on an ongoing basis, shall review the program and make recommendations as to the continued cost effectiveness of the program to the commissioner, which recommendations may include proposed modifications or suspension of operation of the program. In making such a review, the board shall consider such factors as the population reinsured by the program, the premiums and assessments paid to the program, the number and percentage of carriers electing to utilize the program, health care reform measures implemented in the state, as well as other factors deemed relevant by the board. The commissioner, upon finding that the program is not cost effective, may make modifications to the program or suspend the operation of the program by rule.

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

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

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

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

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

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

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

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

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

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

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

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

515.74 SERVICE OF PROCESS.

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

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

518.2 ARTICLES — APPROVAL.

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

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

518.17 REINSURANCE.

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

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

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

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

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross property risk in force, whichever is greater. ~~Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1993.~~

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

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

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

518A.8 ARTICLES — APPROVAL.

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

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

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars, ~~or one-tenth of one percent of the gross property risk in force, whichever is greater. Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1992.~~

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

518A.44 REINSURANCE.

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

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

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

The provisions as to maximum liability of members to assessments when assets are insufficient and to assessments when the corporation is insolvent, found in sections 518A.9;

~~518A.10, and 518A.14, and 518A.28~~, shall apply to all mutual insurance corporations organized under ~~the provisions of~~ this chapter.

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

Approved May 24, 1999

CHAPTER 166

ENTITIES AND SUBJECT MATTER REGULATED BY INSURANCE DIVISION

S.F. 406

AN ACT relating to entities and subject matter under the regulatory authority of the insurance division, including securities, business opportunities, funeral merchandise, funeral services, cemeteries, cemetery merchandise and residential service contracts, providing for fees, and establishing penalties.

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

Section 1. Section 502.202, subsection 12, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A mutual or cooperative organization, including a cooperative association organized in good faith under and for any of the purposes enumerated in chapters 497, 498, ~~and 499~~, and 501 that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if:

Sec. 2. Section 502.302, subsection 3, Code 1999, is amended to read as follows:

3. Every applicant for initial or renewal registration as a broker-dealer or investment adviser shall pay a filing fee of two hundred dollars. Every applicant for initial or renewal registration as an agent or investment adviser representative shall pay a filing fee of thirty dollars. However, an investment adviser representative is not required to pay a filing fee, if the investment adviser is a sole proprietorship or the substantial equivalent and the investment adviser representative is the same individual as the investment adviser. A filing fee is not refundable. Every person acting as a federal covered adviser in this state, except with respect to federal covered advisers whose only clients are those described in section 502.301, subsection 3, paragraph "b", shall pay an initial and renewal notice filing fee of one hundred dollars.

Sec. 3. Section 502.304, subsection 5, Code 1999, is amended to read as follows:

5. Withdrawal from registration as a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the administrator may by order determine, unless a proceeding to deny, suspend, or revoke a registration is pending when the application is filed or a proceeding to deny, suspend, or revoke a registration, or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under subsection 1, ~~paragraph "b"~~, within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.