

CHAPTER 1023

INSURANCE REGULATION — MISCELLANEOUS PROVISIONS

S.F. 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~~ 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~~ 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 508C.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 section¹ 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

¹ The phrase "proceedings under that section" probably intended

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 ease 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 ease 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 ease 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~~² 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.

² The phrase "endorsed on or annexed to such articles or amendment" probably intended

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.³

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

³ Iowa Code chapter 518 probably intended

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 515, which are applicable to this chapter. These reports shall prepare 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~~ 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.

Approved March 30, 2000

CHAPTER 1024

LIMITED PARTNERSHIPS — TRANSITION TO LIMITED LIABILITY LIMITED PARTNERSHIP STATUS

H.F. 2239

AN ACT relating to limited partnerships by providing for such partnerships to become limited liability limited partnerships, providing for related matters, and providing an effective date.

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

Section 1. Section 9H.1, subsection 16, Code Supplement 1999, is amended to read as follows:

16. "Limited partnership" means a partnership as defined in section 487.101, subsection 7, and a limited liability limited partnership under section 487.1301, which owns or leases agricultural land or is engaged in farming.

Sec. 2. Section 10B.1, subsection 8, Code 1999, is amended to read as follows:

8. "Limited partnership" means a foreign or domestic limited partnership, including a limited partnership as defined in section 487.101, subsection 7, and a domestic or foreign limited liability limited partnership under section 487.1301 or 487.1303.

Sec. 3. Section 487.109, subsection 1, paragraph 1, Code 1999, is amended to read as follows:

1. Statement of qualification of limited liability limited partnership \$ 50