CHAPTER 1117

INSURANCE AND OTHER ENTITIES OR SERVICES
REGULATED BY THE COMMISSIONER OF INSURANCE

S.F. 2364

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including the securities and regulated industries bureau, insurance premium taxes, the uniform securities Act, insurance division procedures including fees and an appropriation, regulation of insurance companies and other entities including administrative penalties, motor vehicle service contracts, county and state mutual insurance associations, reciprocal or interinsurance insurers, consolidation, merger and reinsurance contracts, insurance holding company systems, and cemeteries.

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

Section 1. Section 11.6, subsection 1, paragraph b, subparagraph (6), Code Supplement 2005, is amended to read as follows:

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

Sec. 2. Section 22.7, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 52. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

NEW SUBSECTION. 53. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

Sec. 3. Section 432.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates and rejected applications but not including the gross premiums written, assessments, and fees in connection with ocean marine insurance authorized in section 515.48.

Sec. 4. Section 432.5, Code 2005, is amended to read as follows:

432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue an amount equal to the applicable percent, as provided in section 432.1, subsection 4, of the gross amount of the premiums ~~received~~ written during the previous calendar year for risks placed in this state. A resident or nonresident producer shall report and pay the taxes on the premiums for risks that the producer has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Sec. 5. Section 502.102, subsection 5, paragraph b, subparagraph (3), Code Supplement 2005, is amended to read as follows:

(3) An industrial loan company that is not an "insured depository institution" as defined in

section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or any successor federal statute.

Sec. 6. Section 502.102, subsection 27A, Code Supplement 2005, is amended to read as follows:

27A. "Securities and regulated industries bureau" means the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 7. Section 502.201, subsection 8A, paragraph b, unnumbered paragraph 1, Code 2005, 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 chapter 497, 498, 499, ~~or~~ 501, or 501A, that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if all of the following apply:

Sec. 8. Section 502.304, subsection 2A, Code 2005, is amended to read as follows:

2A. REPORTS AND EXAMINATIONS. The administrator may by rule or order require as a condition of registration by qualification, and at the expense of the applicant or registrant, that a report by an accountant, engineer, appraiser, or other professional person be filed. The administrator may also designate one or more employees of the securities and regulated industries bureau to make an examination of the business and records of an issuer of securities for which a registration statement has been filed by qualification, at the expense of the applicant or registrant.

Sec. 9. Section 502.412, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Institute a revocation or suspension proceeding under this subsection based solely on an order issued under a law of another state that is reported to the administrator or a designee of the administrator more than one year after the date of the order on which it is based.

Sec. 10. Section 502.412, subsection 3, Code Supplement 2005, is amended to read as follows:

3. DISCIPLINARY PENALTIES — REGISTRANTS. If the administrator finds that the order is in the public interest and subsection 4, paragraphs "a" through "f", "h", "i", "j", ~~or~~ "l", ~~and~~ or "m", authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of five thousand dollars for a single violation or five hundred thousand dollars for more than one violation, on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

Sec. 11. Section 502.510, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. If the basis for relief under this section may have been a violation of section 502.509, subsection ~~3~~ 5, an offer to reimburse in cash the consideration paid for the advice and interest at the legal rate from the date of payment.

Sec. 12. Section 502.601, subsection 1, Code Supplement 2005, is amended to read as follows:

1. ADMINISTRATION. This chapter shall be administered by the commissioner of insurance of this state. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provisions of chapter 8A, subchapter IV. The deputy administrator is the principal operations officer of the securities and regulated industries bureau of the insurance division of the department of commerce. The deputy administrator is responsible to the

administrator for the routine administration of this chapter and the management of the securities and regulated industries bureau. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability, or other cause, the deputy administrator shall be the acting administrator and shall, for that period, have and exercise the authority conferred upon the administrator. The administrator may by order delegate to the deputy administrator any or all of the functions assigned to the administrator under this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as needed for the administration of this chapter.

Sec. 13. Section 502A.1, subsection 1, Code 2005, is amended to read as follows:

1. "Administrator" means the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 14. Section 502A.15, subsection 1, Code 2005, is amended to read as follows:

1. This chapter shall be administered by the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 15. Section 505.16, subsection 2, Code 2005, is amended to read as follows:

2. The insurance commissioner shall approve rules for carrying out this section including rules relating to the preparation of information to be provided before and after a test and the protection of confidentiality of personal and medical records of insurance applicants and policyholders. The rules shall require a person engaged in the business of insurance who receives results of a positive human immunodeficiency virus test of an insurance applicant or policyholder to report those results to a physician or alternative testing site of the applicant's or policyholder's choice, or if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.

Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.

A person committing any act governed by chapter 502, 502A, 505 through 523G, or 523I constitutes consent by that person to the jurisdiction of the commissioner of insurance and the district courts of this state.

Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.

The commissioner of insurance shall have the authority to appoint as a hearing officer a designee or an independent administrative law judge. Duties of a hearing officer shall include hearing contested cases arising from conduct governed by chapters 502, 502A, 505 through 523G, and 523I. Sections 10A.801 and 17A.11 do not apply to the appointment of a designee or an administrative law judge pursuant to this section.

Sec. 18. NEW SECTION. 505.29 SERVICE OF PROCESS — FEE.

The commissioner of insurance, pursuant to rules adopted pursuant to chapter 17A, may collect a reasonable fee each time process is served on the commissioner as allowed by law. Fees collected by the commissioner under this section shall be used and are appropriated to the insurance division to offset the costs of receiving such service of process. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

Sec. 19. Section 507.10, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. The commissioner is not prevented from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the report, to an insurance department of any other state or country, to the national association of insurance commissioners, or to law enforcement officials of this or any other state or an agency of the federal govern-

ment at any time, so long as such agency or office receiving the report, or matters relating to the report, agrees in writing to maintain the confidentiality of the report or such matters in a manner consistent with this chapter.

Sec. 20. Section 507.14, Code 2005, is amended to read as follows:

507.14 CONFIDENTIAL DOCUMENTS — EXCEPTIONS.

1. A preliminary report of an examination of a domestic or foreign insurer, and all notes, work papers, or other documents related to an examination of an insurer are ~~not public~~ confidential records under chapter 22 except when sought by the insurer to whom they relate, an insurance regulator of another state, or the national association of insurance commissioners, and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

~~1.~~ a. An action commenced by the commissioner under chapter 507C.

~~2.~~ b. An administrative proceeding brought by the insurance division under chapter 17A.

~~3.~~ c. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.

~~4.~~ d. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

~~5.~~ e. An action brought in a shareholders' derivative suit against an insurer.

~~6.~~ f. An action brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation, or misuse of insurer funds.

2. A report of an examination of a domestic or foreign insurer which is preliminary under the rules of the division is ~~not a public~~ a confidential record under chapter 22 except when sought by the insurer to which the report relates or an insurance regulator of another state, and is privileged and confidential in any judicial or administrative proceeding.

3. All work papers, notes, recorded information, documents, market conduct annual statements, and copies thereof that are produced or obtained by or disclosed to the commissioner or any other person in the course of analysis by the commissioner of the financial condition or market conduct of an insurer are confidential records under chapter 22 and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner under chapter 507C.

b. An administrative proceeding brought by the insurance division under chapter 17A.

c. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.

d. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

4. Confidential documents, materials, information, administrative or judicial orders, or other actions may be disclosed to a regulatory official of any state, federal agency, or foreign country provided that the recipients are required, under their law, to maintain their confidentiality. Confidential records may be disclosed to the national association of insurance commissioners provided that the association certifies by written statement that the confidentiality of the records will be maintained.

5. A financial statement filed by an employer self-insuring workers' compensation liability pursuant to section 87.11, or the working papers of an examiner or the division in connection with calculating appropriate security and reserves for the self-insured employer are ~~not public~~ confidential records under chapter 22 except when sought by the employer to which the financial statement or working papers relate or an insurance or workers' compensation self-insurance regulator of another state, and are privileged and confidential in any judicial or administrative proceeding. The financial information of a nonpublicly traded employer which self-insures for workers' compensation liability pursuant to section 87.11 is protected as proprietary trade secrets to the extent consistent with the commissioner's duties to oversee the security of self-insured workers' compensation liability.

6. Analysis notes, work papers, or other documents related to the analysis of an insurer are ~~not public~~ confidential records under chapter 22.

Sec. 21. Section 507A.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. a. A self-funded health benefit plan sponsored by an employer in this state under the federal Employee Retirement Income Security Act of 1974, as codified in 29 U.S.C. § 1169, which provides health benefits to independent contractors of the employer and to spouses and dependents of the independent contractors, if the plan is granted a waiver from the provisions of this chapter by the commissioner and meets all of the following conditions:

(1) There is a written contract between the sponsor of the health benefit plan and the independent contractor which establishes the relationship between the parties to the contract and provides for the personal services to be provided by the independent contractor to the sponsor of the health benefit plan pursuant to the contract.

(2) The personal services to be provided by the independent contractor pursuant to the contract are directly related to the principal business of the sponsor of the health benefit plan.

(3) The contract provides that the independent contractor will provide services to the sponsor of the health benefit plan on an exclusive basis.

(4) The inclusion of the independent contractor in the sponsor's health benefit plan is incidental to the contractual relationship between the sponsor of the health benefit plan and the independent contractor.

(5) Independent contractors and their spouses and dependents included in an employer-sponsored health benefit plan do not in total equal more than forty-nine percent of the total persons covered by the health benefit plan.

(6) The health benefit plan is administered by an authorized insurer or an authorized third-party administrator.

b. The sponsor of the health benefit plan shall file an application for waiver from the provisions of this chapter with the commissioner as prescribed by the commissioner and shall file periodic statements and information as required by the commissioner. The commissioner shall adopt rules pursuant to chapter 17A implementing this subsection. All statements and information filed with or disclosed to the commissioner pursuant to this subsection are confidential records pursuant to chapter 22.

c. If at any time the commissioner determines that a health benefit plan for which a waiver has been granted does not meet all of the conditions of paragraph "a", and the rules adopted by the commissioner under paragraph "b", the commissioner may terminate the waiver granted to the health benefit plan.

d. A self-funded employer-sponsored health benefit plan which has a valid waiver from the provisions of this chapter shall not be considered any of the following:

(1) An insurance company or association of any kind or character under section 432.1.

(2) A member insurer of the Iowa life and health insurance guaranty association as defined in section 508C.5, subsection 8.

(3) A carrier under chapter 513B.

(4) A member of the Iowa individual health benefit reinsurance association under section 513C.10.

(5) An entity subject to chapter 514C.

(6) A multiple employer welfare arrangement as defined in subsection 9.

e. A self-funded employer-sponsored health benefit plan which has received a waiver from the provisions of this chapter shall be considered to be a self-funded employer-sponsored health benefit plan under the federal Employee Retirement Income Security Act of 1974, as codified in 29 U.S.C. § 1169, and not subject to this title so long as the waiver is in effect.

f. The provision of health benefits to an independent contractor by a self-funded employer-sponsored health benefit plan which meets all of the conditions of paragraph "a" shall not in and of itself create an employer-employee relationship between the independent contractor and the sponsor of the health benefit plan.

Sec. 22. Section 507A.9, subsection 1, Code 2005, is amended to read as follows:

1. ~~Effective with~~ For all premiums collected during the calendar year ~~1967~~, except pre-

miums on lawfully procured surplus lines insurance, every unauthorized insurer shall pay to the commissioner of insurance before March 1, next succeeding the calendar year in which the insurance was so effectuated, continued, or renewed a premium tax ~~of two percent of~~ on gross premiums charged for such insurance on subjects resident, located, or to be performed in this state equal to the applicable percent, as provided in section 432.1. Such insurance whether procured through negotiation or an application, in whole or in part occurring or made within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured or continued in this state. The term "premium" includes all premiums, membership fees, assessments, dues, and any other consideration for insurance. If the tax prescribed by this section is not paid within the time stated, the tax shall be increased by a penalty of twenty-five percent and by the amount of an additional penalty computed at the rate of one percent per month or any part thereof from the date such payment was due to the date paid.

Sec. 23. Section 507B.4, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either of the following events for purposes of surcharging, declining, nonrenewing, or canceling personal lines property and casualty insurance coverage or a binder for personal lines property and casualty insurance coverage:

a. An applicant's or insured's inquiry into the type or level of coverage of a policy, or an inquiry into whether a policy will cover a loss.

b. An insured's inquiry regarding coverage of a policy for a loss if the insured does not file a claim.

NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to insure a property not previously owned by an applicant for personal lines property and casualty insurance, based solely on the loss history of a previous owner of the property, unless the insurer can provide evidence that the previous owner did not repair damage to the property.

NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY. Failing to inform an applicant at the time that an application for personal lines property and casualty insurance is made, in writing or in the same medium as the application is made, that the insurer will consider the applicant's or insured's claims history in determining whether to decline, cancel, nonrenew, or surcharge such a policy, and that a claim made by an insured will be reported to an insurance support organization.

NEW SUBSECTION. 15. INFORMATION. Failing or refusing to furnish any policyholder or applicant, upon reasonable request, information to which that individual is entitled.

Sec. 24. Section 507B.4, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A, 9B, and 9C, "personal lines property and casualty insurance" means insurance sold to individuals and families primarily for noncommercial purposes as provided in chapter 522B.

Sec. 25. NEW SECTION. 507B.4B SUITABILITY.

1. A person shall not recommend to any individual the purchase, sale, or exchange of any annuity contract, or any rider, endorsement, or amendment thereto, unless the person has reasonable grounds to believe that the recommendation is suitable for the individual based on a reasonable inquiry into the individual's financial status, investment objectives, and other relevant information.

2. A person engaged in the business of annuities shall establish and maintain a system to monitor recommendations made, that is reasonably designed to achieve compliance with subsection 1.

3. The commissioner shall adopt rules pursuant to chapter 17A establishing procedures and standards for implementation of the suitability requirements of subsection 1.

Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.

Section 505.28 is applicable to hearings required by sections 507B.6, 507B.6A, and 507B.7.

Sec. 27. Section 507C.2, subsection 13, Code Supplement 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "General assets" does not include that portion of the assets of the insurer allocated to and accumulated in a separate account established pursuant to section 508A.1, unless otherwise provided by the applicable policy, annuity, agreement, instrument, or contract. However, if any assets allocated to and accumulated in a separate account, after the satisfaction of any liabilities with regard to the operation of the separate account, are in excess of an amount equal to the reserves and other liabilities with respect to the separate account, the excess shall be treated as part of the general assets of the insurer.

Sec. 28. Section 507C.42, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. As used in this section, "insurer's estate" means the general assets of the insurer. The order of distribution of claims is:

Sec. 29. Section 507C.42, subsection 2, Code 2005, is amended to read as follows:

2. CLASS 2. Claims under policies, including claims of the federal or any state or local government, for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, claims of a guaranty association or foreign guaranty association, claims under funding agreements as provided in section 508.31A, subsection 3, claims for an insufficiency in the assets allocated to and accumulated in a separate account as provided in section 508A.1, subsection 8, and claims for unearned premium. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

Sec. 30. Section 507E.5, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

507E.5 CONFIDENTIALITY.

1. All investigation files, investigation reports, and all other investigative information in the possession of the bureau are confidential records under chapter 22 except as specifically provided in this section and are not subject to discovery, subpoena, or other means of legal compulsion for their release until opened for public inspection by the bureau, or upon the consent of the bureau, or until a court of competent jurisdiction determines, after notice to the bureau and hearing, that the bureau will not be unnecessarily hindered in accomplishing the purposes of this chapter by their opening for public inspection. However, investigative information in the possession of the bureau may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, another state or the District of Columbia, or a territory or country in which a licensee is licensed or has applied for a license.

2. The commissioner may share documents, materials, or other information, including confidential and privileged documents, materials, or other information, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidential and privileged status of the document, material, or other information, pursuant to Iowa law.

3. The commissioner may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, from other local, state, federal, and international regulatory agencies, the national association of insur-

ance commissioners and its affiliates or subsidiaries, and local, state, federal, and international law enforcement authorities, and shall maintain as confidential and privileged any document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

4. The commissioner may enter into agreements governing the sharing and use of documents, materials, or other information consistent with this section.

5. An investigator or other staff member of the bureau is not subject to subpoena in a civil action concerning any matter of which the investigator or other staff member has knowledge pursuant to a pending or continuing investigation being conducted by the bureau pursuant to this chapter.

Sec. 31. Section 508.13, Code 2005, is amended to read as follows:

508.13 ANNUAL CERTIFICATE OF AUTHORITY.

1. On receipt of an application for a certificate of authority or renewal of a certificate of authority, fees, the deposit provided in section 511.8, subsection 16, and the statement, and the statement and evidence of investment of foreign companies, ~~all of which shall be renewed annually, by the first day of March,~~ the commissioner of insurance shall issue a certificate or a renewal of a certificate setting forth the corporate name of the company, its home office, that it has fully complied with the laws of the state and is authorized to transact the business of life insurance for the ensuing year, which certificate shall expire on the first day of June of the ensuing year, or sooner upon thirty days' notice given by the commissioner, of the next annual valuation of its policies. ~~Such certificate shall be renewed annually, upon the renewal of the deposit and statement by a domestic company, or of the statement and evidence of investment by a foreign company, and compliance with the conditions above required, and be subject to revocation as the original certificate.~~

2. A company shall submit annually on or before March 1 a completed application for renewal of its certificate of authority. A certificate of authority shall expire on the first day of June next succeeding its issue and shall be renewed annually so long as the company transacts business in accordance with all legal requirements of the state.

3. A company that fails to timely file an application for renewal of its certificate of authority shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. A copy of a certificate of authority, when certified by the commissioner, shall be admissible in evidence for or against a company, with the same effect as the original.

Sec. 32. Section 508A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. If the assets of an insurer allocated to and accumulated in a separate account in connection with any policy, annuity, agreement, instrument, or contract, after the satisfaction of any liabilities with regard to the operation of the separate account, are insufficient to fully satisfy the insurer's express obligations under the policy, annuity, agreement, instrument, or contract, then claims for the unsatisfied portions of the insurer's obligations shall be class 2 claims under section 507C.42, subsection 2.

Sec. 33. Section 509.1, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. The premium for the group ~~life~~ policy shall be paid by the policyholder, either ~~wholly~~ from the employer's funds or funds contributed by ~~the employer, or partly from such funds and partly from funds contributed by~~ the insured employees, or from both. ~~No~~ A policy, ~~except~~ of group accident and health~~, may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy~~ insurance on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribu-

tions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. As used in this paragraph, "accident and health insurance" does not include disability income insurance.

Sec. 34. Section 509A.15, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. That the governing body has contracted or otherwise arranged with a third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to section 510.21, or with a person not required to obtain the certificate as ~~an~~ a third-party administrator as defined in section 510.11, subsection 1.

Sec. 35. Section 509A.15, subsection 4, Code 2005, is amended to read as follows:

4. One or more political subdivisions of the state or one or more school corporations maintaining self-insured plans with yearly claims that do not exceed ~~one~~ two percent of each entity's general fund budget shall be exempt from the requirements of this section where the plan insures employees for all or part of a deductible, coinsurance payments, drug costs, short-term disability benefits, vision benefits, or dental benefits.

The yearly claim amount shall be determined annually on the policy renewal date, or an alternative date established by rule, by a plan administrator or political subdivision or school corporation employee to be designated by the plan administrator. The exemption shall not apply for the year following a year in which yearly claims are determined to exceed ~~one~~ two percent of the political subdivision's or school corporation's general fund budget.

Sec. 36. Section 509B.1, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 37. Section 509B.5, subsection 1, Code 2005, is amended to read as follows:

1. Employers or group policyholders shall notify all employees or members of their continuation ~~and conversion~~ rights within ten days of termination of employment or membership. The notice shall be in writing and delivered in person or mailed to the person's last known address. However, continuation ~~and conversion~~ rights shall not be denied because of failure to provide proper notice. After receiving proper notice the employee or member may request and shall receive continuation ~~or conversion~~ coverage in accordance with this chapter within ten days of the request, notwithstanding any other time limitation provided by this chapter. Notification as provided in this section supersedes section 515.80 as that section relates to accident and health insurance.

Sec. 38. Section 510.11, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

510.11 DEFINITIONS.

1. "Life or health insurance" includes but is not limited to the following:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. An individual or group Medicare supplemental policy.

e. A long-term care policy.

f. An individual or group life insurance policy or annuity issued pursuant to chapter 508, 508A, or 509A.

2. "Third-party administrator" means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities other than any of the following:

a. A union or association on behalf of its members.

b. An insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do insurance business.

c. An entity licensed under chapter 514, including its sales representatives licensed in this state when engaged in the performance of their duties as sales representatives.

d. A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.

e. A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

f. A trust, its trustees, agents, and employees acting under the trust, established in conformity with 29 U.S.C. § 186.

g. A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, and employees acting under the trust.

h. A custodian, its agents, and employees acting pursuant to a custodial account which meets the requirements of section 401(f) of the Internal Revenue Code.

i. A bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities.

j. A credit card-issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

k. A person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

Sec. 39. Section 510.12, Code 2005, is amended to read as follows:

510.12 WRITTEN AGREEMENT NECESSARY.

A person shall not act as ~~an~~ a third-party administrator without a written agreement between the third-party administrator and the insurer, and the written agreement shall be retained as part of the official records of both the insurer and the third-party administrator for the duration of the agreement plus five years. The written agreement shall contain provisions which include the requirements of sections 510.11 through 510.16, except insofar as those requirements do not apply to the functions performed by the third-party administrator.

When a policy is issued to a trustee, a copy of the trust agreement and any amendments to the trust agreement shall be furnished to the insurer by the third-party administrator and shall be retained as part of the official records of both the insurer and the third-party administrator for the duration of the policy plus five years.

Sec. 40. Section 510.13, Code 2005, is amended to read as follows:

510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

If an insurer uses the services of ~~an~~ a third-party administrator under the terms of a written contract as required in section 510.12, payment to the third-party administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payment of return premiums or claims by the insurer to the third-party administrator shall not be deemed payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the third-party administrator resulting from the third-party administrator's failure to make payments to the insurer, insureds, or claimants.

Sec. 41. Section 510.14, Code 2005, is amended to read as follows:

510.14 MAINTENANCE OF INFORMATION.

~~An~~ A third-party administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in section 510.12 plus five years, adequate books and records of all transactions between it, insurers, and insured persons. The third-party administrator's books and records shall be maintained in accordance with prudent standards of

insurance recordkeeping. The commissioner shall have access to such books and records for the purpose of examination, audit, and inspection. Trade secrets contained in ~~an~~ a third-party administrator's books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except the commissioner may use trade secret information in any proceeding instituted against the third-party administrator. The insurer retains the right to continuing access to the third-party administrator's books and records sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and third-party administrator on the proprietary rights of the parties in the third-party administrator's books and records.

Sec. 42. Section 510.15, Code 2005, is amended to read as follows:

510.15 APPROVAL OF ADVERTISING.

~~An~~ A third-party administrator may use only such advertising pertaining to the business underwritten by an insurer as has been approved by the insurer in advance of its use.

Sec. 43. Section 510.17, Code 2005, is amended to read as follows:

510.17 PREMIUM COLLECTION.

1. All insurance charges or premiums collected by ~~an~~ a third-party administrator on behalf of or for an insurer, and return premiums received from the insurer, shall be held by the third-party administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled to them, or shall be deposited promptly in a fiduciary bank account established and maintained by the third-party administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, the third-party administrator shall cause the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from the account on behalf of or for each insurer. The third-party administrator shall promptly obtain and keep copies of all such records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for that insurer.

2. The third-party administrator shall not pay a claim by withdrawal from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the third-party administrator and the insurer, for any of the following:

a. Remittance to an insurer entitled thereto.

b. Deposit in an account maintained in the name of the insurer.

c. Transfer to and deposit in a claims-paying account, with claims to be paid as provided in section 510.18.

d. Payment to a group policyholder for remittance to the insurer entitled thereto.

e. Payment to the third-party administrator of its commission, fees, or charges.

f. Remittance of return premiums to the persons entitled thereto.

Sec. 44. Section 510.18, Code 2005, is amended to read as follows:

510.18 PAYMENT OF CLAIMS.

A claim paid by the third-party administrator from funds collected on behalf of the insurer shall be paid only on a draft, check, or by electronic funds transfer as authorized by the insurer.

Sec. 45. Section 510.19, Code 2005, is amended to read as follows:

510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

The compensation paid to ~~an~~ a third-party administrator shall not be contingent on claim experience on policies for which the third-party administrator adjusts or settles claims. This section does not prevent the compensation of ~~an~~ a third-party administrator from being based on premiums or charges collected or number of claims paid or processed.

Sec. 46. Section 510.20, Code 2005, is amended to read as follows:

510.20 NOTIFICATION REQUIRED.

When the services of ~~an~~ a third-party administrator are used, the third-party administrator

shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship among the third-party administrator, the policyholder, and the insurer. When ~~an~~ a third-party administrator collects funds, it ~~must~~ shall identify and state separately in writing to the person paying to the third-party administrator any charge or premium for insurance coverage the amount of any such charge or premium specified by the insurer for such insurance coverage.

Sec. 47. Section 510.21, Code 2005, is amended to read as follows:

510.21 CERTIFICATE OF REGISTRATION REQUIRED.

A person shall not act as or represent oneself to be ~~an~~ a third-party administrator in this state, other than an adjuster licensed in this state for the kinds of business for which the person is acting as ~~an~~ a third-party administrator, unless the person holds a current certificate of registration as ~~an~~ a third-party administrator issued by the commissioner of insurance. A certificate of registration as ~~an~~ a third-party administrator is renewable every three years. Failure to hold a certificate subjects the third-party administrator to the sanctions set out in section 507B.7. The certificate shall be issued by the commissioner to ~~an~~ a third-party administrator unless the commissioner, after due notice and hearing, determines that the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, or has had a previous application for an insurance license denied for cause within the preceding five years.

An application for registration shall be accompanied by a filing fee of one hundred dollars. After notice and hearing, the commissioner may impose any or all of the sanctions set out in section 507B.7, upon finding that either the third-party administrator violated any of the requirements of section 515.134 and sections 510.1A through 510.20 and this section, or the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

Sec. 48. Section 510.22, subsections 1 and 3, Code 2005, are amended to read as follows:

1. The person acting as ~~an~~ a third-party administrator is primarily in a business other than that of a third-party administrator.

3. The regular duties being performed as ~~an~~ a third-party administrator are such that the covered persons are not likely to be injured by a waiver of such requirements.

Sec. 49. Section 510.23, Code 2005, is amended to read as follows:

510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

~~An~~ A third-party administrator is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 50. Section 511.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § ~~80(a)~~ 80a-1 et seq., and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in paragraph "a", and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligations – full faith and credit exempt list.

Sec. 51. Section 511.8, subsection 18, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Common stocks or shares issued by any federal home loan bank under the Federal Home Loan Bank Act, 12 U.S.C. § 1421 et seq., and the Acts amendatory there-

of, are eligible if the total investment in those stocks or shares does not exceed one-half of one percent of the legal reserve.

Sec. 52. Section 511.8, subsection 22, paragraph b, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. To be eligible as investments, financial instruments used in hedging transactions shall be either of the following:

(1) Be between an insurer and a counterparty that meets the qualifications established in subsection 5 for an issuer, obligor, or guarantor of bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or of any state, district, or insular or territorial possession thereof, or Canada, or that meets the qualifications established in subsection 19 for an issuer, obligor, or guarantor of bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of a foreign government other than Canada.

(2) Be between an insurer and a conduit and be collateralized by cash or obligations which are eligible under subsection 1, 2, 3, 5, 19, or 24, are deposited with a custodian bank as defined in subsection 21, and are 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. Paragraphs "c", "d", and "e" of this subsection are not applicable to investments in financial instruments used in hedging transactions eligible pursuant to this subparagraph. As used in this subparagraph, "conduit" means a person within an insurer's insurance holding company system, as defined in section 521A.1, subsection 5, which aggregates hedging transactions by other persons within the insurance holding company system and replicates them with counterparties.

(a) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 5, 19, or 24 are eligible only to the extent that such securities deposited as collateral are not in excess of two percent of the legal reserve in the securities of any one corporation, less any securities of that corporation owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(b) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 5 or by cash equivalents eligible under subsection 24, other than a class one money market fund, are eligible only to the extent that such securities deposited as collateral are not in excess of ten percent of the legal reserve, less any obligations eligible under subsection 5 or cash equivalents eligible under subsection 24, other than a class one money market fund, owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(c) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 19 are eligible only to the extent that such securities deposited as collateral are not in excess of twenty percent of the legal reserve, less any securities eligible under subsection 19 owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(3) Financial instruments used in hedging transactions shall be eligible only as provided by this paragraph "b" and rules adopted by the commission pursuant to chapter 17A setting standards for hedging transactions between an insurer and a conduit as authorized under section 521A.5, subsection 1, paragraph "b".

Sec. 53. Section 511.8, subsection 22, paragraph e, Code 2005, is amended to read as follows:

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~~ shall be

included in the limitation contained in subsection 19 that allows only twenty 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~~ of the company or association to be invested in such foreign investments, 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.

This paragraph "e" does not authorize the inclusion of financial instruments used in hedging transactions in an insurer's legal reserve that are in excess of the eligibility limitation provided in paragraph "d" unless the financial instruments are collateralized as provided in this paragraph "e".

Sec. 54. Section 511.8, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 24. CASH EQUIVALENTS.

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

(1) "Cash equivalents" means highly liquid investments with an original term to maturity of ninety days or less that are all of the following:

(a) Readily convertible to a known amount of cash without penalty.

(b) So near maturity that the investment presents an insignificant risk of change in value.

(c) Rated any of the following:

(i) "P-1" by Moody's investors services, inc.

(ii) "A-1" by Standard and Poor's division of McGraw-Hill companies, inc., or by the national association of insurance commissioners' securities valuation office.

(iii) Equivalent by a nationally recognized statistical rating organization that is recognized by the national association of insurance commissioners' securities valuation office.

(2) "Class one money market fund" means investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., and operated in accordance with 17 C.F.R. § 270.2a-7, that qualifies for investment using the bond class one reserve factor under the purposes and procedures of the national association of insurance commissioners' securities valuation office.

b. Cash equivalents include a class one money market fund.

c. Cash equivalents, other than a class one money market fund, are not eligible in excess of two percent of the legal reserve in the obligations of any one corporation, and are not eligible in excess of ten percent of the legal reserve.

Sec. 55. Section 512B.25, Code 2005, is amended to read as follows:

512B.25 ANNUAL LICENSE — RENEWAL.

~~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 June 1, 1991.~~ The authority of ~~the~~ a society to transact business in this state may ~~thereafter~~ be renewed annually. A license terminates on the succeeding June 1. ~~However, a license issued shall continue in full force and effect until a new license is issued or specifically refused.~~ A society shall submit annually on or before March 1 a completed application for renewal of its license. For each license or renewal the society shall pay the commissioner a fee of fifty dollars. A society that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. 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. 56. Section 513C.9, subsection 1, Code 2005, is amended by striking the subsection.

Sec. 57. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY — RENEWAL.

A certificate of authority of a corporation formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the corporation transacts its business in accordance with all legal requirements. A corporation shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A corporation that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the certificate is admissible in evidence for or against the corporation with the same effect as the original.

Sec. 58. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY — RENEWAL.

A certificate of authority of a health maintenance organization formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the organization transacts its business in accordance with all legal requirements. A health maintenance organization shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A health maintenance organization that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the certificate is admissible in evidence for or against the organization with the same effect as the original.

Sec. 59. Section 514B.12, Code 2005, is amended to read as follows:

514B.12 ANNUAL REPORT.

1. A health maintenance organization shall annually on or before the first day of March file with the commissioner or a depository designated by the commissioner a report verified by at least two of the principal officers of the health maintenance organization and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

~~1.~~ a. 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.~~ b. Any material changes in the information submitted pursuant to section 514B.3.

~~3.~~ c. 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.~~ d. 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.

2. The commissioner shall refuse to renew a certificate of authority of a health maintenance organization that fails to comply with the provisions of this section and the organization's right to transact new business in this state shall immediately cease until the organization has so complied.

3. A health maintenance organization that fails to timely file the report required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. The commissioner may give notice to a health maintenance organization that the organization has not timely filed the report required under subsection 1 and is in violation of this section. If the organization fails to file the required report and comply with this section within ten days of the date of the notice, the organization shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 60. Section 514B.22, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

514B.22 FEES.

When not otherwise provided, a foreign or domestic health maintenance organization doing business in this state shall pay the commissioner of insurance the fees as required in section 511.24.

Sec. 61. Section 514B.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to all foreign and domestic limited service organizations authorized to do business in this state.

Sec. 62. Section 514C.1, Code 2005, is amended to read as follows:

514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN CHILDREN.

1. Any policy of individual or group accident and sickness insurance providing coverage on an expense incurred basis, and any individual or group hospital or medical service contracts issued pursuant to chapters 509, 514, and 514A, which provide coverage for a family member of the insured or subscriber shall also provide that the health insurance benefits applicable for children shall, subject to the enrollment requirements of this section, be payable with respect to a newly born child of the insured or subscriber from the moment of birth, or, in the situation of a newly adopted child of a covered person, such child shall be covered from the earlier of any of the following:

a. The date of placement of the child for the purpose of adoption and continuing in the same manner as for other dependents of the covered person, unless the placement is disrupted prior to legal adoption and the child is removed from placement.

b. The date of entry of an order granting the covered person custody of the child for purposes of adoption.

c. The effective date of adoption.

2. The coverage for adopted or newly born children shall consist of coverage for injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities and is not subject to any preexisting condition exclusion.

3. If payment of a specific premium or subscription fee is required to provide coverage for a newly born child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within ~~thirty-one~~ sixty days after the date of birth ~~in order to have coverage continue beyond such thirty-one day period~~.

4. If payment of a specific premium or subscription fee is not required to provide coverage for a newly born child, the policy or contract may require that notification of birth of a newly born child must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the date of birth in order for coverage to be provided for the child from the date of birth.

5. a. If payment of a specific premium or subscription fee is required to provide coverage for a newly adopted child or child placed for adoption, the policy or contract may require that notification of the adoption or placement for adoption and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the coverage is required to begin under this section.

b. If payment of a specific premium or subscription fee is not required to provide coverage for a newly adopted child or child placed for adoption, the policy or contract may require that notification of the adoption or placement for adoption must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the coverage is required to begin under this section.

c. If a covered person fails to provide the required notice or to make payment of premium or subscription fees within the sixty-day period required in this subsection, the newly adopted child or child placed for adoption shall be treated no less favorably by a health carrier than other dependents of the covered person, other than newly born children, who seek coverage

under a policy or contract at a time other than the time when the dependent is first eligible to apply for coverage.

Sec. 63. Section 514C.3, Code 2005, is amended to read as follows:

514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS INSURANCE POLICIES.

A policy of accident and sickness insurance issued in this state which provides payment or reimbursement for any service which is within the lawful scope of practice of a licensed dentist shall provide benefits for the service whether the service is performed by a licensed physician or a licensed dentist. As used in this section, "licensed physician" includes persons licensed under chapter 148, 150, or 150A and "policy of accident and sickness insurance" includes individual policies or contracts issued pursuant to chapter 514, 514A, or 514B, and group policies as defined in section 509B.1, ~~subsections~~ subsection 3 ~~and 4~~.

Sec. 64. Section 514E.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The association is not required to make plan coverage available to an individual who is covered or is eligible for any continued group coverage under Internal Revenue Code § 4980B, the federal Employee Retirement Income Security Act of 1974, codified at 29 U.S.C. § 1001 et seq., the federal Public Health Service Act of July 1, 1944, codified at 42 U.S.C. § 201 et seq., or any continued group coverage required by the state. For purposes of this subsection, an individual who would have been eligible for such continuation of group coverage, but is not eligible solely because the individual or other responsible party failed to make the required election of coverage during the applicable time period, or terminated such coverage prior to the end of such applicable time period, shall be deemed to be eligible for such group coverage until the date on which the individual's continuing group coverage would have expired had an election been made or a termination not occurred.

Sec. 65. Section 514J.7, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9. If an enrollee dies before the completion of the external review process, the process shall continue to completion if there is potential liability of a carrier or organized delivery system to the estate of the enrollee.

NEW SUBSECTION. 10. a. If an enrollee who has already received a service or treatment under a plan requests external review of the plan's coverage decision and changes to another plan before the external review process is completed, the carrier or organized delivery system whose coverage was in effect at the time the service or treatment was received is responsible for completing the external review process.

b. If an enrollee who has not yet received service or treatment requests external review of a plan's coverage decision and then changes to another plan prior to receipt of the service or treatment and completion of the external review process, the external review process shall begin anew with the enrollee's current carrier or organized delivery system. In this instance, the external review process shall be conducted in an expedited manner.

Sec. 66. Section 515.24, Code 2005, is amended to read as follows:

515.24 TAX — COMPUTATION.

For the purpose of determining the basis of any tax upon the "gross amount of premiums", or "gross receipts from premiums, assessments, fees, and promissory obligations", now or hereafter imposed upon any fire or casualty insurance company under any law of this state, such gross amount or gross receipts shall consist of the gross written premiums or receipts for direct insurance, without including or deducting any amounts received or paid for reinsurance except that any company reinsuring windstorm or hail risks written by county mutual insurance associations shall be required to pay ~~a two percent tax on~~ as a tax, the applicable percent provided in section 432.1, calculated upon the gross amount of reinsurance premiums received upon such risks, but with such other deductions as provided by law, and in addition de-

ducting any so-called dividend or return of savings or gains to policyholders; provided that as to any deposits or deposit premiums received by any such company, the taxable premiums shall be the portion of such deposits or deposit premiums earned during the year with such deductions therefrom as provided by law.

Sec. 67. Section 515.42, Code 2005, is amended to read as follows:

515.42 TENURE OF CERTIFICATE — RENEWAL — EVIDENCE.

~~Such~~ A certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually so long as such company shall transact business in accordance with the requirements of law; a copy of which certificate, when certified to by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original. A company shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A company that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 68. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

1. An excess and surplus lines insurance agent that fails to timely file the report required in section 515.147 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

2. The commissioner shall refuse to renew the license of an agent that fails to comply with the provisions of section 515.147 and this section and the agent's right to transact new business in this state shall immediately cease until the agent has so complied.

3. The commissioner may give notice to an agent that the agent has not timely filed the report required under section 515.147 and is in violation of this section. If the agent fails to file the required report within ten days of the date of the notice, the agent shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 69. Section 515A.6, subsection 1, Code 2005, is amended to read as follows:

1. a. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file ~~therewith (a) a~~ with the application all of the following:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business~~, (b) a~~.

(2) A list of its members and subscribers~~, (c) the~~.

(3) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served ~~and (d) a~~.

(4) A statement of its qualifications as a rating organization.

b. If the commissioner finds that the applicant is competent, trustworthy, and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, the commissioner shall issue a license specifying the kinds of insurance, or subdivisions or classes of risks or parts or combinations thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with the commissioner.

c. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars.

d. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection.

e. Every rating organization shall notify the commissioner promptly of every change in ~~(a)~~ ~~its~~ any of the following:

(1) Its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business~~, (b) its~~.

(2) Its list of members and subscribers ~~and (c) the~~.

(3) The name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

Sec. 70. Section 515A.9, Code 2005, is amended to read as follows:

515A.9 INFORMATION TO BE FURNISHED INSUREDS — HEARINGS AND APPEALS OF INSUREDS.

Every rating organization and every insurer which makes its own rate shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by the person's authorized representative, on the person's written request to review the manner in which such rating system has been applied in connection with the insurance afforded the person. Such review of the manner in which a rating system has been applied is not a contested case under chapter 17A. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action. Such appeal to the commissioner of the manner in which a rating system has been applied is not a contested case under chapter 17A.

Sec. 71. Section 515A.10, subsection 2, Code 2005, is amended to read as follows:

2. Every advisory organization shall file with the commissioner ~~(a) a~~ all of the following:

a. A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities~~, (b) a~~.

b. A list of its members~~, (c) the~~.

c. The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at the commissioner's direction may be served~~, and (d) an~~.

d. An agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 515A.12.

Sec. 72. NEW SECTION. 515E.3A FOREIGN RISK RETENTION GROUP MAY BECOME DOMESTIC.

1. A risk retention group that is organized under the laws of any other state for the purpose of writing insurance, as authorized by this chapter, may redomesticate to this state by doing all of the following:

a. Complying with section 490.902.

b. Complying with all of the requirements of law relative to the organization and licensing of a domestic risk retention group and the capital and surplus requirement set forth in subsection 4.

c. Designating its principal place of business in this state.

2. A risk retention group that meets the requirements of subsection 1 shall be entitled to a certificate of its corporate existence and a license to transact business in this state, and be subject in all respects to the authority and jurisdiction of this state.

3. The certificate of authority, producer appointments and licenses, rates, and other items which are in existence at the time a risk retention group transfers its corporate domicile to this state pursuant to this section shall continue in full force and effect upon such transfer. For purposes of existing authorizations and all other corporate purposes, the risk retention group is deemed to be the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring risk retention group shall remain in full force and effect.

4. A risk retention group redomesticating to this state pursuant to this chapter shall comply with the minimum capital and surplus requirements of chapter 521E or five million dollars, whichever is greater. If the risk retention group's prior domestic regulator allowed the use of letters of credit to meet that regulator's surplus requirements, the risk retention group may continue to use the letters of credit to meet this state's minimum surplus requirements for up to five years from the date of redomestication in this state. The risk retention group shall eliminate a minimum of twenty percent of the letters of credit being used each year based upon the aggregate amount of letters of credit being used to meet surplus requirements at the time of redomestication in this state.

5. Letters of credit used by a risk retention group to meet surplus requirements shall be clean, irrevocable, and unconditionally issued or confirmed by a qualified United States financial institution as defined in section 521B.4, subsection 2. The beneficiary of each letter of credit being used shall be the commissioner.

6. If a risk retention group redomesticating to this state fails to comply with the provisions of this section, the commissioner shall take action as prescribed in chapter 507C.

7. The commissioner shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 73. Section 515F.4, subsection 5, Code 2005, is amended to read as follows:

5. The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to investment income attributable to unearned premium and loss reserves. ~~Income from other sources shall not be considered.~~

Sec. 74. Section 515G.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Eligible policyholder" means a policyholder who had a policy in force with a mutual insurer at any time during the three-year period immediately preceding the date of the adoption of a plan of conversion by the mutual insurer's board of directors, including the date of adoption of the plan of conversion, and who, therefore, is eligible to receive an equitable share of the remaining statutory surplus of the mutual insurer, after provision for the base value for voting policyholders, as a result of the conversion.

NEW SUBSECTION. 5. "Voting policyholder" means a policyholder who had a policy in force as provided in section 515G.4.

Sec. 75. Section 515G.2, Code 2005, is amended to read as follows:

515G.2 MUTUAL INSURER BECOMING STOCK COMPANY — AUTHORIZATION.

1. A mutual insurer may become a stock insurance company pursuant to a plan of conversion established and approved in the manner provided by this chapter. The plan of conversion shall be adopted by the board of directors of the insurer to become effective on a future stated date.

2. A plan of conversion may provide that a mutual insurance company may convert into a domestic stock insurance company, convert and merge, or convert and consolidate with a domestic stock insurance company, as provided in chapter 490 or chapter 491, whichever is applicable. However, a mutual insurance company is not required to comply with sections 490.1102 and 490.1104 or sections 491.102 through 491.105 relating to approval of merger or consolidation plans by boards of directors and shareholders.

3. If conversion from a mutual insurer to a stock company is to be undertaken by a transaction which would be governed by chapter 521 or 521A, but the plan of conversion adopted by the board of directors of the insurer includes approval of an acquisition of control, merger, con-

solidation, or reinsurance, then chapter 521 or 521A shall not be applicable to the transaction. However, in that case, the commissioner may require any information from the person or persons acquiring control of the insurer as could be required under chapter 521 or 521A, and may disapprove the transaction on any basis on which it could be disapproved under chapter 521 or 521A.

Sec. 76. Section 515G.3, subsection 3, Code 2005, is amended to read as follows:

3. The manner and basis of exchanging the ~~equitable share of each mutual policyholder with a policy in force as provided in section 515G.4 for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted and the disposition of any unclaimed shares. The plan shall also provide that each person who had a policy of insurance in effect on the date of adoption of the plan is entitled to receive in exchange for an equitable share, without additional payment, consideration payable in voting common shares of the insurer, or other consideration, or both. The equitable share of the policyholder in the mutual insurer may include a~~ rights of each voting policyholder and each eligible policyholder of the mutual insurer to be converted to a stock company pursuant to this chapter. Such exchange may include a base value for each voting policyholder in recognition of the voting policyholder's voting rights as a mutual policyholder as well as consideration to be provided to each eligible policyholder in exchange for the eligible policyholder's rights as a mutual policyholder of the mutual insurer to be converted. After determining the base value ~~for~~ to be provided to each voting policyholder in recognition of the voting rights of the voting policyholder ~~and the balance of such~~, the equitable share of ~~its~~ each eligible policyholder in the remaining statutory surplus of the mutual insurer, plus any adjustments for nonadmitted assets or additional value permitted by the commissioner, to be provided to each eligible policyholder shall be determined by the ratio which the net earned premiums the eligible policyholder has properly and timely paid to the mutual insurer on insurance policies in effect during the ~~three years~~ three-year period immediately preceding the adoption of the plan of conversion, including the date of the adoption of the plan of conversion, bears to the total net earned premiums received by the mutual insurer from all eligible policyholders during that three-year period. The base value to be provided to each voting policyholder in recognition of voting rights and the equitable share of each eligible policyholder may be exchanged, without additional payment, for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted. If the base value for each voting policyholder or the equitable share of ~~the~~ each eligible policyholder entitles the policyholder to the purchase of a fractional share of stock, the policyholder has the option to receive the value of the fractional share in cash or purchase a full share by paying the balance in cash. However, policyholders due a de minimus amount, as established by the commissioner, need not be offered the value of the fractional share or the option to purchase a full share. The plan shall also provide for the disposition of any unclaimed shares.

Sec. 77. Section 516E.1, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Financial institution" means an institution that is all of the following:

a. Organized or, in the case of the office of a foreign banking organization located in the United States, licensed, under the laws of the United States or any state, and granted authority to operate with fiduciary powers.

b. Regulated, supervised, and examined by federal or state authorities empowered to regulate banks and trust companies.

NEW SUBSECTION. 5A. "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

NEW SUBSECTION. 9A. "Service company fee" means the consideration paid for a service contract.

Sec. 78. Section 516E.1, subsection 8, Code Supplement 2005, is amended to read as follows:

8. "Reimbursement insurance policy" means a contractual liability insurance policy ~~of insurance~~ issued to a service company ~~and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the service company under the terms of service contracts issued by the service company in the event of nonperformance by the service company. For the purposes of this definition, "all obligations and liabilities" include, but are not limited to, failure of the service company to perform under the service contract and the return of the unearned service company fee in the event of the service company's unwillingness or inability to reimburse the unearned service company fee in the event of termination of a service contract~~ that either provides reimbursement to a service company under the terms of insured service contracts issued or sold by the service company, or, in the event of nonperformance by the service company, pays, on behalf of the service company, all covered contractual obligations incurred by the service company under the terms of the insured service contracts issued or sold by the service company.

Sec. 79. Section 516E.2, subsection 3, Code Supplement 2005, is amended to read as follows:

3. In order to assure the faithful performance of a service company's obligations to its service contract holders, ~~the administrator may by rule require~~ service contracts shall be secured by a reimbursement insurance policy in compliance with the requirements set forth in section 516E.4 or the service company shall comply with the financial responsibility and security standards set forth in section 516E.21.

Sec. 80. Section 516E.2, subsection 4, paragraph f, Code Supplement 2005, is amended by striking the paragraph.

Sec. 81. Section 516E.3, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. A service contract shall not be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract, and the service company's reimbursement insurance policy, if applicable, have been filed with the commissioner by the service company.

Sec. 82. Section 516E.3, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A provider shall file a consent to service of process on the commissioner, a notice with the name and ownership of the provider, and such other information as the commissioner requires, annually with the commissioner no later than August 1. If August 1 falls on a weekend or a holiday, the date for filing shall be the next business day. In addition to the annual filing, the provider shall promptly file copies of any amended documents if material amendments have been made in the materials on file with the commissioner. If an annual filing is made after August 1 and sales have occurred during the period when the provider was in noncompliance with this section, the commissioner shall assess an additional filing fee that is two times the amount normally required for an annual filing. A fee shall not be charged for interim filings made to keep the materials filed with the division current and accurate. The annual filing shall be accompanied by a filing fee in the amount of one hundred dollars.

Sec. 83. Section 516E.4, subsection 1, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

1. REQUIREMENTS. A reimbursement insurance policy insuring a service contract issued, sold, or offered for sale in this state shall provide for all of the following:

a. The reimbursement insurance policy shall, in the event of the service company's failure to perform under the service contract or otherwise, either reimburse or pay on behalf of the service company any covered amounts that the service company is legally obligated to pay un-

der the service contract, including the return of any unearned service company fee owed by the service company to the service contract holder.

b. An insurer that issues a reimbursement insurance policy shall assume full responsibility for the administration of claims made pursuant to a service contract in the event that the service company is unable to do so.

c. If a service covered under a service contract is not provided by the service company within sixty days of proof of loss by the service contract holder, the service contract holder is entitled to apply directly against the reimbursement insurance policy of the service company.

Sec. 84. Section 516E.4, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service company secures its service contracts with a reimbursement insurance policy, the reimbursement insurance policy shall insure one hundred percent of the obligations of all service contracts sold by the service company.

NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer issuing a reimbursement insurance policy under this chapter shall be authorized, registered, or otherwise permitted to transact business in this state, or shall be an excess and surplus lines insurer authorized, registered, or otherwise permitted to transact business in this state, and shall meet one of the following requirements:

a. At the time the policy is filed with the commissioner, and continuously thereafter, the insurer maintains surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually files copies of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

b. At the time the policy is filed with the commissioner and continuously thereafter, the insurer does all of the following:

(1) Maintains surplus as to policyholders and paid-in capital of less than fifteen million dollars but at least ten million dollars.

(2) Demonstrates to the satisfaction of the commissioner that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one.

(3) Files copies annually of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

Sec. 85. Section 516E.5, subsection 1, Code Supplement 2005, is amended to read as follows:

1. a. A service contract insured by a reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the service company to the service contract holder are guaranteed under a reimbursement insurance policy, including a statement in substantially the following form:

"Obligations of the service company under this service contract are guaranteed under a reimbursement insurance policy. If the service company fails to pay or provide service on a claim within sixty days after proof of loss has been filed with the service company, the service contract holder is entitled to make a claim directly against the reimbursement insurance policy."

b. A claim against a reimbursement insurance policy shall also include a claim for return of the unearned ~~consideration~~ service company fee paid for the service contract ~~in excess of the premium paid~~. A service contract shall conspicuously state the name and address of the issuer of the reimbursement insurance policy for that service contract.

c. A service contract issued, sold, or offered for sale in this state that is not insured under a reimbursement insurance policy shall contain a statement in substantially the following form:

"Obligations of the service company under this service contract are backed by the full faith and credit of the service company."

Sec. 86. Section 516E.5, subsection 2, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

a. Clearly and conspicuously states the name and address of the service company~~,~~ and describes the service company's obligations to perform services or to arrange for the performance of services under the service contract~~, and states that the obligations of the service company to the service contract holder are guaranteed under a reimbursement insurance policy~~.

b. Clearly and conspicuously states the name and address of the issuer of the reimbursement insurance policy, if applicable.

Sec. 87. Section 516E.9, Code Supplement 2005, is amended to read as follows:

516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

A service company shall not represent or imply in any manner that the service company has been sponsored, recommended, or approved or that the service company's abilities or qualifications have in any respect been passed upon by the state of Iowa, including the commissioner, the insurance division, or the division's securities and regulated industries bureau.

Sec. 88. Section 516E.15, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A provider~~,~~ or service company~~, or third-party administrator~~ that fails to file documents and information with the commissioner as required pursuant to section 516E.3 may be subject to a civil penalty. The amount of the civil penalty shall not be more than four hundred dollars plus two dollars for each service contract that the person executed prior to satisfying the filing requirement. However, a person who fails to file information regarding a change in the name or the termination of the business of a provider~~,~~ or service company~~, or third-party administrator~~ as required pursuant to section 516E.3 is subject to a civil penalty of not more than five hundred dollars.

Sec. 89. NEW SECTION. 516E.20 APPLICATION OF INSURANCE LAWS.

The sale of a service contract under this chapter shall not be deemed to include the sale of insurance. Unless a service company, third-party administrator, or provider is otherwise engaged in the sale of insurance, the insurance laws of this state are not applicable to the service company, third-party administrator, or provider of such a service contract.

Sec. 90. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE POLICY.

1. In lieu of obtaining a reimbursement insurance policy as provided in section 516E.2, subsection 3, a service company may secure its service contracts by maintaining a funded reserve account which complies with all of the following:

a. The reserve account shall be in a custodial account at a financial institution that is dedicated to the service company's outstanding obligations under service contracts issued and outstanding in this state.

b. The reserve account shall comply with rules adopted by the commissioner pursuant to chapter 17A establishing requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities as necessary to protect holders of service contracts issued and outstanding in this state. The commissioner may require amendments to reserve account agreements that are not in compliance with the provisions of this section.

c. The reserve account shall not be an amount that is less than forty percent of the gross consideration received, less claims paid, on the sale of service contracts issued and outstanding by the service company in this state.

d. The reserve account shall be subject to examination and review by the commissioner or a designee on the premises of the financial institution where the account is located and the

financial institution shall, upon request, produce documents or records as necessary to allow the commissioner or a designee to verify the value and safety of the assets of the reserve account.

2. The service company shall annually provide the commissioner with one of the following:

a. A copy of the service company's financial statements.

b. If the service company's financial statements are consolidated with those of its parent company, a copy of the parent company's most recent form 10-K or form 20-F filed with the federal securities and exchange commission within the last calendar year, or if the parent company does not file with the federal securities and exchange commission, a copy of the parent company's audited financial statements showing a net worth of at least one hundred million dollars. If the service company's financial statements are consolidated with those of its parent company, the service company shall also provide a copy of a written agreement by the parent company guaranteeing the obligations of the service company under service contracts issued and outstanding by the service company in this state.

3. If a service contract company[1] secures its contracts by maintaining a funded reserve account as provided in subsection 1 but does not have or maintain a minimum net worth or stockholders equity of one hundred million dollars or more, the service company shall also meet one of the following requirements:

a. Maintain a security deposit trust fund which complies with all of the following:

(1) The security deposit trust fund shall be in an account at a financial institution.

(2) The security deposit trust fund shall be held, invested, and administered for the benefit and protection of service contract holders in this state in the event of nonperformance of the service contract by the service company.

(3) The security deposit trust fund shall comply with rules adopted by the commissioner pursuant to chapter 17A, establishing the form, terms, and conditions of security deposit trust fund agreements established pursuant to this paragraph "a".

(4) The security deposit trust fund shall be subject to recovery by any service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under the service contract. A holder of a service contract issued in this state may, in the event of nonperformance by the service company, maintain an action and file a claim against the security deposit trust fund maintained by the service company.

(5) The security deposit trust fund shall not be commingled with other funds of the service company.

(6) The security deposit trust fund shall have a value of not less than five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty-five thousand dollars, and consists of one or more of the following:

(a) Cash.

(b) Securities of the type eligible for deposit by insurers authorized to transact business in this state.

(c) Certificates of deposit.

(d) Another form of security as prescribed by the commissioner by rule.

b. File a surety bond with the commissioner that is issued by a surety company authorized to do business in this state, and that complies with all of the following:

(1) The surety bond is conditioned upon the service company's faithful performance of service contracts subject to this chapter.

(2) The surety bond is for the benefit of and subject to recovery by any service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under a service contract. The surety's liability shall extend to all service contracts issued by the service company and outstanding in this state. A holder of a service contract issued in this state may, in the event of nonperformance of the contract by the service company, maintain an action and file a claim against the surety bond filed by the service company.

(3) The surety bond is for an amount that is not less than five percent of the gross consider-

[1] The phrase "service company" probably intended

ation received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty-five thousand dollars.

(4) The surety bond cannot be canceled by the surety except upon written notice of cancellation by the surety to the commissioner by restricted certified mail, and not prior to the expiration of sixty days after receipt of the notice by the commissioner.

Sec. 91. Section 518.15, Code 2005, is amended to read as follows:

518.15 REPORTS, ~~AND~~ EXAMINATIONS, AND RENEWALS.

1. The president or the vice president and secretary of each association authorized to do business under this chapter shall annually before the first day of March prepare under oath and file with the commissioner of insurance a full, true and complete statement of the condition of such association on the last day of the preceding year. The commissioner of insurance shall prescribe the report forms and shall determine the information and data to be reported.

2. Such associations shall pay the same expenses of any examination made or ordered to be made by the commissioner of insurance and the same fees for the annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515~~, which certificates shall expire June 1 of the year following the date of issue~~.

3. A certificate of authority of an association formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the association transacts its business in accordance with all legal requirements. An association shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority.

4. The commissioner shall refuse to renew the certificate of authority of an association that fails to comply with the provisions of this chapter.

5. An association formed under this chapter that fails to timely file the statement required under subsection 1 or the application for renewal required under subsection 3 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. The association's right to transact new business in this state shall immediately cease until the association has fully complied with this chapter.

6. The commissioner may give notice to an association that the association has not timely filed the statement required under subsection 1 or an application for renewal under subsection 3 and is in violation of this section. If the association fails to file the required statement or application and comply with this section within ten days of the date of the notice, the association shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 92. Section 518A.18, Code 2005, is amended to read as follows:

518A.18 ANNUAL REPORT — PENALTIES.

1. An association doing business under this chapter, on or before March 1 of each year, 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.

2. An association that fails to timely file the statement required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars for each violation to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

3. The commissioner may give notice to an association that the association has not timely filed the statement required under subsection 1 and is in violation of this section. If the associa-

tion fails to file the required statement and comply with this section within ten days of the date of the notice, the association shall pay an additional administrative penalty of one hundred dollars for each day that each failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. The association's right to transact new business in this state shall immediately cease until the association has fully complied with this chapter.

Sec. 93. Section 518A.35, subsection 1, Code 2005, is amended to read as follows:

1. 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 revenue, or a depository designated by the director, a sum equivalent to the applicable percent of the gross receipts from premiums and fees 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. However, a company reinsuring windstorm or hail risks written by county mutual insurance associations is required to pay the applicable percent tax on the gross amount of reinsurance premiums ~~received~~ written 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. For purposes of this section, "applicable percent" means the same as specified in section 432.1, subsection 4.

Sec. 94. Section 518A.40, Code 2005, is amended to read as follows:

518A.40 ANNUAL FEES — RENEWALS — PENALTIES.

1. Such associations shall pay the same fees for annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire May 1 of the year following the date of issue.

2. A certificate of authority of an association formed under this chapter shall be renewed annually so long as the organization transacts its business in accordance with all legal requirements. Such an association shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority.

3. The commissioner shall refuse to renew the certificate of authority of a state mutual insurance association that fails to comply with the provisions of this chapter and the association's right to transact new business in this state shall immediately cease until the association has so complied.

4. An association that fails to timely file the application for renewal required under subsection 2 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 95. Section 518C.17, Code 2005, is amended to read as follows:

518C.17 ACTIONS AGAINST THE ASSOCIATION.

An action against the association shall be brought against it in the association's own name and only in the Polk county district court. Service of original notice in an action against the association ~~may~~ shall be made on any officer of the association or upon the commissioner of insurance on its behalf. The commissioner shall promptly transmit any notice served upon the commissioner to the association.

Sec. 96. Section 520.10, Code 2005, is amended to read as follows:

520.10 ANNUAL REPORT — EXAMINATION — PENALTIES.

1. Such attorney shall, within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report, under oath, to the commissioner of insurance for each calendar year, showing the financial condition of affairs at the office where such contracts are issued and shall, at any and all times, furnish such additional information and reports as may be required; provided, however, that the attorney shall not be required to furnish the names and addresses of any subscribers except in case of an unpaid

final judgment. The business affairs, records, and assets of any such organization shall be subject to examination by the commissioner of insurance at any reasonable time, and such examination shall be at the expense of the organization examined.

2. A certificate of authority of a reciprocal or interinsurance insurer authorized under this chapter shall be renewed annually in accordance with section 520.12 so long as the insurer transacts its business in accordance with all legal requirements.

3. The commissioner shall refuse to renew the certificate of authority of a reciprocal or interinsurance insurer that fails to comply with the provisions of this chapter and the insurer's right to transact new business in this state shall immediately cease until the insurer has so complied.

4. A reciprocal or interinsurance insurer that fails to timely file the report required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

5. The commissioner may give notice to a reciprocal or interinsurance insurer that the insurer has not timely filed the report required under subsection 1 and is in violation of this section. If the insurer fails to file the required report and comply with this section within ten days of the date of the notice, the insurer shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 97. Section 520.12, Code 2005, is amended to read as follows:

520.12 CERTIFICATE OF AUTHORITY — RENEWAL — PENALTIES.

1. Upon compliance with the requirements of this chapter, the commissioner of insurance shall issue a certificate of authority or a license to the attorney, authorizing the attorney to make such contracts of insurance, which license shall specify the kind or kinds of insurance and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. The certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually as long as the company transacts business in accordance with the requirements of law. A copy of the certificate, when certified by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original.

2. A reciprocal or interinsurance insurer shall submit annually, on or before March 1, a completed application for renewal of the insurer's certificate of authority. An insurer that fails to timely file an application for renewal shall pay an administrative fee of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 98. Section 521.1, Code 2005, is amended to read as follows:

521.1 DEFINITIONS.

For the purposes of this chapter:

1. "Affected company" or "affected mutual company" means the company being merged with and into the surviving company.

2. "Commission" means the commission created in section 521.5.

3. "Commissioner" means the commissioner of insurance.

4. "Company" ~~or "companies"~~ when used in this chapter means a company or association organized under chapter 508, 511, 515, 518, 518A, or 520, and includes a mutual insurance holding company organized pursuant to section 521A.14.

Sec. 99. Section 521.2, Code 2005, is amended to read as follows:

521.2 ~~LIFE COMPANIES —~~ CONSOLIDATION, MERGER, AND REINSURANCE.

1. One or more domestic mutual insurance companies organized under chapter 491 may merge or consolidate with a domestic or foreign mutual insurance company as provided in this chapter. Sections 491.101 through 491.105 shall not be applicable to a merger or consolidation of a domestic mutual insurance company pursuant to this chapter.

2. One or more domestic insurance companies organized under chapter 490 may merge

with a domestic or foreign insurance company as provided in chapter 490 with the approval of the commission pursuant to this chapter.

3. The provisions of this chapter shall not be applicable to the merger or consolidation of a domestic mutual company with a stock company pursuant to chapter 508B or chapter 515G.

4. A domestic mutual insurance company ~~organized under the laws of this state to do the business of life insurance, either on the stock, mutual, stipulated premium, or assessment plan,~~ shall not ~~consolidate with any other company or reinsure its risks, or any part of such risks, with any other company, or~~ assume or reinsure the whole or any part of the risks of any other company, except as provided in this chapter. However, this chapter shall not be construed to prevent any company, as defined in section 521.1, from reinsuring a fractional part of any ~~single~~ risk.

Sec. 100. Section 521.3, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER OF INSURANCE.

Any company proposing to consolidate, merge, or enter into any reinsurance contract with another company shall file a plan and an application in support of the plan with the commissioner. The plan shall set forth the terms of the proposed contract of consolidation, merger, or reinsurance, along with any other information requested by the commissioner.

Sec. 101. Section 521.4, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.4 PROCEDURE — NOTICE.

The commission may hear and determine an application, and approve, disapprove, or require modification of a plan submitted under section 521.3 without notice and without public hearing. The commission may require a public hearing when necessary to conserve the interests of the members, policyholders, or shareholders of the affected company. In such cases the commission shall require the affected company to mail to all of its members, policyholders, or shareholders written notice of the public hearing stating that an application and plan have been filed with the commission, the nature of the plan, and the date, time, and place of the public hearing on the application and plan. The commission shall determine the number of days prior to the public hearing that notice is required to be given to the members or shareholders, which shall be no fewer than ten nor more than sixty days.

Sec. 102. Section 521.5, Code 2005, is amended to read as follows:

521.5 COMMISSION ~~TO HEAR PETITION~~ CREATED.

~~For the purpose of hearing and determining such petition, a~~ A commission consisting of the commissioner of insurance and the attorney general is hereby created to hear and determine the application and to approve, disapprove, or require modification of the plan prior to approval.

Sec. 103. Section 521.6, Code 2005, is amended to read as follows:

521.6 EXAMINATION.

The commission may ~~make such examination into~~ examine the affairs and condition of any company ~~or companies~~ as it ~~may deem~~ deems proper, and shall have the power to summon and compel the attendance and testimony of witnesses, and the production of books and papers before ~~said~~ the commission and may administer oaths.

Sec. 104. Section 521.7, Code 2005, is amended to read as follows:

521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR SHAREHOLDERS.

When notice ~~shall have been~~ is given as ~~above~~ provided in section 521.4, any member, policyholder, or ~~stockholder~~ shareholder of ~~said~~ the affected company ~~or companies~~ shall have the right to appear before ~~said~~ the commission and be heard ~~with reference to said petition~~ regarding the application and plan.

Sec. 105. Section 521.8, Code 2005, is amended to read as follows:

521.8 AUTHORIZATION.

~~Said~~ The commission, if satisfied that the interests of the members, policyholders, or shareholders of ~~said~~ the affected company ~~or companies~~ are properly protected and no reasonable objection to ~~said petition~~ the application and plan exists, may ~~authorize~~ approve, disapprove, or require modification of the proposed plan of consolidation, merger, or reinsurance ~~or may direct such modification thereof as may seem to it best for the interests of the policyholders; and said~~ prior to approval. The commission may make such order and disposition of the assets of any such company thereafter remaining as shall be just and equitable.

Sec. 106. Section 521.10, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.10 ELECTION CALLED.

1. The commission may require an affected company to submit the plan of consolidation, merger, or reinsurance to a vote by its members. The plan shall be submitted at a meeting called for that purpose, upon not less than thirty days' notice. Member approval of the plan requires the affirmative vote of two-thirds of all members voting in person, by ballot, or by proxy.

2. Approval by the members of a mutual company of a plan of merger or reinsurance is not required if all of the following conditions are satisfied:

a. The company will survive the merger or is the reinsurer.

b. At the time of the merger or reinsurance, the number of members of the surviving company is greater than the number of members of the affected company.

c. At the time of the merger or reinsurance, the surplus of the surviving company is greater than the surplus of the affected company.

Sec. 107. Section 521.13, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.13 REINSURANCE TRANSACTIONS — EXEMPTION.

Reinsurance as provided in sections 515.49, 518.17, 518A.44, and 520.21 is exempt from the requirements of this chapter.

Sec. 108. Section 521.14, Code 2005, is amended to read as follows:

521.14 EXPENSES AND COSTS — HOW PAID.

All expenses and costs incident to proceedings under ~~the provisions of~~ this chapter~~,~~ shall be paid by the company ~~or companies bringing~~ filing the ~~petition~~ application and plan.

Sec. 109. Section 521.16, Code 2005, is amended to read as follows:

521.16 APPLICABILITY OF ~~CHAPTER~~ SECTION 521A.3.

~~Chapter 521A is~~ The provisions of section 521A.3 shall also be applicable to a merger or consolidation ~~made pursuant~~ subject to this chapter~~, and the provisions of chapter 521A and this chapter shall apply exclusively with respect to such merger or consolidation~~.

Sec. 110. NEW SECTION. 521.17 ADDITIONAL FILING REQUIREMENTS — PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

A company filing a plan to merge or consolidate shall, in addition to and after meeting the requirements of this chapter, make all appropriate filings with and pay appropriate fees to the secretary of state required under chapter 490 or 491.

Sec. 111. NEW SECTION. 521.18 ARTICLES OF MERGER OR CONSOLIDATION — FILING FEES AND APPROVAL.

A company filing a plan to merge or consolidate under the provisions of this chapter shall file its articles of merger or consolidation with the commission for its approval. The fee for filing articles of merger or consolidation with the commission is fifty dollars.

Sec. 112. Section 521A.1, subsection 6, Code 2005, is amended to read as follows:

6. "Insurer" means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to chapters 508, 512B, 514, 514B, 515, 515E, and 520, except that it shall not include:

~~a. Agencies~~ agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~b. Fraternal benefit societies.~~

~~c. Nonprofit medical, hospital or dental service associations.~~

Sec. 113. Section 521A.2, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. Investing, reinvesting, or trading in securities and financial instruments as defined in section 511.8, subsection 22, for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

Sec. 114. Section 521A.2, subsection 3, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Invest, reinvest, and trade in financial instruments as defined in section 511.8, subsection 22, for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

Sec. 115. NEW SECTION. 522B.16B WRITTEN CONSENT TO ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.

1. A person who is prohibited by 18 U.S.C. § 1033 from engaging or participating in the business of insurance because that person has been convicted of a crime under that statute or of a felony involving dishonesty or breach of trust may apply to the commissioner for written consent to engage or participate in the business of insurance in this state.

2. The commissioner, by rule, shall establish a procedure and standards for issuing such a written consent.

3. The commissioner shall not issue an insurance producer license to an applicant who has been convicted of a crime as set forth in subsection 1 unless the applicant has first obtained a written consent from the commissioner to engage or participate in the business of insurance in this state.

4. The commissioner shall not renew or issue an insurance producer license to an insurance producer licensee who has been convicted of a crime as set forth in subsection 1, unless that licensee has first obtained a written consent from the commissioner to engage or participate in the business of insurance in this state.

Sec. 116. Section 523A.601, subsection 1, paragraph i, Code 2005, is amended to read as follows:

i. Include an explanation of regulatory oversight by the insurance division in twelve point boldface type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT ~~(. . . .) . . . . . .~~ (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU, ~~(STREET ADDRESS), (CITY)~~ 330 MAPLE STREET, DES MOINES, IOWA ~~(ZIP CODE)~~ 50319.

Sec. 117. Section 523A.602, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (1A) If a purchase agreement is canceled before the purchase price is paid in full, a purchaser requests a transfer of the trust assets upon cancellation of a purchase agreement before the purchase price is paid in full, or another establishment pro-

vides cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, designated in a purchase agreement before the purchase price is paid in full, the seller shall refund or transfer within thirty days of receiving a written demand no less than the amount paid by the purchaser, less any actual expenses incurred by the seller pursuant to the purchase agreement as set forth in the purchase agreement under section 523A.601, subsection 1, paragraph "f". The amount of the actual expenses deducted by the seller shall not exceed ten percent of the total original purchase price of the applicable cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. The seller may also deduct the value of the cemetery merchandise, funeral merchandise, and funeral services already received by, delivered to, or warehoused for the purchaser.

Sec. 118. Section 523I.102, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery that is owned or operated by the state of Iowa or by the United States for the burial of veterans.

Sec. 119. Section 523I.103, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. All cemeteries, except religious cemeteries that commenced business prior to July 1, 2005, and veterans cemeteries.

Sec. 120. Section 523I.201, subsection 1, Code Supplement 2005, is amended to read as follows:

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section ~~523A.801~~ 502.601 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administrative staff. In the absence of the commissioner, whether because of vacancy in the office due to absence, physical disability, or other cause, the deputy administrator shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner in this chapter. The deputy administrator shall employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

Sec. 121. Section 523I.309, subsection 1, Code Supplement 2005, is amended to read as follows:

1. Any available member of the following classes of persons, in the priority listed, shall have the right to control the interment, relocation, or disinterment of a decedent's remains within or from a cemetery:

~~a. The attorney in fact of the decedent pursuant to a durable power of attorney for health care.~~

~~b.~~ a. The surviving spouse of the decedent, if not legally separated from the decedent.

~~c.~~ b. The decedent's surviving adult children. If there is more than one surviving adult child, any adult child who can confirm, in writing, that all other adult children have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult child of the decedent. Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

~~d.~~ c. ~~A~~ The surviving ~~parent~~ parents of the decedent whose whereabouts are reasonably ascertainable.

d. A surviving adult grandchild of the decedent. If there is more than one surviving adult grandchild, any adult grandchild who can confirm, in writing, that all other adult grandchildren have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such

action from another adult grandchild of the decedent. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

e. A surviving adult sibling of the decedent. If there is more than one surviving adult sibling, any adult sibling who can confirm, in writing, that all other adult siblings have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult sibling of the decedent. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

f. A surviving grandparent of the decedent. If there is more than one surviving grandparent, any grandparent who can confirm, in writing, that all other grandparents have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another grandparent of the decedent. Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

g. ~~The legal guardian of the decedent at the time of the decedent's death.~~ An adult person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.

h. The county medical examiner, if responsible for the decedent's remains.

A cemetery may await a court order before proceeding with the interment, relocation, or disinterment of a decedent's remains within or from a cemetery if the cemetery is aware of a dispute between an authorized person under this section and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons with the same priority under this subsection.

Sec. 122. Section 523I.312, subsection 2, paragraph n, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

n. Include an explanation of regulatory oversight by the insurance division in twelve point boldface type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES, IOWA 50319.

Sec. 123. Section 523I.316, subsection 3, Code Supplement 2005, is amended to read as follows:

3. DUTY TO PRESERVE AND PROTECT.

a. A governmental subdivision having a cemetery, or a burial site that is not located within a dedicated cemetery, within its jurisdiction, for which preservation is not otherwise provided, shall preserve and protect the cemetery or burial site as necessary to restore or maintain its physical integrity as a cemetery or burial site. The governmental subdivision may enter into ~~an~~ a written agreement to delegate the responsibility for the preservation and protection of the cemetery or burial site to ~~a~~ the owner of the property on which the cemetery or burial site is located or to a public or private organization interested in historical preservation. The governmental subdivision shall not enter into an agreement with a public or private organization to preserve and protect the cemetery or burial site unless the property owner has been offered the opportunity to enter into such an agreement and has declined to do so.

b. A governmental subdivision is authorized to expend public funds, in any manner authorized by law, in connection with such a cemetery or burial site.

c. If a governmental subdivision proposes to enter into an agreement with a public or private organization pursuant to this subsection to preserve and protect a cemetery or burial site that is located on property owned by another person within the jurisdiction of the governmental subdivision, the proposed agreement shall be written, and the governmental subdivision shall

provide written notice by ordinary mail of the proposed agreement to the property owner at least fourteen days prior to the date of the meeting at which such proposed agreement will be authorized. The notice shall include the location of the cemetery or burial site and a copy of the proposed agreement, and explain that the property owner is required to permit members of the public or private organization reasonable ingress and egress for the purposes of preserving and protecting the cemetery or burial site pursuant to the proposed agreement. The notice shall also include the date, time, and place of the meeting and a statement that the property owner has a right to attend the meeting and to comment regarding the proposed agreement.

d. Subject to chapter 670, a governmental subdivision that enters into an agreement with a public or private organization pursuant to this subsection is liable for any personal injury or property damage that occurs in connection with the preservation or protection of the cemetery or burial site or access to the cemetery or burial site by the governmental subdivision or the public or private organization.

For the purposes of this paragraph, "liable" means liability for every civil wrong which results in wrongful death or injury to a person or injury to property or injury to personal or property rights and includes but is not restricted to actions based upon negligence; error or omission; nuisance; breach of duty, whether statutory or other duty; or denial or impairment of any right under any constitutional provision, statute, or rule of law.

e. A property owner who is required to permit members of a public or private organization reasonable ingress and egress for the purpose or[2] preserving or protecting a cemetery or burial site on that owner's property and who acts in good faith and in a reasonable manner pursuant to this subsection is not liable for any personal injury or property damage that occurs in connection with the preservation or protection of the cemetery or burial site or access to the cemetery or burial site.

f. For the purposes of this subsection, reasonable ingress and egress to a cemetery or burial site shall include the following:

(1) A member of a public or private organization that has entered into a written agreement with the governmental subdivision who desires to visit such a cemetery or burial site shall give the property owner at least ten days' written notice of the intended visit.

(2) If the property owner cannot provide reasonable access to the cemetery or burial site on the desired date, the property owner shall provide reasonable alternative dates when the property owner can provide access to the member.

(3) A property owner is not required to make any improvements to that person's property to satisfy the requirement to provide reasonable access to a cemetery or burial site pursuant to this subsection.

Sec. 124. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC ACCESS.

A cemetery shall provide or permit public access to the cemetery, at reasonable times and subject to reasonable regulations, so that owners of interment rights and other members of the public have reasonable ingress and egress to the cemetery.

Sec. 125. Section 523I.508, subsection 4, Code Supplement 2005, is amended to read as follows:

4. DELEGATES TO CONVENTIONS. A township having one or more cemeteries under its control may designate~~, not~~ up to ~~exceed~~ two~~,~~ officials from each cemetery as delegates to attend meetings of cemetery officials, and certain expenses~~, including association dues,~~ of the delegates not ~~to exceed~~ exceeding twenty-five dollars for each delegate, ~~of the delegates~~ including association dues, may be paid out of the cemetery fund of the township.

Sec. 126. Section 616.15, Code 2005, is amended to read as follows:

616.15 SURETY COMPANIES.

1. Suit may be brought against any company or corporation furnishing or pretending to furnish surety, fidelity, or other bonds in this state, in any county in which the principal place of business of such company or corporation is maintained in this state, or in any county wherein

[2] According to enrolled Act; the word "of" probably intended

is maintained its general office for the transaction of its Iowa business, or in the county where the principal resides at the time of bringing suit, or in the county where the principal did reside at the time the bond or other undertaking was executed; and in the case of bonds furnished by any such company or corporation for any building or improvement, either public or private, action may be brought in the county wherein said building or improvement, or any part thereof is located.

2. The secretary of state shall serve as the agent for service of process for the purposes of 31 U.S.C. § 9306, of any surety company or corporation for a surety bond written by that surety company or corporation for the federal government and issued in this state as required or permitted under federal law, if the surety company or corporation is licensed in this state and cannot be otherwise served with process. Notwithstanding section 507.14, upon request of the secretary of state, the commissioner of insurance shall provide the secretary of state with the name and address of the person designated for consent to service of process by the surety company or corporation which is on file with the commissioner.

Sec. 127. Sections 509B.4, 521.9, 521.11, and 521.12, Code 2005, are repealed.

Sec. 128. Section 516E.17, Code Supplement 2005, is repealed.

Approved May 24, 2006

CHAPTER 1118

APPOINTMENT OF CHIEF JUVENILE COURT OFFICERS

H.F. 711

AN ACT relating to the appointment of a chief juvenile court officer.

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

Section 1. Section 602.1217, subsection 1, Code 2005, is amended to read as follows:

1. The ~~district judges within a~~ chief judge of each judicial district, ~~by majority vote,~~ after consultation with the judges of the judicial district, shall appoint a chief juvenile court officer and may remove the officer for cause.

Approved May 24, 2006