

shall designate the portion of any tract of land or city lot for which the purchaser will pay the whole amount of taxes for which it may be sold, the portion thus designated shall be an undivided portion. The delinquent tax lien transfers with the tax sale certificate, whether held by the county or if paid by an individual, by assignment or purchased at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 2. Section 446.29, Code 1989, is amended to read as follows:

446.29 CERTIFICATE OF PURCHASE.

The treasurer shall prepare, sign, and deliver to the purchaser of any real estate sold for the nonpayment of taxes a certificate of purchase, describing it as shown in the record of sales, giving the part of each tract or lot sold, the amount of each kind of tax, interest, and costs for each tract or lot as described in the record, and that payment has been made. Not more than one parcel or description shall be entered upon each certificate of purchase. The delinquent tax lien transfers with the tax sale certificate, whether held by the county or if paid by an individual, by assignment or purchased at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 3. Section 447.9, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

Service of the notice shall also be made by mail on any mortgagee having a lien upon the real estate, a vendor of the real estate under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, if the mortgagee, vendor, lessor, or other person has filed a request for notice, as prescribed in section 446.9, subsection 3, and on the state of Iowa in case of an old-age assistance lien by service upon the state department of human services. The notice shall also be served on any city where the real estate is situated.

Sec. 4.

Notwithstanding any other provision of law, a county board of supervisors shall abate the property taxes due and payable or refund the property taxes, if paid, which were due and payable in the fiscal year beginning July 1, 1989, of a nonprofit entity formed for historical purposes that is exempt from federal income taxation if that nonprofit entity failed to apply for a property tax exemption and the exemption would have been granted if the entity had applied. This section is repealed August 15, 1990.

Sec. 5.

This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 1990

CHAPTER 1204

INSPECTIONS AND APPEALS DEPARTMENT AUTHORITY

H.F. 178

AN ACT relating to the department of inspections and appeals and its licensing, rulemaking, and enforcement authority with respect to health and human resources matters, and providing properly related matters.

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

Section 1. Section 10A.402, subsection 5, Code 1989, is amended to read as follows:

5. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services. Collection methods include but are not limited to small

claims filings, debt setoff, and repayment agreements, and are subject to approval by the department of human services.

Sec. 2. Section 135B.1, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 4. "Department" means the department of inspections and appeals.

Sec. 3. Section 135B.4, Code 1989, is amended to read as follows:
135B.4 APPLICATION FOR LICENSE.

Licenses shall be obtained from the department of inspections and appeals. Applications shall be upon such forms and shall contain such information as the said department may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards and rules as may be lawfully prescribed hereunder under this chapter. Each application for license shall be accompanied by the license fee, which shall be refunded to the applicant if the license is denied and which shall be paid over deposited into the state treasury and credited to the general fund if the license is issued. In case of death of any person holding such license or the sale of any hospital licensed hereunder within the first year of the tenure of such license the department of inspections and appeals shall certify to the director of revenue and finance a claim on behalf of the licensee for refund of a proportionate share of the license fee. Said refund shall be based on one-twelfth the amount thereof multiplied by the remaining months in the year. The director of revenue and finance shall thereupon draw a warrant against the general fund payable to the order of the licensee. Hospitals having fifty beds or less shall pay an initial license fee of fifteen dollars; hospitals of more than fifty beds and not more than one hundred beds shall pay an initial license fee of twenty-five dollars; all other hospitals shall pay an initial license fee of fifty dollars.

Sec. 4. Section 135B.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon receipt of an application for license and the license fee, the department of inspections and appeals shall issue a license if the applicant and hospital facilities comply with the provisions of this chapter and the regulations rules of the said department. Each such license, unless sooner suspended or revoked, shall be renewable annually licensee shall receive annual reapproval upon payment of ten dollars and upon filing by the licensee, and approval by the department of inspections and appeals, of an annual report upon such uniform dates and containing such information in such form as the state department of health, with the advice of the hospital licensing board, shall prescribe by regulation of an application form which is available from the department. Licenses issued hereunder shall be either general or restricted in form. In those instances where an applicant for hospital license was licensed as a hospital on December 31, 1960, or had an application for hospital license pending on April 1, 1961, and the facilities of such applicant are suitable or adequate for only certain types of hospital care or treatment, the specific types of care or treatment for which such hospital is properly equipped shall be set forth on the face of the license and the lawful operation of the hospital shall be thereby restricted to the types of care and treatment so specified. Each license shall be issued only for the premises and persons or governmental units named in the application and shall is not be transferable or assignable except with the written approval of the department of inspections and appeals. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by regulation rule of the said department.

Sec. 5. Section 135B.6, Code 1989, is amended to read as follows:

135B.6 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE — HEARINGS AND REVIEW.

The department of inspections and appeals shall have the authority to may deny, suspend, or revoke a license in any case where it finds that there has been a substantial failure to comply with the provisions of this chapter or the rules or minimum standards promulgated under adopted pursuant to this chapter.

Such A denial, suspension, or revocation shall be effected by mailing to the applicant or licensee by certified mail, or by personal service of, a notice setting forth the particular reasons

for ~~such the~~ action. ~~Such A~~ denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or licensee, within ~~such the~~ thirty-day period ~~shall give gives~~ written notice to the department of inspections and appeals requesting a hearing, in which case the notice shall be deemed to be is suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department of inspections and appeals. At any time at or prior to hearing, the department may rescind the notice of denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of ~~any such a~~ hearing, or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified, or set aside, by the department. A copy of ~~such the~~ decision, setting forth the finding of facts and the particular reasons for the decision shall be sent by certified mail, or served personally upon, the applicant or licensee.

The procedure governing hearings authorized by this section shall be in accordance with rules promulgated ~~adopted~~ by ~~said the~~ department with the advice of the hospital licensing board. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135B.14. A copy or copies of the transcript may be obtained by an interested party on payment of the cost of preparing ~~such the~~ copy or copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the aforesaid rules rule.

Sec. 6. Section 135B.7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The state department, of health with the advice and approval of the hospital licensing board and approval of the state board of health, shall adopt and enforce rules and setting out the standards for the different types of hospitals to be licensed under this chapter, ~~to further the purposes of the chapter.~~ The department shall enforce the rules. Rules or standards shall not be adopted or enforced which would have the effect of denying a license to a hospital or other institution required to be licensed, solely by reason of the school or system of practice employed or permitted to be employed by physicians in the hospital, if the school or system of practice is recognized by the laws of this state.

Sec. 7. Section 135B.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of inspections and appeals shall make or cause to be made ~~such~~ inspections as it ~~may deem deems~~ necessary in order to determine compliance with applicable rules. ~~The Iowa department of public health shall, with the advice of the hospital licensing board, prescribe by regulations that any A licensee or applicant for a license desiring to make specified types a specific type of alteration or addition to its facilities or to construct new facilities shall, before commencing such the alteration, addition, or new construction, submit plans and specifications therefor to the department of inspections and appeals for preliminary inspection and approval or recommendations with respect to compliance with the regulations applicable rules and standards herein authorized.~~

Sec. 8. Section 135B.10, Code 1989, is amended to read as follows:

135B.10 HOSPITAL LICENSING BOARD.

The governor shall appoint five individuals who possess recognized ability in the field of hospital administration, ~~who shall function to serve as and be the hospital licensing board within the department of inspections and appeals.~~

Sec. 9. Section 135B.11, subsections 1 and 2, Code 1989, are amended to read as follows:

1. To consult with and advise with the Iowa department of public health in matters of policy affecting administration of this chapter, and in the development of rules, regulations and standards provided for hereunder under this chapter.

2. To review and approve rules and standards authorized under this chapter prior to their approval by the state board of health and adoption by the department of inspections and appeals.

Sec. 10. Section 135B.12, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

135B.12 CONFIDENTIALITY.

The department's final findings or the final survey findings of the joint commission on the accreditation of health care organizations with respect to compliance by a hospital with requirements for licensing or accreditation shall be made available to the public in a readily available form and place. Other information relating to a hospital obtained by the department which does not constitute the department's findings from an inspection of the hospital or the final survey findings of the joint commission on the accreditation of health care organizations shall not be made available to the public, except in proceedings involving the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall remain confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees or agents involved in the investigation of the complaint.

Sec. 11. Section 135B.13, Code 1989, is amended to read as follows:

135B.13 ANNUAL REPORT OF DEPARTMENT.

The department of ~~inspections and appeals~~ shall prepare and publish an annual report of its activities ~~and operations~~ under this chapter.

Sec. 12. Section 135B.14, Code 1989, is amended to read as follows:

135B.14 JUDICIAL REVIEW.

Judicial review of the action of the department of ~~inspections and appeals~~ may be sought in accordance with ~~the terms of the Iowa administrative procedure Act chapter 17A~~. Notwithstanding the terms of ~~said chapter 17A~~, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hospital is located or to be located, and the status quo of the petitioner or licensee shall be preserved pending final disposition of the matter in the courts.

Sec. 13. Section 135C.10, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In the case of a license applicant or existing licensee which is an entity other than an individual, the department may deny, suspend, or revoke a license if any individual, who is in a position of control or is an officer of the entity, engages in any act or omission proscribed by this section.

Sec. 14. Section 135C.14, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The department shall, in accordance with chapter 17A, and with the approval of the state board of health adopt and enforce rules setting minimum standards for health care facilities. In so doing, the department, with the approval of the state board of health, may adopt by reference, with or without amendment, nationally recognized standards and rules, which shall be specified by title and edition, date of publication, or similar information. The rules and standards required by this section shall be formulated in consultation with the director of human services or the director's designee and with affected industry, professional, and consumer groups ~~affected thereby~~, and shall be designed to further the accomplishment of the purposes of this chapter and shall relate to:

Sec. 15. Section 135C.16, subsection 1, Code 1989, is amended to read as follows:

1. In addition to the inspections required by sections 135C.9 and 135C.38 the department shall make or cause to be made such further unannounced inspections as it ~~may deem~~ deems necessary to adequately enforce this chapter, including at least one general inspection in each calendar year of every licensed health care facility in the state made without providing advance notice of any kind to the facility being inspected. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. Any employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant

to the merit system provisions of chapter 19A the discipline shall not exceed that authorized pursuant to that chapter.

Sec. 16. Section 135C.19, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Each~~ A citation for a class I or class II violation which is issued to a health care facility and which has become final, or a copy or copies thereof of the citation, shall be prominently posted as prescribed in rules to be adopted by the department, until the violation is corrected to the department's satisfaction. The citation or copy shall be posted in a place ~~or places~~ in plain view of the residents of the facility cited, persons visiting the residents, and persons inquiring about placement in the facility.

Sec. 17. Section 135C.19, subsection 3, Code 1989, is amended to read as follows:

3. If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of health inspections and appeals, the department of human services ~~must~~ shall maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of health inspections and appeals, but shall forward or refer ~~such~~ inquiries to the department of health inspections and appeals.

Sec. 18. Section 135E.1, subsection 3, Code 1989, is amended to read as follows:

3. "Nursing home" means an institution or facility, or part thereof, whether proprietary or nonprofit, licensed as an intermediate care facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill, defined as such for licensing purposes under state law or pursuant to the rules for nursing homes promulgated by the state board of health, in consultation with the department of inspections and appeals, ~~whether proprietary or nonprofit~~ administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing homes home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 19. Section 147.87, Code 1989, is amended to read as follows:

147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this title and for that purpose ~~shall~~ may request the department of inspections and appeals to make necessary investigations relative thereto. Every licensee and member of an examining board shall furnish the department or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 20. Section 147.88, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this title, except for the board of medical examiners, board of pharmacy examiners, board of nursing, and the board of dental examiners. The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 21. Section 147.90, Code 1989, is amended to read as follows:

147.90 RULES AND FORMS.

The Iowa department of public health and the department of inspections and appeals shall each establish the necessary rules and forms for carrying out the duties imposed upon it by the provisions of this and the following chapters of this title.

Sec. 22. Section 147.91, subsection 2, Code 1989, is amended to read as follows:

2. The rules of the Iowa department of public health and the department of inspections and appeals relative to licenses.

Sec. 23. Section 157.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

157.7 INSPECTORS AND CLERICAL ASSISTANTS.

The department of inspections and appeals shall employ personnel under chapter 19A to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 158.

The Iowa department of public health may employ clerical assistants under chapter 19A to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

Sec. 24. Section 158.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

158.6 INSPECTORS AND CLERICAL ASSISTANTS.

The department of inspections and appeals shall employ personnel under chapter 19A to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 157.

The Iowa department of public health may employ clerical assistants under chapter 19A to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

Sec. 25. Section 170.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of inspections and appeals, or a municipal corporation pursuant to section 170.55, shall collect the following fees for licenses:

Sec. 26. Section 170.5, unnumbered paragraph 4, Code 1989, is amended to read as follows:

After collection, the fees collected by the department shall be deposited in the general fund of the state. The fees collected by a municipal corporation shall be retained by the corporation for its own use.

Sec. 27. Section 170.8, Code 1989, is amended to read as follows:

170.8 REVOCATION.

Any license issued under this chapter may be revoked by the department for violation by the licensee of any provision of this chapter or any rules of the department adopted pursuant to this chapter.

Sec. 28. Section 170.10, Code 1989, is amended to read as follows:

170.10 FOOD ESTABLISHMENTS WITH PRIVATE WATER AND SEWER FACILITIES.

When a food establishment is served by privately owned water or waste treatment facilities these facilities shall meet the technical requirements of the local board of health, ~~the Iowa department of public health~~, and the department of natural resources.

Sec. 29. Section 170.16, Code 1989, is amended to read as follows:

170.16 TOILET AND LAVATORY FACILITIES.

A food establishment shall provide toilet and lavatory facilities in accordance with rules adopted ~~by the department~~ pursuant to this chapter 17A.

Sec. 30. Section 170.47, Code 1989, is amended to read as follows:

170.47 INSPECTION UPON COMPLAINT.

Upon receipt of a verified complaint signed by a customer of a food establishment and stating facts indicating the place is in an insanitary condition, the department ~~may~~ shall conduct an inspection.

Sec. 31. Section 170.56, Code 1989, is amended to read as follows:

170.56 ADOPTION BY RULE.

The director shall adopt the retail food store sanitation code by rule as part of the Iowa retail food store sanitation code with the following ~~exception~~ exceptions:

~~1-2-101~~ 1. 2-101 shall be amended to allow food licensed under chapter 170C or food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

2. 9-103 shall be deleted. Section 9-103 repeals "all codes and parts of codes" in conflict with the retail food store sanitation code.

3. Food establishments shall be inspected before a license is granted and annually thereafter.

Sec. 32. Section 170A.3, Code 1989, is amended to read as follows:

170A.3 ADOPTION BY RULE.

As soon as practicable, the director shall adopt the food service sanitation ordinance, section 170A.2, subsection 12, by rule as part of the Iowa food service sanitation code with the following exceptions:

1. 1-102(h), (i), and (z) shall be deleted. Sections 1-102(h), (i), and (z) define "food processing establishment", "food service establishment", and "temporary food service establishment".

2. 1-104 shall be deleted. Section 1-104 refers to the effective date of the ordinance and repeals all ordinances and parts of ordinances in conflict with the food service sanitation ordinance.

3. 10-101 shall be amended so that the following food service establishments are exempt from the license requirement have the described exemptions:

a. Food service operations in schools are exempt from the license fee requirement.

b. Places used by churches, fraternal societies, and civic organizations which engage in the serving of food not more often than ten times per month once per week are exempt from the license requirement.

10-101 shall also be amended so that a license issued by the department of agriculture prior to January 1, 1979, shall be valid until its expiration date. Section 10-101 states general compliance procedures.

4. 10-201 shall be amended so that food service operations in schools and summer camps shall be inspected at least once every year instead of twice every year. Section 10-201 refers to the frequency of inspections.

5. 10-601 shall be deleted. Section 10-601 refers to federal penalties.

6. 2-101 shall be amended to allow food licensed under chapter 170C and food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

Sec. 33. Section 170A.7, Code 1989, is amended to read as follows:

170A.7 TOILET AND LAVATORY FACILITIES.

A food service establishment that is not a mobile food unit, pushcart, or temporary food service establishment shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to this chapter 17A.

Sec. 34. Section 170A.8, Code 1989, is amended to read as follows:

170A.8 PLUMBING IN FOOD SERVICE ESTABLISHMENTS.

A food service establishment shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The water supply service and sewerage system of a food service establishment shall meet the technical requirements of the local board of health, the Iowa department of public health, and the department of natural resources.

Sec. 35. Section 170A.10, Code 1989, is amended to read as follows:

170A.10 INSPECTION UPON COMPLAINT.

Upon receipt of a verified complaint signed by a customer of a food service establishment and stating facts indicating the place is in an insanitary condition, the regulatory authority ~~may~~ shall conduct an inspection.

Sec. 36. Section 170B.7, Code 1989, is amended to read as follows:

170B.7 LICENSE REVOCATION.

A license issued under the Iowa hotel sanitation code may be revoked by the regulatory authority for violation by the licensee of a provision of the Iowa hotel sanitation code or applicable rule of the department adopted pursuant to this chapter.

Sec. 37. Section 170B.8, Code 1989, is amended to read as follows:

170B.8 TOILET AND LAVATORY FACILITIES.

A hotel shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to this chapter 17A.

Sec. 38. Section 170B.9, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A hotel beyond the reach of a central water or sewerage system shall be served by on-site facilities which meet the technical requirements of the local board of health, ~~the Iowa department of public health,~~ and the department of natural resources.

Sec. 39. Section 170B.15, Code 1989, is amended to read as follows:

170B.15 INSPECTION UPON COMPLAINT.

Upon receipt of a verified complaint signed by a guest of a hotel and stating facts indicating the place is in an insanitary condition, the regulatory authority ~~may~~ shall conduct an inspection.

Sec. 40. Section 191A.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14. "Food and beverage vending machine ordinance" means the 1978 edition of the federal food and drug administration food and beverage vending machine ordinance.

Sec. 41. Section 191A.8, Code 1989, is amended to read as follows:

191A.8 INSPECTION.

The regulatory authority shall inspect all vending machine commissaries at least once each calendar year, and shall inspect representative vending machines and vehicles as often as deemed necessary to determine compliance with this chapter and applicable rules of the department. ~~Section 170B.15 shall be applicable to the operation of vending machines. Upon receipt of a verified complaint signed by a customer of a vending machine and stating facts indicating the machine is in an insanitary condition, the regulatory authority shall conduct an inspection.~~

Sec. 42. Section 191A.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

191A.10 ADOPTION BY RULE.

As soon as practicable, the director shall adopt the food and beverage vending machine ordinance, section 191A.1, subsection 14, by rule as part of the Iowa food and beverage vending machine code with the following exceptions:

1. 1-104 shall be deleted. Section 1-104 states the effective date of the ordinance and repeals all ordinances and parts of ordinances in conflict with the ordinance.
2. 6-601 shall be deleted. Section 6-601 refers to federal penalties.
3. 6-201 shall be amended so that only one inspection per calendar year is required. Section 6-201 refers to the frequency of inspections.

Sec. 43. NEW SECTION. 191A.15 INJUNCTION.

A person operating a vending machine in violation of this chapter may be restrained by injunction from further operating that vending machine. If an imminent health hazard exists, the person shall cease operation of the vending machine and shall not resume operation until authorized by the department.

Sec. 44. NEW SECTION. 191A.16 DUTY OF COUNTY ATTORNEY.

The county attorney in each county shall assist in the enforcement of this chapter.

Sec. 45. Section 225C.4, subsection 1, paragraph s, Code 1989, is amended to read as follows:

s. In co-operation with the state department of health inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to mentally ill and mentally retarded persons residing in county care facilities.

Sec. 46. Section 227.6, Code 1989, is amended to read as follows:

227.6 REMOVAL OF RESIDENTS.

If a county care facility fails to comply with rules and standards adopted under this chapter, the administrator may remove all mentally ill and mentally retarded persons cared for in the county care facility at public expense, to the proper state mental health institute or hospital-school, or to some private or county institution or hospital for the care of the mentally ill or mentally retarded that has complied with the rules prescribed by the administrator. ~~The removal of residents, if~~ Residents being transferred to a state mental health institute or hospital-school, shall be ~~made accompanied~~ by an attendant or attendants sent from the institute or hospital-school. If a resident is ~~removed~~ transferred under this section, at least one attendant shall be of the same sex. If the administrator finds that the needs of mentally ill and mentally retarded residents of any other county or private institution are not being adequately met, those residents may be removed from that institution upon order of the administrator; ~~in consultation with the director of public health.~~

Sec. 47. Section 232.142, subsection 5, Code 1989, is amended to read as follows:

5. The director shall approve annually all such homes established and maintained under the provisions of this chapter. ~~No such~~ A home shall not be approved unless it complies with minimal rules and standards adopted by the director and has been inspected by the department of inspections and appeals.

Sec. 48. Section 234.12, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon request by the department of human services, the department of inspections and appeals shall conduct investigations into possible fraudulent practices, as described in section 234.13, relating to food programs administered by the department of human services.

Sec. 49. Section 235.3, subsection 8, Code Supplement 1989, is amended to read as follows:

8. ~~License and inspect maternity hospitals, and private child-placing agencies,~~ make reports regarding them, and revoke such licenses.

Sec. 50. Section 235.5, Code 1989, is amended to read as follows:

235.5 LICENSES.

Licenses issued to ~~maternity hospitals,~~ private boarding homes for children, and private child-placing agencies by the administrator, shall remain in effect for the period for which issued, unless sooner revoked according to law. Thereafter ~~it shall be the duty of each of such agencies to~~ shall apply to the administrator for a new license, and to shall submit to such rules regarding the same licensing as the administrator may prescribe prescribes.

Sec. 51. NEW SECTION. 235.5A INSPECTIONS.

The department of inspections and appeals shall conduct inspections of private institutions for the care of dependent, neglected, and delinquent children in accordance with procedures established pursuant to chapters 10A and 17A.

Sec. 52. Section 235B.1, subsection 8, paragraph a, Code 1989, is amended to read as follows:

a. If, upon completion of the evaluation or upon referral from the ~~Iowa~~ public health inspections and appeals, the department of human services determines that the best interests of the dependent adult require district court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

Sec. 53. Section 237.7, Code 1989, is amended to read as follows:

237.7 REPORTS AND INSPECTIONS.

The administrator may require submission of reports by a licensee, and shall cause at least one annual unannounced inspection of each facility to assess the quality of the living situation and to determine compliance with applicable requirements and standards. The inspections shall be conducted by the department of inspections and appeals. The administrator director of the department of inspections and appeals may examine records of a licensee, including but not limited to corporate records and board minutes, and may inquire into matters concerning a licensee and its employees relating to requirements and standards for child foster care under this chapter.

Sec. 54. Section 237A.8, Code 1989, is amended to read as follows:

237A.8 SUSPENSION AND REVOCATION.

The administrator, after notice and opportunity for an evidentiary hearing before the department of inspections and appeals, may suspend or revoke a license or certificate of registration issued under this chapter if the person to whom a license or certificate is issued violates a provision of this chapter or if the person makes false reports regarding the operation of the child day care facility to the administrator or a designee of the administrator. The administrator shall notify the parent, guardian, or legal custodian of each child for whom the person provides child day care, if the license or certificate of registration is suspended or revoked or if there has been a substantiated child abuse case against an employee, owner, or operator of the child day care facility.

Sec. 55. Section 238.19, Code 1989, is amended to read as follows:

238.19 INSPECTION GENERALLY.

Authorized officers and agents employees of the administrator department of inspections and appeals may inspect the premises and conditions of such the agency at any time and examine every part thereof of the agency; and may inquire into all matters concerning such agencies the agency and the children in the care thereof of the agency.

Sec. 56. Section 238.20, Code 1989, is amended to read as follows:

238.20 MINIMUM INSPECTION – RECORD.

Authorized officers and agents employees of the administrator department of inspections and appeals shall visit and inspect the premises of licensed child-placing agencies at least once every six months and make and preserve written reports of the conditions found.

Sec. 57. Section 238.21, Code 1989, is amended to read as follows:

238.21 OTHER INSPECTING AGENCIES.

Authorized agents of the Iowa department of public health and of the local board of health in whose jurisdiction a licensed child-placing agency is located may make inspection of the premises.

Sec. 58. Section 239.7, Code 1989, is amended to read as follows:

239.7 APPEAL – JUDICIAL REVIEW.

If an application is not acted upon within a reasonable time, if it is denied in whole or in part, or if any an award of assistance is modified, suspended, or canceled under any a provision of this chapter, the applicant or recipient may appeal to the department of human services which shall request the department of inspections and appeals to conduct a hearing. The department shall give the appellant reasonable notice and opportunity for a fair hearing before the director or the director's designee. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the result of such hearing actions of the department of human services may be sought in accordance with the terms of the Iowa administrative procedure Act chapter 17A. Upon receipt of the a notice of the filing of a petition for judicial review, the department of human services shall furnish the petitioner with a copy of any papers filed in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

Sec. 59. Section 249.5, Code 1989, is amended to read as follows:

249.5 JUDICIAL REVIEW.

If an application is not acted upon within a reasonable time, if it is denied in whole or in part, or if ~~any an~~ award of assistance is modified, suspended, or canceled under ~~any a~~ provision of this chapter, the applicant or recipient may appeal to the department of human services, which shall ~~give the appellant reasonable notice and opportunity for a fair hearing before the director or the director's designee~~ request the department of inspections and appeals to conduct a hearing. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the actions of the ~~commission~~ department of human services may be sought in accordance with ~~the terms of the Iowa administrative procedure Act chapter 17A.~~ Upon receipt of the petition for judicial review, the department of human services shall furnish the petitioner with a copy of any papers filed by the petitioner in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

Sec. 60. Section 249.11, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with state supplementary assistance programs administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.

Sec. 61. Section 249A.4, subsection 10, Code Supplement 1989, is amended to read as follows:

10. Shall provide for ~~granting~~ an opportunity for a fair hearing before the ~~director of human services or the director's authorized representative~~ department of inspections and appeals to ~~any an~~ individual whose claim for medical assistance under this chapter is denied or is not acted upon with reasonable promptness. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services.

Sec. 62. Section 249A.4, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

Judicial review of the ~~actions~~ decisions of the ~~director or~~ department of human services may be sought in accordance with ~~the terms of the Iowa administrative procedure Act chapter 17A.~~ ~~In the event~~ If a petition for judicial review is filed, the ~~director or the director's authorized representative~~ department of human services shall furnish the petitioner with a copy of the application and all supporting papers, a transcript of the testimony taken at the hearing, if any, and a copy of its decision.

Sec. 63. Section 249A.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with the medical assistance program administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.

Sec. 64. Section 600.2, subsection 2, Code 1989, is amended to read as follows:

2. "Investigator" means a natural person who is certified or approved, by the department of human services, after inspection by the department of inspections and appeals, as being capable of conducting an investigation under section 600.8.

Sec. 65. REPEALS.

1. Chapter 135A, Code 1989, is repealed.
2. Sections 147.116, 170.12, 170.19, 170.25, 170.26, 170.27, 170.28, 191A.9, and 253.12, Code 1989, are repealed.

Sec. 66. CODIFICATION TRANSFERS.

1. The Code editor shall transfer sections 135.90 through 135.96 to a new chapter.
2. The Code editor shall transfer chapters 170, 170A, 170B, and 191A to Title VII of the Code, unless the Code editor determines that a different Code arrangement would be preferable.

Approved April 27, 1990

CHAPTER 1205**CORPORATION LAW AND NOTARIAL ACTS**

H.F. 2488

AN ACT relating to civil law, including notarial acts and corporate law and procedures, including the characterization of certain corporate shares as issued, but not outstanding, shares, and making conforming amendments to reflect adoption of chapter 490, the new Iowa model business corporation Act, and including an effective date.

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

Section 1. Section 15.262, subsections 2 and 6, Code 1989, are amended to read as follows:

2. "Corporation" or "development corporation" means a private sector small business economic development corporation organized under chapter 504A or organized for pecuniary profit under chapter 496A 490 and includes development corporations organized under chapter 496B.

6. "Investor" means a private entity which invests money in a corporation organized for pecuniary profit under chapter 496A 490.

Sec. 2. Section 28.107, unnumbered paragraph 1, Code 1989, is amended to read as follows:

There may be incorporated under chapter 496A 490 a corporation which shall be known as the Iowa export trading company. If incorporated, this corporation shall be established by the director of the Iowa department of economic development. The initial board of directors shall consist of the director and six additional members appointed by the director. The six members appointed by the director shall be knowledgeable in the area of farming, exporting, or marketing finance. The department may expend an amount not to exceed one hundred thousand dollars necessary to establish and operate the export trading company until the completion of the public offering of stock. The funds used shall be repaid to the department upon completion of its public offering of stock. Financing for the export trading company shall initially come from its public offering of stock to residents of this state. In preparation for this sale, a detailed marketing study shall be conducted which will serve as the basis for the company work plan and the company prospectus. After the sale of stock, provision shall be made for the election of a board of directors by the stockholders to replace the initial board of directors. However, the director of the department shall be an ex officio member of the board representing the state of Iowa. The director of the department shall also serve as an agent for the company.

Sec. 3. Section 28.108, subsection 2, Code 1989, is amended to read as follows:

2. The Iowa export trading company has the powers necessary to fulfill the purposes of this division and those provided in chapter 496A 490 and the Export Trading Company Act of 1982, Pub. L. No. 97-290 which are not inconsistent with or limited by this division.