

CHAPTER 518

COUNTY MUTUAL INSURANCE ASSOCIATIONS

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Memorandum of intent, 61 GA (1965), Senate Journal, page 1612;
House Journal, page 1785

518.1	Incorporation.	518.16A	Limitation on termination of independent insurance producers.
518.2	Articles — approval — bylaws.	518.17	Reinsurance.
518.3	Certificate — recording.	518.18	Premium tax.
518.4	Identification as to type of insurer.	518.19	Proof of loss.
518.5	Commencement of business — conditions.	518.20	Reporting of livestock losses.
518.6	Powers of the members.	518.21	Reporting of losses of crops by hail.
518.7	Officers and directors — election.	518.22	Limitation of action.
518.8	Bylaws.	518.23	Cancellation or nonrenewal of policies — notice.
518.9	Eligibility for membership.	518.24	Reserved.
518.10	Territorial limitations.	518.25	Surplus.
518.11	Kinds of insurance.	518.26	Loans to officers prohibited.
518.12	Properties to be insured.	518.27	Form — approval.
518.13	Premium charges.	518.28	Failure to file copy.
518.13A	Assessments prohibited.	518.29	Disapproval of filings.
518.14	Investments.	518.30	Certificate suspension.
518.15	Reports, examinations, and renewals.	518.31	Rulemaking.
518.16	Soliciting application for insurance — license required.		

518.1 Incorporation.

Corporations formed to operate as county mutual insurance associations shall be governed by the provisions of chapter 491, except as modified by the provisions of this chapter.
[C66, 71, 73, 75, 77, 79, 81, §518.1]

518.2 Articles — approval — bylaws.

The articles of incorporation, and any subsequent amendments, of an organization shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. The organization shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws or amendments.

[C66, 71, 73, 75, 77, 79, 81, §518.2]

99 Acts, ch 165, §15; 2009 Acts, ch 145, §26

518.3 Certificate — recording.

If the commissioner of insurance approves the articles of incorporation, the commissioner shall so certify and the articles with the certificates of approval shall then be recorded and certified by the secretary of state.

[C66, 71, 73, 75, 77, 79, 81, §518.3]

518.4 Identification as to type of insurer.

Any association incorporated under the laws of this state for the purpose of furnishing insurance as provided for in this chapter shall be known as a county mutual insurance association. The words “mutual” and “association” shall be incorporated in and become a part of its name.

[C97, §1760; S13, §1759-b; C24, 27, 31, 35, 39, §9030; C46, 50, 54, 58, 62, §518.2; C66, 71, 73, 75, 77, 79, 81, §518.4]

518.5 Commencement of business — conditions.

A county mutual insurance association formed on or after July 1, 2009, shall not issue policies until applications for insurance of not less than one hundred thousand dollars, representing at least two hundred applicants, have been received, and no application for insurance during the period of organization shall exceed two percent of the amount

required for organization, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

[C66, 71, 73, 75, 77, 79, 81, §518.5]
2009 Acts, ch 145, §27

518.6 Powers of the members.

Members of the association shall have the power to make or amend articles of incorporation at any membership meeting, provided that notice of such addition or amendment has been mailed to each member at least ten days in advance of the meeting in which such proposed action is to be considered, and provided that no amendment shall become effective until approved by the commissioner of insurance and recorded in the office of the secretary of state.

[C66, 71, 73, 75, 77, 79, 81, §518.6]

518.7 Officers and directors — election.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation. The same person shall not simultaneously hold the offices of president and secretary. A director shall be a member of the association.

[C66, 71, 73, 75, 77, 79, 81, §518.7]
97 Acts, ch 186, §22; 2000 Acts, ch 1023, §35

518.8 Bylaws.

The directors of the association shall have the authority to enact such bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. No change in the bylaws shall have the effect of limiting coverage under existing policies of insurance. An association shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

[C66, 71, 73, 75, 77, 79, 81, §518.8]
2000 Acts, ch 1023, §36

518.9 Eligibility for membership.

The members of the association shall consist of those persons or organizations insured therein. The words “persons” and “members” as used in this chapter shall be construed to mean trustees, administrators, and all other individuals, public or private corporations or associations. Insurance on the property of one or more minors may be granted on application of an adult parent, friend or guardian who consents to become a member as representing such minor.

[C66, 71, 73, 75, 77, 79, 81, §518.9]

518.10 Territorial limitations.

The territory of any association shall be limited to the county in which its principal place of business is located, and to the counties contiguous thereto, and no coverage shall be placed on property located outside of this territory; provided, however, that the insurance may be extended, if the policy so provides, to cover personal property while temporarily removed to other locations.

[C97, §1760; S13, §1759-b; C24, 27, 31, 35, 39, §9030; C46, 50, 54, 58, 62, §518.2; C66, 71, 73, 75, 77, 79, 81, §518.10]

518.11 Kinds of insurance.

Any association organized under this chapter is authorized to insure or to accept reinsurance against loss or damage by:

1. Any peril or perils resulting in physical loss or damage to property;
2. Theft of personal property;
3. Injury, sickness or death of animals and the furnishing of veterinary service.

Such contracts of insurance shall be subject only to such provisions as are contained in this chapter and shall consist of:

An application on blanks furnished by the association and signed by the insured or the insured's representatives;

A policy issued by the association in accordance with its rules, and approved by the commissioner of insurance.

[C66, 71, 73, 75, 77, 79, 81, §518.11]

518.12 Properties to be insured.

County mutual insurance associations are permitted to insure only the following classes of property:

1. Farm property, including residences and other farm buildings and all classes of personal property in connection therewith;

2. Buildings and personal property used in the processing of agricultural products in conjunction with a farming operation;

3. City and suburban residences, including household and personal effects;

4. Churches, schools and community buildings.

[C66, 71, 73, 75, 77, 79, 81, §518.12]

518.13 Premium charges.

Any association may by action of its board of directors establish premium charges for the purpose of payment of losses and expenses and for the establishment or maintenance of a reserve fund.

[C66, 71, 73, 75, 77, 79, 81, §518.13]

2009 Acts, ch 145, §28

518.13A Assessments prohibited.

An association doing business under this chapter shall not levy an assessment on any member of the association.

2000 Acts, ch 1023, §37

518.14 Investments.

1. *General considerations.* The following considerations apply in the interpretation of this section:

a. This section applies to the investments of county mutual insurance associations.

b. (1) The purpose of this section is to protect and further the interests of policyholders, claimants, creditors, and the public by providing standards for the development and administration of programs for the investment of the assets of associations organized under this chapter. These standards, and the investment programs developed by associations, shall take into account the safety of the association's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the association's expected business needs, and investment diversification.

(2) All investments made pursuant to this section shall have investment qualities and characteristics such that the speculative elements of the investments are not predominant.

c. Financial terms relating to county mutual insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies or associations other than county mutual insurance associations have the meanings assigned to them under generally accepted accounting principles.

d. Investments shall be valued in accordance with the valuation procedures established by the national association of insurance commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

e. If an investment qualifies under more than one subsection, an association may elect to hold the investment under the subsection of its choice. This section does not prevent an association from electing to hold an investment under a subsection different from the one under which it previously held the investment.

2. *Definitions.* For purposes of this section:

a. “*Admitted assets*”, for purposes of computing percentage limitations on particular types of investments, means the assets which are authorized to be shown on the commissioner’s annual statement blank as admitted assets as of the December 31 immediately preceding the date the association acquires the investment.

b. “*Clearing corporation*” means as defined in section 554.8102.

c. “*Custodian bank*” means as defined in section 515.35.

d. “*Issuer*” means as defined in section 554.8201.

e. “*Member bank*” means a national bank, state bank, or trust company which is a member of the United States federal reserve system.

f. “*National securities exchange*” means an exchange registered under section 6 of the federal Securities Exchange Act of 1934 or an exchange regulated under the laws of Canada.

g. “*Obligations*” includes bonds, notes, debentures, transportation equipment certificates, domestic repurchase agreements, and obligations for the payment of money not in default as to payments of principal and interest on the date of investment, which constitute general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment of principal and interest on the obligations. A lease is an obligation if the lease is assigned to the insurer and is nonterminable by the lessee upon foreclosure of any lien upon the leased property, and if rental payments are sufficient to amortize the investment over the primary lease term.

h. “*Surplus*”, for purposes of computing percentage limitations on particular types of investments, means the surplus that is authorized to be shown on the commissioner’s annual statement blank as surplus as of the December 31 immediately preceding the date the association acquires the investment.

3. *Investments in name of association or nominee and prohibitions.*

a. An association’s investments shall be held in its own name or the name of its nominee, except as follows:

(1) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(a) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others.

(b) When the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the association making the deposit.

(c) If a clearing corporation is to act as depository, the investment may be merged or held in bulk in the name of the clearing corporation or its nominee with other investments deposited with the clearing corporation by any other person, if a written agreement between the clearing corporation and the association provides that adequate evidence of the deposit is to be obtained and retained by the association or a custodian bank.

(2) An association may participate through a member bank in the United States federal reserve book entry system, and the records of the member bank shall at all times show that the investments are held for the association or for specific accounts of the association.

(3) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment is issued in the name of the association, the name of the custodian bank, or the nominee of either; and, if the interest as evidenced by the certificate or confirmation is, if held by a custodian bank, kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the association making the investment.

(4) Transfers of ownership of investments held as described in paragraph “a”, subparagraph (1), subparagraph division (c), and subparagraphs (2) and (3), may be evidenced by bookkeeping entry on the books of the issuer of the investment, its transfer or recording agent, or the clearing corporation without physical delivery of a certificate evidencing the association’s investment.

b. Except as provided in paragraph “a”, subparagraph (4), if an investment is not

evidenced by a certificate, adequate evidence of the association's investment shall be obtained from the issuer or its transfer or recording agent and retained by the association, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this paragraph, means a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the association.

4. *Investments.* Except as otherwise permitted by this section, an association organized under this chapter shall only invest in the following:

a. *United States government obligations.* 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, including 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 and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States obligations described in this paragraph, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation – full faith and credit list.

b. *Certain development bank obligations.* Obligations issued or guaranteed by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the export-import bank, the world bank, or any United States government-sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. An association shall not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and shall not invest more than a total of ten percent of its total admitted assets in the obligations authorized by this paragraph.

c. *State obligations.* Obligations issued or guaranteed by a state, a political subdivision of a state, or an instrumentality of a state.

d. *Canadian government obligations.* Obligations issued or guaranteed by Canada, by an agency or province of Canada, by a political subdivision of such province, or by an instrumentality of any of those provinces or political subdivisions.

e. *Corporate and business trust obligations.* Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state, or the laws of Canada or a province of Canada, provided that an association shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Investments shall be made only in investment grade bonds.

f. *Stocks.* Common stocks, common stock equivalents, mutual fund shares, securities convertible into common stocks or common stock equivalents, or preferred stocks issued or guaranteed by a corporation incorporated under the laws of the United States or a state, or the laws of Canada or a province of Canada. Aggregate investments in nondividend paying stocks shall not exceed five percent of surplus.

(1) Stocks purchased under this lettered paragraph shall not exceed fifty percent of surplus.

(2) With the approval of the commissioner, an association may invest in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that both of the following occur:

(a) After such investments the association's surplus as regards policyholders will be reasonable in relation to the association's outstanding liabilities and adequate to its financial needs.

(b) The association owns one hundred percent of the stock of the subsidiary.

(3) An association shall not invest more than ten percent of its surplus in the stocks of any one corporation.

g. *Home office real estate.* With the prior approval of the commissioner, funds may be invested in home office real estate for the association or a subsidiary, at the direction of the board of directors. The association or subsidiary shall obtain the approval of the commissioner prior to the sale or disposition of home office real estate owned by the association or subsidiary. Effective as to home office real estate acquired on or after July 1, 2009, an association shall not invest more than twenty percent of its total admitted assets in

such real estate. With the prior approval of the commissioner, an association may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

[C66, 71, 73, 75, 77, 79, 81, §518.14]

95 Acts, ch 185, §26; 96 Acts, ch 1138, §3, 84; 2005 Acts, ch 70, §45; 2006 Acts, ch 1010, §141; 2007 Acts, ch 137, §17; 2009 Acts, ch 41, §263; 2009 Acts, ch 145, §29 – 31; 2010 Acts, ch 1061, §67

[T] Subsection 4, paragraph g amended

518.15 Reports, 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.

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 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 as provided in section 505.7.

[C66, 71, 73, 75, 77, 79, 81, §518.15]

88 Acts, ch 1112, §108; 2006 Acts, ch 1117, §91; 2009 Acts, ch 181, §83

[SP] For future repeal of 2009 amendments to subsections 5 and 6, effective July 1, 2011, see 2009 Acts, ch 179, §146

518.16 Soliciting application for insurance — license required.

A person shall not solicit any application for insurance for an association in this state without having procured from the commissioner of insurance a license authorizing the person to act as an insurance producer pursuant to chapter 522B.

[C66, 71, 73, 75, 77, 79, 81, §518.16; 82 Acts, ch 1003, §8]

95 Acts, ch 185, §27; 2001 Acts, ch 118, §16

518.16A Limitation on termination of independent insurance producers.

A county mutual insurance association authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of association premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the association.

2002 Acts, ch 1111, §25

518.17 Reinsurance.

1. A county mutual insurance association may reinsure a part or all of its coverages written pursuant to this chapter with an association operating under this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518.11.

2. Reinsurance sufficient to protect the financial stability of the county mutual insurance association is also required. In general, reinsurance coverage obtained by a county mutual insurance association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

[C66, 71, 73, 75, 77, 79, 81, §518.17]

91 Acts, ch 26, §47; 99 Acts, ch 165, §16; 2000 Acts, ch 1023, §38; 2002 Acts, ch 1111, §26; 2002 Acts, ch 1119, §183; 2009 Acts, ch 145, §32

518.18 Premium tax.

After January 1, 1966, every association doing business under this chapter shall be required to pay to the director of the department of revenue, or a depository designated by the director, as taxes an amount equal to the following:

1. The applicable percent of the gross amount of premiums received during the preceding calendar year, after deducting the amount returned upon the canceled policies, certificates, and rejected applications; and after deducting premiums paid for windstorm or hail reinsurance on properties specifically reinsured. However, the reinsurer of such windstorm or hail risks shall pay the applicable percent of the gross amount of reinsurance premiums received upon such risks after deducting the amounts returned upon canceled policies, certificates, and rejected applications. For purposes of this section, “*applicable percent*” means the same as specified in section 432.1, subsection 4.

2. Except as provided in subsection 3, the premium tax shall be paid on or before March 1 of the year following the calendar year for which the tax is due. The commissioner of insurance may suspend the certificate of authority of a county mutual insurance association that fails to pay its premium tax on or before the due date.

3. *a.* Each county mutual insurance association transacting business in this state whose Iowa premium tax liability for the preceding calendar year was one thousand dollars or more shall remit on or before June 1, on a prepayment basis, an amount equal to one-half of the premium tax liability for the preceding calendar year.

b. In addition to the prepayment amount in paragraph “*a*”, each association shall remit on or before August 15, on a prepayment basis, an additional amount equal to the following percent of the premium tax liability for the preceding calendar year as follows:

- (1) For prepayment in the 2003 and 2004 calendar years, eleven percent.
- (2) For prepayment in the 2005 calendar year, twenty-six percent.
- (3) For prepayment in the 2006 and subsequent calendar years, fifty percent.

c. The sums prepaid by a county mutual insurance association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The commissioner of insurance may suspend the certificate of authority of an association that fails to make a prepayment on or before the due date.

[C66, 71, 73, 75, 77, 79, 81, §518.18]

2003 Acts, ch 145, §286; 2003 Acts, ch 179, §136, 159; 2004 Acts, ch 1175, §339, 348

518.19 Proof of loss.

A proof of loss shall contain such information as is required by the policy provisions of the association, which information shall be signed and sworn to by the insured.

[C66, 71, 73, 75, 77, 79, 81, §518.19]

2009 Acts, ch 145, §33

518.20 Reporting of livestock losses.

In the event of loss of livestock, the insured shall give notice to the association in sufficient time to permit the performance by a licensed veterinarian of a postmortem examination of the livestock for which claim is made, but in no event later than forty-eight hours from the time of occurrence.

[C66, 71, 73, 75, 77, 79, 81, §518.20]

518.21 Reporting of losses of crops by hail.

In the event of loss to growing crops by hail, notice of such loss must be given by mailing to the association a certified letter within ten days from the time such loss or damage occurred.

[C66, 71, 73, 75, 77, 79, 81, §518.21]

518.22 Limitation of action.

A suit or action on a policy for the recovery of any claim shall not be sustainable in any court of law or equity unless all requirements of the policy have been complied with, and unless commenced within twelve months next after the inception of the loss.

[C66, 71, 73, 75, 77, 79, 81, §518.22]

2009 Acts, ch 145, §34

518.23 Cancellation or nonrenewal of policies — notice.

1. *Cancellation by insured.* A policy shall be canceled at any time at the request of the insured.

2. *Cancellation by association.*

a. Except as provided in paragraph “b”, notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least thirty days before the effective date of cancellation.

b. Notice of cancellation resulting from nonpayment of a premium or installment provided for in the policy, or provided for in a note or contract for the payment of such premium or installment, is not effective unless mailed or delivered by the association to the named insured at least ten days prior to the date of cancellation.

c. If a notice of cancellation under paragraph “a” or “b” fails to include the reason for such cancellation, the association, upon receipt of a timely request by the named insured, shall provide in writing the reason for the cancellation.

3. *Nonrenewal by association.* A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. If the reason does not accompany the notice of nonrenewal, the association, upon receipt of a timely request by the named insured, shall provide the reason for the nonrenewal in writing.

4. *Notice.* Service of notice under subsection 2 or 3 may be delivered in person or mailed to the insured at the insured’s post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department certificate of mailing shall be deemed proof of receipt of such mailing. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded to the insured.

[C66, 71, 73, 75, 77, 79, 81, §518.23]

2000 Acts, ch 1023, §39; 2001 Acts, ch 69, §35; 2003 Acts, ch 91, §47; 2009 Acts, ch 145, §35

518.24 Reserved.**518.25 Surplus.**

An association organized under this chapter before July 1, 2009, shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross risk in force, whichever is greater. An association organized under this chapter on or after July 1, 2009, shall at all times maintain a surplus of not less than one hundred thousand dollars or one-tenth of one percent of the gross risk in force, whichever is greater.

90 Acts, ch 1234, §70; 99 Acts, ch 165, §17; 2002 Acts, ch 1111, §27; 2009 Acts, ch 145, §36

518.26 Loans to officers prohibited.

Assets or other funds shall not be loaned directly or indirectly to an officer, director, or employee of the association, or directly or indirectly to a relative of an officer, director, or an employee of the association.

95 Acts, ch 185, §28

518.27 Form — approval.

The form of all policies, applications, agreements, and endorsements modifying the provisions of policies, and all permits and riders used in this state, issued or proposed to be issued by a county mutual insurance association doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.

95 Acts, ch 185, §29

518.28 Failure to file copy.

Upon the failure of a county mutual insurance association to file a copy of its forms of policies or contracts pursuant to section 518.27, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

95 Acts, ch 185, §30; 2001 Acts, ch 24, §56

518.29 Disapproval of filings.

If the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the county mutual insurance association specifying in what respect the filing fails to meet the requirements of this chapter and stating that the filing is not effective. If a filing is disapproved by the commissioner, the association may request a hearing on the disapproval within thirty days. The association bears the burden of proving compliance with the standards established by this chapter.

If, at any time after a form has been approved, the commissioner finds that the form no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the use of the form. The order of discontinuance shall be in writing and may be issued only after a hearing with at least ten days' prior notice to all county mutuals affected by the order. The order shall state the grounds upon which the order is based and when the order of discontinuance is effective.

95 Acts, ch 185, §31

518.30 Certificate suspension.

The commissioner of insurance may suspend a county mutual insurance association's certificate of authority to do business if the association neglects or fails to comply with this chapter.

95 Acts, ch 185, §32

518.31 Rulemaking.

The commissioner may adopt rules pursuant to chapter 17A as necessary for the administration of this chapter.

2009 Acts, ch 145, §37